

Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013), LR 41:540 (March 2015).

**§12913. Service Delivery**

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C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or

## Title 34

### GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

#### Part XIII. University Pilot Procurement Code

#### Chapter 3. Purpose, Applicability and Definitions

##### §301. Purpose and Legislative Authority

A. Goal. It is the goal of the university to procure goods and services in a manner that is open, fair, encourages competition, and affords vendors equal opportunities to compete.

B. Purpose. The purpose of this *University Pilot Procurement Code* is to establish parameters of a procurement program designed to support and facilitate the instructional, research and public service missions of the university by applying best methods and business practices to the procurement of goods and services and to structure other business arrangements by the university. This *University Pilot Procurement Code* is intended to promote the development and use of procurement processes which promote the pursuit of excellence and the best interests of the university while maintaining the highest possible integrity, broad based competition, fair and equal treatment of the business community and increased economies and efficiencies for the university.

C. Communication. The university will communicate and collaborate with the division of administration, other state colleges and universities and other public entities when mutual benefit can be obtained.

D. Authority. This *University Pilot Procurement Code* is adopted in compliance with the Louisiana Administrative Procedure Act (R.S. 49:950-999.25) and pursuant to the Louisiana Granting Resources and Autonomy for Diplomas Act (R.S. 17:3139-3139.7 as amended by Act 749 of 2014) and administrative approval granted by the Joint Legislative Committee on the Budget.

E. Implementation. Implementation of the *University Pilot Procurement Code* is subject to approval by the management board and shall be adopted in compliance with the Louisiana Administrative Procedure Act (R.S. 49:950-999.25) and pursuant to the Louisiana Granting Resources and Autonomy for Diplomas Act (R.S. 17:3139-3139.7. as amended by Act 749 of 2014) and administrative approval granted by the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of

*Client Services* services provided directly to university clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

*Collusion*—see *anti-competitive practices*.

*Common or General Use Item*—a specification which has been developed and approved for repeated use in procurements in accordance with the provisions of R.S. 39:1651(A) and (B).

*Competitive Negotiation*—a step toward a contract involving back and forth communication regarding costs and other criteria between the evaluation team and respondents who have been found suitable for award of a contract pursuant to evaluation of responses to a solicitation.

*Competitive Reverse Auction (CRA)*—a competitive online solicitation process conducted for goods and/or services in which respondents compete against each other online, in real time, in an open and interactive environment.

*Competitive Sealed Bidding*—the receipt of bids protected from inspection prior to bid opening. Bids may be received in any manner specified in the solicitation for bids including receipt by mail, by direct delivery, or through any secure electronic interactive environment permitted by rule or regulation.

*Consultant* an independent individual or firm contracting with the university to perform a service or render an opinion or recommendation according to the *consultant's* methods and without being subject to the control of the

*Multi-Step Bids or Proposals*—a solicitation involving two competitive steps, combining the elements of both competitive sealed bids and competitive sealed proposals. The first step may require the submission of technical and price proposals with only the technical proposal being evaluated and scored. The second step involves the consideration of price proposals of those firms that have achieved the highest technical scores.

*Negotiation*—conferring, discussing, or bargaining to reach agreement in business transactions on a potential procurement.

*Office of State Purchasing Contracts*—contracts entered into by the Louisiana Office of State Purchasing and made available to other Louisiana procurement units.

*President* the most senior administrator for the university system governed by the management board, also referred to as *CEO*.

*Procurement*—the process by which the ownership or use of goods or services is acquired. Also includes all functions that pertain to the obtaining of goods and services, including but not limited to description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

*Procurement Policies*—policies shall generally describe requirements for selection and solicitation of sources, preparation and award of contracts and all phases of contract administration. *Procurement policies* may address other issues related to procurement and to revenue generating contracts.

*Professional Services*—work rendered by an independent contractor who has a professed knowledge of a particular aspect of learning or science and its practical application. A profession is a vocation founded on advanced specialized study and training which enables its practitioner to provide particular services.

*Trade name*—a name, brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

*Protest*—a written objection by a potential aggrieved party to a solicitation or award of contract, with the intention of receiving a remedial result. *Protests* must be filed in accordance with this *University Pilot Procurement Code* (UPPC).

