



BOBBY JINDAL
GOVERNOR

ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of State Purchasing

MEMORANDUM OSP 10-04

TO: All Department Secretaries; Undersecretaries; Information Technology Directors; State Departments, Agencies and Facilities; Colleges and Universities; Boards and Commissions

FROM: Denise Lea, Assistant Commissioner
Denise Lea

RE: Guidelines for Procurement of Software, Software Maintenance, Hardware Maintenance and Software Support Services

DATE: November 4, 2009

The procurement process called Consulting and Support Services Agreement (CSSA) expired on October 3, 2009. All future competitive I.T. procurements will be processed through existing Office of State Purchasing or Office of Contractual Review processes. Any CSSA contract for a specific Statement of Work (SOW) that was awarded prior to October 3, 2009 with a start date no later than October 3, 2009, will be honored until its expiration date with the agency under which it was contracted. No new CSSA Statements of Work (SOW) will be awarded after October 3, 2009.

The EZ-reference flow chart has been revised and is attached for convenience only and does not supersede the actual rules and regulations referenced.

Agency procurement and information technology sections are encouraged to seek the advice and assistance of their agency's legal counsel prior to the execution of any contracts. As always, the Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions and will continue to update you with tools to assist you in your information technology procurements.

If you have any questions, please contact this office.

Guidelines

for the Procurement of Information Technology Hardware, Hardware Maintenance, Software, Software Maintenance and Support Services

Rule	Category	Threshold	Procurement Method	Additional Review/Approval	Additional Requirements
5503	Hardware ¹	≤ \$1000	Non-Competitive	None	None
		> \$1000 < \$25,000 ²	State Contract	None	None
			ITB, RFP	OSP (for ITB's > agency's DPA and for RFP's)	Submit draft to OSP for processing ITB>agency's DPA ³ or if an RFP
		≥\$25,000 <\$100,000 ²	State Contract ⁴	None	If utilizing a LaPS contract, compliance with LAC 34.I.1709 is required ⁵
			ITB, RFP	OSP (for ITB's > agency's DPA and for RFP's)	Submit draft to OSP for processing ITB>agency's DPA ³ or if an RFP
		≥ \$100,000	State Contract ⁴	OIT (IT-10)	If utilizing a LaPS contract, compliance with LAC 34.I.1709 is required ⁵
			ITB, RFP	OIT (IT-10), PST, OSP	Submit draft to OSP for processing ³
5505	Software ⁶	< \$100,000 ⁷	Non-Competitive	None	Document procurement file. ⁸ Cost of the software shall not exceed the vendor's published price.
		≥ \$100,000	ITB, RFP	OIT (IT-10), PST, OSP	Submit draft to OSP for processing ³
			Established standard/statewide agreement	OIT (IT-10)	Refer to applicable contract KNOA screen in AGPS or OIT website for instructions.
			Fully justify to OIT why not using the competitive process or a standard/statewide agreement and obtain concurrence from OIT prior to submitting to OSP for further processing	OIT (IT-10), PST, OSP	Cost of the software cannot exceed the vendor's published price.

Rule	Category	Threshold	Procurement Method	Additional Review/Approval	Additional Requirements
5507	Hardware Maintenance ⁹	< \$100,000 ¹⁰	Non-Competitive	None	Cost of the hardware maintenance cannot exceed the vendor's published price.
		≥ \$100,000	OEM Non-Competitive ¹¹	OIT (IT-10), PST, OSP	Agency must submit a letter of justification to OSP signed by the head of the agency or his designee. Cost of the hardware maintenance cannot exceed the vendor's published price.
			ITB, RFP	OIT (IT-10), PST, OSP	Submit draft solicitation to OSP for further processing ³
			Established standard/statewide agreement	OIT (IT-10)	Refer to applicable KNOA screen in AGPS or OIT website for instructions
			Fully justify to OIT why not using the competitive process or a standard/statewide agreement and obtain concurrence from OIT prior to submitting to OSP for further processing	OIT (IT-10), PST, OSP	Cost of the hardware maintenance cannot exceed the vendor's published price.
5509	Software Maintenance ¹²	< \$100,000 ⁹	Non-Competitive	None	Cost of the software maintenance shall not exceed the vendor's published price
≥ \$100,000		Non-Competitive if from only authorized entity ¹³	OIT (IT-10), PST, OSP	A letter is required from the information technology vendor substantiating the non-competitive status. Cost of the software maintenance shall not exceed the vendor's published price.	
		ITB, RFP	OIT (IT-10), PST, OSP	Submit draft solicitation to OSP for further processing ³	
		Established standard/statewide agreement	OIT (IT-10)	Refer to applicable KNOA screen in AGPS or OIT website for instructions	
		Fully justify to OIT why not using the	OIT (IT-10), PST, OSP	Cost of the software maintenance	

			competitive process or a standard/statewide agreement and obtain concurrence from OIT prior to submitting to OSP for further processing		shall not exceed the vendor's published price.
5511	Software Support Services ¹⁴	< \$50,000 ¹⁵	Non-Competitive	None	None
		≥ \$50,000 < \$100,000	RFP	OCR	Follow OCR rules and regulations
		≥ \$100,000	RFP	OIT (IT-10), PST, OCR	Follow OCR rules and regulations

