

OHLONE COMMUNITY COLLEGE DISTRICT

MEMORANDUM

TO: Board of Trustees
FROM: Douglas Treadway
DATE: October 11, 2006
SUBJECT: Authorization to suspend District Regulation 9.2.3.2 in order to *Ratify* a sole source purchase of Apple Computers

District Regulation 9.2.3.2 states: *Purchases of services, equipment, or leases that are subject to Public Contract Code Section 20651, as referenced below shall be published in a formal Notice Calling for Bid and shall be awarded by the Board.* Board Policy 2.2 also states *Any policy or regulation may be suspended by a majority vote of the entire Governing Board, which vote will be taken by roll call and will be entered in the minutes of the meeting.*

The Associate Vice President of Information Technology in conjunction with Ohlone College faculty, staff, and administrators has identified the general need to replace the college's aging personal computer (PC) inventory for classrooms, labs, administrative and business functions. Additionally, the college has identified the need to acquire additional new PCs to support Title III project and Local Bond Initiatives. Based upon an analysis of prioritized needs and available financial resources, what follows are descriptions of proposed personal computer replacements and new computer acquisitions. Included with each of the descriptions is a recommendation from the Associate Vice President of Information Technology that the replacement and new PCs be replaced with Apple Computers Intel processor-based PCs.

Apple Computer – Intel Core Duo Processors

In January 2006 Apple Computer introduced a new line of personal computers designed around a new Intel processor, the Intel Core Duo. The Intel Core Duo represents an order-of-magnitude leap in processor design. It's actually two processors (cores) engineered onto a single chip — offering virtually twice the computational power of a traditional single processor in the same space.

These new Apple Intel Core Duo based systems have demonstrated to faculty, staff, and students. Additionally IT staff and several students have conducted extensive evaluations of these computers running program applications. Consistent feedback from the demonstrations and evaluations by faculty, staff, and students has been positive. Faculty, staff, and students are in agreement that the new Apple computers not only run the software required for the programs, but also do so under both MAC and Window's Operating systems, and much faster than the existing computer processors.

Title III Projects

Ohlone College's Title III project includes several goals for strengthening institutional programs. Toward meeting the Academic Program Goal – To develop across the curriculum teaching methods and technologies which hold the most promise for increasing success rates of under prepared students, the Title III Project Director requested the acquisition of 22 Apple computers for its Teaching and Learning Institute. These computers will be used in training faculty on a variety of pedagogical and technological approaches to improving student success. Because the range of technology options span multiple operating systems (e.g. MAC, Windows, Linux), the requested computers must possess the capability to run these multiple operating systems. As stated above, currently only Apple Computers meet this requirement. Therefore the Associate Vice President also recommends that these 22 computers be acquired from Apple Compute Inc.

Faculty and Staff Computers

Ohlone College recognizes that access to computing technology is an essential requirement for faculty and staff to participate effectively in our college environment. To meet this requirement, the College-established policy is to purchase a computer for each faculty new hire. Additionally, the College recognizes that many staff jobs require access to the College's ERP application, network infrastructure, and email system. Therefore as new staff members are hired, a new computer may be required to support the position.

For the Fall 2006 semester 8 new faculty members and 3 new IT staff members requested new computers. Based upon the equipment specifications gathered at several faculty and staff focus groups, the Associate Vice President is recommending Apple MacBooks for these acquisitions. Among the specifications received, one in particular, the flexibility to run both Apple OS (Operating System) applications and Windows OS applications can only be met by the Apple MacBook PCs.

Summary

The College is requesting a total of 33 PCs - new computers for the purposes outlined above. Based upon the equipment specifications provided, the Associated Vice President of Information Technology is recommending Apple Computer PCs be used to fulfill these requests. Apple's Intel Core Duo-based computers that support MAC OS and Windows OS applications are only the computers currently available that meet the faculty specifications. Furthermore, we can only purchase these directly from Apple Computer Inc., (See Attachment A). Staff believes that the only option is to purchase the unit from Apple Computer as a sole source purchase. Apple Computer is the sole source of Apple and Macintosh branded hardware products. Additionally, Apple Authorized Resellers are not authorized to sell standard Apple hardware products to public and private nonprofit educational institutions in the United States.

In July 2006, District legal counsel reviewed and approved the rationale set forth in this request for a similar acquisition of Apple computers as a sole source purchase from Apple Computers, Inc. The facts and circumstances of this present computer request being similar, legal counsel's previous assessment should apply with equal weight to this current request.

The 22 computers for the Title III – Academic Program Goal project will be acquired as a direct purchase from Apple Computer, Inc. The total cost for the 22 laptops and associated components is \$48,578.57. Funds to cover the cost of this direct purchase acquisition are available and will be paid from the Title III Project Activity "Center for Innovation & Technology."

The 8 computers for the new faculty members will be acquired as a direct purchase from Apple Computer, Inc. The total cost for the 8 computers and associated components is \$19,017.77. Funds to cover the cost of this direct purchase acquisition are available and will be paid from the 2006-2007 Instructional Equipment budget.

The 3 computers for the new IT staff members will be acquired as a direct purchase from Apple Computer, Inc. The total cost for the 3 computers and associated components is \$10,300.55. Funds to cover the cost of this direct purchase acquisition are available and will be paid from the IT Department TTIP Budget.

The total cost of these acquisitions is \$77,896.89.

RECOMMENDATIONS:

The President/Superintendent recommends that the Board of Trustees authorize a suspension of District Regulation # 9.2.3.2 and ratify a sole source purchase acquisition of 33 Computers and associated components as a direct purchase from Apple Computer, Inc., for a total cost of \$77,896.89.

Attachments:

Apple Sole Source Letter 1 *page*

ATTACHMENT A



Apple Computer, Inc. ("Apple") is, and will continue to be, the sole source of Apple and Macintosh branded hardware products to you. An Apple or Macintosh branded product is one manufactured or sold by Apple with the Apple logo.

In general, Authorized Apple Resellers are not authorized to sell standard Apple hardware products to public and private non-profit educational institutions in the United States, including yours. Exceptions exist, however, including the following: (1) Apple does authorize certain Value Added Resellers ("VARs") to sell standard Apple products to educational institutions if those products are combined with proprietary, added enhancement "Solutions Systems"; (2) a few resellers are allowed to sell consumables (toner cartridges, for example) to educational institutions; and (3) under very limited circumstances, Apple authorized resellers may be permitted to sell a limited amount of product, usually at the end of the product's commercial life, to education customers. In all such cases, the resellers are responsible for establishing their own resale prices. Apple is not involved in their pricing decisions.

Another program Apple makes available is the Authorized Apple Education Agent Program. In this program, Agents act on behalf of Apple to promote the purchase of Apple products from Apple by select higher education institutions and K-12 schools. While the use of sales agents in the program allows Apple to extend its presence in the education community, this program does not affect Apple's status as your sole source of Apple products.

In your case, Apple will continue to have a direct sales and purchasing relationship. Apple has no present intention to utilize agents, and has not authorized any reseller to provide Apple products and services to you.

Please be reminded that because, with the few exceptions noted above, Apple authorized resellers are prohibited from selling in the education market by the terms of their contracts with Apple, the sale of products into these markets, by anyone, other than Apple (selling directly or through an agent) generally cannot occur unless an Apple reseller has breached its contract with Apple. You can count on Apple to continue to be your sole source for all the Apple branded products and services that you purchase in the ordinary course of your product acquisition.

Sincerely,

APPLE COMPUTER, INC.

Apple
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Apple Computer, Inc.
Apple Computer, Inc.
Apple Computer, Inc.