

## **DECLARATION OF EMERGENCY**

### **Office of the Governor Division of Administration Office of Technology Services**

#### **Procedure for IT Contracts for Consulting Services (LAC 34:I.Chapter 55)**

The Office of the Governor, Division of Administration, Office of Technology Services, enacts LAC 34:I.5521, LAC 34:I.5523, and LAC 34:I.5525 for the procurement of information technology (IT) consulting services, IT systems, IT services, IT equipment or similar services contracts as authorized by R.S. 39:200(L). This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be effective on October 6, 2015 and shall remain in effect for a period of 120 days or until adoption of the Rule, whichever occurs first.

The Office of the Governor, Division of Administration, Office of Technology Services enacts an Emergency Rule in order to adopt provisions which will allow the Office of Technology Services the ability to make multiple awards in Information Technology consulting services contracts (*Louisiana Register*, Volume 41, Number 9).

The Office of Technology Services (OTS) proposes to enact this provision to give it the ability to make multiple awards from a single request for proposals. This action is being taken via Emergency Rule in order to enable the IT Strategic Sourcing Services request for proposal and other similar OTS solicitations to be posted in a timely manner and prevent a slowdown in providing IT services to the various state agencies. A slowdown in providing IT services could affect OTS' ability to effectuate OTS' statutory obligation to establish and coordinate all information technology services affecting the management and operations of the executive branch of state government. OTS has the sole authority and responsibility for defining and implementing the specific information technology systems and services, defining a state master information technology plan, and creating and managing information technology standards. The creation of OTS consolidates a wide variety of existing hardware platforms, operating systems, database management systems, networks, third party software, and custom applications. These legacy environments currently reside in multiple physical locations, and have been developed over many years under the direction of the each user agencies. OTS plans to apply the Information Technology Infrastructure Library/Control Objectives for Information Technology (ITIL/COBIT) process model to the task of organizing and consolidating the many separate environments; and of identifying and implementing process improvements designed to move the State to more efficient, streamlined, and cost-effective IT operations. Because there is a growing need for a flexible means of obtaining IT services quickly, efficiently, and cost effectively, the Strategic Sourcing Services RFP will be used to identify and award contracts to multiple potential contractors who will be able to provide IT services to user agencies as quickly and efficiently as possible.

Effective October 6, 2015, the Division of Administration, Office of Technology Services enacts provisions allowing the award of multiple contracts for consulting services.

### **Title 34**

## **GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL**

### **Part I. Purchasing**

#### **Subpart 3. Equipment-Lease-Purchase Program Chapter 55. Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services and Hardware Maintenance**

#### **§5521. Procurement of Information Technology Consulting Services, Information Consulting Systems, Information Technology Services, Information Technology Equipment Using Multiple Awards**

A. A multiple award is an award of an indefinite quantity contract for one or more information technology (IT) consulting services, IT systems, IT services, IT equipment or similar service to more than one contractor through the request for proposals or invitation to bid process. A multiple award may be in the state's best interest when award to two or more contractors is needed for adequate delivery, service, or availability. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. Multiple awards shall not be made when a single award will meet the state's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business or avoiding the resolution of tie proposals. Any such awards shall be limited to the least number of IT consultants, IT systems, IT services, or IT equipment necessary to meet the valid requirements of the Office of Technology Services. It shall be mandatory that the requirements of the Office of Technology Services that can be met under the contract be obtained in accordance with the contract, provided, that:

1. the state shall reserve the right to take solicitations separately if a particular service requirement arises which exceeds the scope specified in the contract;

2. the state shall reserve the right to take solicitations separately if the contract will not meet a nonrecurring or special need of the state;

3. the state reserves the right to use its own personnel to provide similar services when such services are available and satisfy the Office of Technology Services need.

B. Where multiple award contracts exist for IT consulting services, IT systems, IT services, IT equipment or similar service, the Office of Technology Services may utilize any of the following procedures prior to issuing task orders:

1. The Office of Technology Services may prepare a Request for Response that may include, if applicable, the following (A Request for Response is an informal process used to seek additional information to assist the State Chief Information Officer (CIO) make a best value determination.):

- a. a performance-based statement of work that includes such things as:

- i. the work to be performed;
- ii. location of the work;
- iii. period of performance;
- iv. deliverable schedule;
- v. applicable performance standards;

- vi. acceptance criteria;
- vii. any special requirements (e.g. security clearances, special knowledge, etc.);
- viii. the products or services required using generic description of products or services whenever possible.

b. If necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks.

c. A request for submittal of a firm-fixed total price for the product and/or service which are no higher than prices in the multiple award contract.

d. Submit the Request for Response to at least three (3) multiple award contract holders, whenever available, offering functionally equivalent products and/or services that will meet the Office of Technology Services' needs.

2. The CIO may issue task orders by allowing selected awardees to give oral presentations in lieu of written response to a Request for Response.

3. The CIO need not contact awardees prior to issuing an order if the CIO has information, such as price sheets or catalogs available to determine the best value for the State.

#### C. Evaluation and Selection of the Contractor to Receive the Task Order

1. In making a best value determination, the CIO shall place the task order(s) with the contractor(s) that meet(s) the Office of Technology Services' needs. The Office of Technology Services should give preference (where allowable) to small-entrepreneurships or small and emerging businesses when two or more contractors can provide the products and/or services at the same firm-fixed total price.

2. A best value determination is one that considers, in addition to underlying contract pricing, such factors as:

- a. probable life of the product selected
- b. technical qualifications;
- c. delivery terms;
- d. warranty;
- e. maintenance availability;
- f. administrative costs;
- g. compatibility of a product within the user's environment;
- h. user's familiarity with the item or service; and
- i. qualifications and experience of proposed staff.

3. The Office of Technology Services shall document in the procurement file the evaluation of the contractors' response that formed the basis for the selection. The documentation shall identify the contractor from which the product and/or services were purchased, the products and/or services purchased, and the cost of the resulting order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 41:

#### §5523. Intent to Use

A. If a multiple award is anticipated prior to issuing a solicitation, the method of award should be stated in the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 41:

#### §5525. Determination Required

A. The chief information officer shall make a written determination setting forth the reasons for a multiple award, which shall be made a part of the procurement file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 41:

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.



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