Guidelines for the Procurement of Information Technology Hardware, Hardware Maintenance, Software, Software Maintenance and Support Services

Endnotes

¹ Information technology hardware is defined as any electronic data processing device including but not limited to central processing units, memory, peripheral devices, unit record equipment, data communications equipment, minicomputers and peripherals, graphics equipment including digitizers and plotters, optical scanning equipment, and shared logic word processing equipment, printers, multifunctional devices, and scanners. Equipment that does not fit into any of the above categories will be handled on a case-by-case basis and the agency must contact the Office of State Purchasing for a ruling on the justification required.

² If the cost of information technology hardware including installation is less than this amount.

³ Draft should provide the following:

- functional requirements
- general description of the mission to be accomplished
- detailed list of the proposed equipment, including quantities and estimated cost

OSP RFP boilerplate is available at <http://www.doa.louisiana.gov/osp/publications/rfp/rfp-index.htm>

⁴ If utilizing a Brand Name Microcomputer and Peripheral Contract, the individual contract line item cost shall not exceed a cost of \$25,000 each and the total release/purchase order amount shall not exceed \$250,000. Procurements shall not be artificially divided to circumvent the \$250,000 threshold.

⁵ Louisiana Pricing Schedules (LaPS) are contracts that were established as a Brand Name, LaMAS or Multi-State Contract by the Office of State Purchasing. In accordance with LAC 34.I.1709, all eligible users of these contracts are required to compare contracts and to seek best value procurements where multiple contracts exist for like or similar item(s) and the procurement is above \$25,000.

⁶ Information technology software is defined as any program or series of programs offered commercially to computer installations. Cost of the software cannot exceed the vendor's published price.

⁷ If the cost of the information technology software including modifications, installation integration, training for the total project plus maintenance and support services, for a 12 month period is less than this amount. Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

⁸ Document procurement file with the following information:

- list of all known information technology software packages investigated which claim to accomplish the required task
- name each investigated, its total cost, and the rationale for selection or rejection

⁹ Information technology hardware maintenance consists of remedial maintenance, preventative maintenance, replacement parts, labor and engineering changes necessary to keep information technology hardware in good working condition.

¹⁰ Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

¹¹ If the maintenance is for mission critical equipment (such as mainframes, mainframe peripherals, enterprise servers, or network backbone components), it can be obtained non-competitively from the Original Equipment Manufacturer (OEM) only. The agency must submit a letter of justification signed by the head of the agency or his designee to the Office of State Purchasing.

¹² Information technology software maintenance includes on-site, telephone and/or on-line troubleshooting, installation assistance, basic usability assistance, etc. Information technology software products and technologies to be covered include operating systems, application software and systems, and network management software, tools and utilities. Cost of the software maintenance cannot exceed the vendor's published price.

¹³ If the software vendor is the only authorized entity to provide product fixes, patches, updates or upgrades software maintenance can continue to be handled non-competitively in accordance with R.S. 39:199.D. A letter from the information technology software vendor substantiating the above information is required.

¹⁴ Information technology software support services include capacity planning, performance analysis, on-site troubleshooting (problem determination/diagnosis), custom modifications, etc.

¹⁵ Procurements shall not be artificially divided to circumvent the \$50,000 threshold.

IMPORTANT POINTS TO REMEMBER

All contracts must be governed in accordance with the laws of the State of Louisiana (*Refer to R.S. 9:2778*)

No contract entered into shall be on preprinted contract forms supplied by a vendor. (*Refer to R.S. 39:200F*)

Where written proposals are submitted by vendors, the proposal shall be incorporated into the final contract consummated with that vendor. (*Refer to R.S. 39:200G*)

Non-competitive procurements of software, software maintenance, hardware maintenance and support services shall not exceed the vendor's published price for such purchases. (*Refer to R.S. 39:199 and LAC 34:1. 5505-5511*). Review the vendor's quote, especially the fine print. Some common problems are as follows:

- the vendor's standard terms and conditions may be referenced. *Some of these terms and conditions may not be acceptable to the State such as governing law other than Louisiana, automatic renewals, late fees not in accordance with State law, prices not firm, etc. Also, beware of references to terms and conditions, description of services, etc. on vendor's website and not actually detailed in the quote.*
- F.O.B. is origin or shipping point. *Shipping should be F.O.B. destination and price for shipping should be included in the total cost of the procurement.*
- the quote is no longer valid because the acceptance date has passed.
- vendor's quote does not itemize the list of software being purchased
- vendor's quote does not state the contract period for a service contract
- quotes should be signed by the submitting vendor