

contracts and must be purchased using one of the methods in Section 44.031, Texas Education Code. Such purchases cannot be made from the same vendor, even at the same competitive procurement price(s), without competitive pricing.

11. How does the exemption to the Texas Education Code District purchasing law apply to patented or copyright protected items?

To be a bona fide exemption to the Texas Education Code District purchasing law requirements, there must be no other like items available for purchase that would serve the same purpose or function, and only one price for the product because of exclusive distribution or marketing rights. The fact that a particular item is covered by a patent or copyright is but one factor in determining if the purchase falls under the sole source exemption to the purchase requirements. (§44.031(j)(1), Texas Education Code)

12. How does one document that an item is sole source?

As new products are developed, it is possible that a product may be available from a sole source. To document that this is the case, some districts require a letter to confirm these circumstances from the vendor or manufacturer of the product. A statement could be attached to the requisition that indicates a sufficient number of vendors have been contacted to determine that only one practical source of supply exists or provides the reasons only one source exists.

13. Is instructional software that is copyrighted and only available from a single distributor or the producer required to be obtained according to the provisions of the Texas Education Code purchasing law?

No. Copyrighted software not available off-the-shelf from retailers or only available from a single source, such as a sole distributor or the producer, is not subject to the Texas Education Code purchasing law. (§44.031(j)(1), Texas Education Code)

14. Is direct mailing of specifications to vendors required in addition to advertisement in a newspaper?

No. The Texas Education Code District purchasing law only requires districts to publish notice; however, in most circumstances, districts will enhance the effectiveness of the process if notices are mailed to businesses, that have had or may have an interest in offering competitive procurement offers. This is especially true for districts in counties that have newspapers of limited circulation. Districts need to be careful that the procedures used to contact vendors directly do not favor a particular vendor and that the procedures allow a potential vendor to be added to the list at any time. Many districts optionally publish bid notices on their website. (§44.031(g), Texas Education Code)



Purchasing

SOLE SOURCE AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared _____, a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is _____. I am over the age of 18, have never been convicted of a crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: _____
3. The above named company or firm is the sole source of the following item(s) or product(s).

4. Competition in providing the above name item(s) or product(s) is precluded by the existence of a patent, copyright, secret process or monopoly.
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. Are the goods or services identified to be available from a “sole source” available for purchase from other distributors?
Please indicate yes or no, if yes, provide names of distributors: _____

7. **Note: I understand that by providing false information on this form shall be grounds for debarment and discontinuation of any/all business with EPISD.**

Signature

SUBSCRIBED AND SWORN to before me on this _____ day of _____, _____

NOTARY PUBLIC

PRINT NAME

MY COMMISSION EXPIRES

COMPANY: _____
 ADDRESS: _____
 CITY, STATE, ZIP CODE: _____
 FAX NUMBER: _____
 CONTACT NAME: _____
 WEB ADDRESS: _____
 EMAIL: _____
 FEDERAL TAX ID NUMBER: _____
 TEXAS SALES TAX NUMBER: _____