*Public Funds*—legislatively appropriated funds, interagency transfers, statutory dedication, federal appropriations, self-generated funds, gifts and funds received by the university by grant or other method from governmental or private sources and which may be used to advance the missions of the university.

*Request for Proposals (RFP)*—a solicitation for proposals to supply services or a combination of services and goods where weighted criteria are the basis for award. An *RFP* may also be used for a solicitation for lease of facilities.

*Request for Quotation (RFQ)*—a solicitation for use in procurements that includes a description of the goods or services specified and requests that a potential vendor respond with price and other information by a designated time and date. Evaluation and recommendation for award are based on the quotation which offers the best price, quality, delivery and services from a respondent with a satisfactory record for performance and reliability.

*Request for Quote and Qualifications (RFQQ)* a solicitation the university has identified the need and the services to resolve it and is looking for a firm's qualifications and costs or fees to provide the identified services.

*Respondent*—an individual or entity that submits a response to a solicitation.

*Responsible Respondent*—a business entity or individual determined to be fully capable of meeting all requirements of the solicitation and subsequent contract and which

*Used Equipment*—pre-owned or rebuilt/remanufactured/ refurbished equipment that may be offered for purchase.

*Vendor*—a supplier or seller of goods or services.

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as, but not limited to, paramedics, therapists, handwriting analysts, foreign representatives, expert speakers, trainers within a continuing education program and expert witnesses for adjudications or other court proceedings shall be made using procedures determined by the CPO.

E. Artificial Division. Under no circumstances may a procurement requirement be artificially divided so as to avoid the application of competitive thresholds under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of

cause whatsoever. In no case will late responses be considered.

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7. publications and/or copyrighted materials procured directly from the publisher or copyright holder;

8. publications and/or copyrighted materials procured by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;

9. publications of articles, manuscripts, etc. in professional scientific, research, or educational journals/media and/or the procurement of reprints;

10. royalties and license fees for use rights to intellectual property, such as, but not limited to: patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names, etc.;

11. public utilities and services provided by local governments;

12. prosthetic devices, implantable devices and devices for physical restoration;

13. educational training and related resources used to enhance the performance of university employees and good standing of state agencies, including memberships in and accreditations by professional societies and organizations;

14. materials, supplies, exhibitor fees and exhibit booths for conferences, seminars and workshops or similar events (business, educational, promotional activities) which enhance economic development or further the university's mission, duties and/or functions, with the approval of the CPO or equivalent;

15. food, material and supplies for teaching and training where procuring, preparing and serving of food are part of the prescribed course;

16. shipping charges and associated overseas screening and broker fees between international and domestic origins and destinations;

17. parcel services, including but not limited to Federal Express, United Parcel services, Airborne Express and Express Mail;

18. advertising where the CPO certifies that specific media is required to reach target audiences;

19. scientific and laboratory supplies, equipment and services for scientific research when procured by the university for laboratory, educational or scientific research; not to exceed \$50,000 per transaction;

20. procurement or rental of mailing lists;

21. art exhibitions, rentals and/or loan agreements and associated costs of curatorial fees, transportation and installation;

22. instructors for continuing education courses taught on an as-needed basis;

23. procurement of services from subcontractors named in federal, state and private sponsored agreements when the grant award is received in which a portion of the services is subcontracted;

24. services paid for with federal funds provided specifically for such purposes;

25. used equipment and antique procurements;

26. Office of State Purchasing contracts or state master agreements;

27. procurements from GSA contract schedules;

28. intergovernmental or interagency contracts;

29. procurement of items for resale;

30. renewal of document storage facilities;

31. dues, registrations and membership fees;

32. analysis of research specimens necessary to preserve continuity of science;

33. goods or services purchased in foreign countries;

34. contracts for employee benefit plans as authorized by law;

35. client services;

36. procurements not exceeding the amounts established by the management board may be made in accordance with small purchase procedures, except that procurement requirements shall not be artificially divided so as to constitute a small purchase;

37. web-based or subscription services;

38. services provided by expert witnesses;

39. renewal of termite service contracts.

B. Emergency Procurements. Emergency procurements shall be made using the most competitive process available consistent with the need for responding to the emergency. Reasonable efforts under the circumstances shall be made to obtain quotations from three or more vendors when goods or services are to be purchased on an emergency basis. Emergency procurement shall be limited to only those goods and services necessary to meet the emergency.

