

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Technology Services

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

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, the Office of the Governor, Division of Administration, Office of Technology Services (OTS), 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). OTS proposes to enact a rule to adopt provisions which will allow it the ability to make multiple awards in Information Technology consulting services contracts. Accordingly, OTS hereby gives Notice of Intent to adopt the following Rules to become effective upon promulgation.

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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this Rule will have no net impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through post secondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

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.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 20, 2015 to David Dousay, Chief Executive Officer, Office of Technology Services, P.O. Box 94095, Baton Rouge, LA 70804.

Richard Howze
Chief Information Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Multi-Vendor Awards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule amendment is anticipated to result in an indeterminable decrease in state governmental expenditures. The rule will allow the Office of Technology Services (OTS) to issue multi-vendor awards for Request for Proposals (RFP) relative to staff augmentation IT services. The Office of State Purchasing (OSP) has already successfully implemented such a rule within their business unit. The proposed rule will extend that authority to the OTS for procuring IT services. By issuing awards to multiple vendors who will each offer a catalog of services at various price points, the state will be able to choose the best vendor for a particular project based on an individual vendor's merits both in price and expertise in another competitive environment. Once multiple vendors are selected to provide a specific catalog of IT services, which will include a price ceiling, these same vendors will have to compete again at the task order level in order to be chosen to provide services that may not be completed by OTS internal staff at the time of the request.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in multiple level competitions among vendors. Once multiple vendors are selected to provide a specific catalog of IT services, which will include a price ceiling, these same vendors will have to compete again at the task order level in order to be chosen to provide services that cannot be completed by OTS internal staff at the time of the request.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule will allow for multi-vendor awards for contracts allowing each vendor to offer a catalog of services and will likely result in increased competition between the vendors participating. Each vendor will be able to individually price each line of service with the knowledge that they are in competition with the other awarded vendors for that particular service.

Richard Howze
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Evan Brasseaux
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Legislative Fiscal Officer