#### C. Cooperative Purchasing Agreements

1. The CPO may approve a single purchase or approve ongoing participation in a cooperative purchasing agreement as a University-wide price agreement. The CPO has the final authority to approve the university's participation in cooperative purchasing agreements.

2. If it is in the best interests of the university after considering:

a. the competitiveness of pricing under the contract;

b. the competitiveness of the solicitation and award process;

c. the efficiencies and cost savings of using the contract.

3. The university may participate in, conduct, sponsor or administer a cooperative purchasing agreement.

4. A report of all group purchasing or cooperative purchasing contracts by each institution authorized under these provisions shall be provided to the Joint Legislative Committee on the Budget no later than 90 days after the end of each fiscal year. Such report shall, at a minimum, include a measurement of the savings derived from the utilization of the group purchasing or cooperative purchasing process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 41:547 (March 2015).

## Chapter 6. Reverse Auctions

### §603. Application

A. Where the university utilizes the reverse auction process on behalf of a single institution, the CPO shall:

1. determine it is in the best interest of the university to use electronic online bidding;

2. determine specifications and terms and conditions for the procurement.

B. When applicable, prequalified products for a particular solicitation shall be announced seven days prior to the beginning of the auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.





C. Highest Score. An award based upon an RFP shall be to the responsible respondent whose proposal was scored highest by an evaluation team based on the weighted criteria set forth in the RFP after completion of all steps of the evaluation process set forth in the RFP, taking into consideration price and the evaluation factors set forth in the RFP.

D. Greatest Return. The award based on an SFO which results in an exclusive right or franchise for the use of university facilities or services shall be made to the respondent that meets the terms and conditions of the solicitation and offers the greatest return to the university.

E. Notice. Written notice of the award of a contract shall be provided to all respondents requesting such notice and shall be made a part of the procurement file.

F. Tie Bids. Tie bids occur when responsive bids from responsible respondents are identical in price and meet all requirements and criteria set forth in the solicitation and are susceptible of award. When there is a tie between an out-of-state and Louisiana respondent, preference will be given to the Louisiana respondent. The CPO shall make an award when tie bids are received in any manner that will discourage tie bids. A written determination justifying the manner of award must be made.

G. Subsequent Award. In the event any contractor fails to fulfill or comply with the terms of any contract, the CPO may award the contract to the next lowest responsible respondent to the solicitation which resulted in the contract, subject to acceptance by that respondent, and may hold the defaulting contractor responsible for the difference in cost.

H. Independent Price Determination. Every solicitation shall provide that by submitting a bid or offer, the respondent certifies that the price submitted was independently arrived at without collusion.

AUTHORITY NOTE:

responses to the positions of other parties to the controversy, a written decision shall be furnished to the contractor.

D. Hearing. If the CPO determines that the issues involved in a protest or contract controversy are complex, obscure or would best be evaluated based on the testimony of the parties or others, the CPO may extend the relevant time periods or call for a hearing at which evidence may be received, a record created and a decision rendered by an independent hearing officer designated by the CPO. All interested parties shall be allowed to fully participate in such a hearing.

E. Decision of CPO. A decision of the CPO or a designated hearing officer regarding a protest or a contract controversy is final and conclusive except when:

1. the person or entity adversely affected has filed an appeal as provided in this Section.

F. Appeal. Any person or entity aggrieved by the decision of the CPO or hearing officer regarding a protest or a contract controversy may appeal the decision to the CFO or

between the university and a person who is subject to suspension or debarment proceedings, to determine whether

C. Capital Investments/Gifts. A nonexclusive contract with a vendor who has made a gift to the university of equipment utilized for promoting products and university activities at a substantial cost to the vendor, and which covers products for resale within the institution, may be entered into for a period not to exceed 10 years.

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present responsibility of a person as determined by the purchasing agency.

C. Hearing. When the CPO determines that a person or entity may have engaged in activities which are cause for debarment, a hearing shall be conducted by an independent hearing officer, designated by the CPO, in which evidence is received and a record created. The hearing officer shall issue a decision, including findings of fact and conclusions, based on the evidence produced in the hearing.

D. Effect. If the decision is to debar, the decision shall state the debarment period and inform the person or entity that no person representing the debarred person or entity during the debarment period may conduct business with the university and that any response to a solicitation received

