



State of Louisiana
DIVISION OF ADMINISTRATION
OFFICE OF STATE PURCHASING

M. J. "MIKE" FOSTER, JR.
GOVERNOR

MARK C. DRENNEN
COMMISSIONER OF ADMINISTRATION

October 31, 2002

MEMORANDUM OSP 03-05

TO: Department Secretaries, Undersecretaries, Business Offices, Purchasing Departments, College and Universities

FROM: Denise Lea
Director of State Purchasing

RE: Executive Order No. MJF 2002-56 on Small Purchases
Replacement of Executive Order No. MJF 98-20

Attached is the new Executive Order for Small Purchases which becomes effective immediately. The new executive order reflects several clarifications and changes. Listed below are the significant changes:

- (1) Changed "Certified Economically Disadvantaged Business" to "Certified Small and Emerging Business" to comply with the repeal of R.S. 51:1751, et seq. and creation of R.S. 51:941, et seq.
- (2) Added the \$1,000 limit to permit purchases without competitive bidding **if the purchase is made with the LaCarte procurement card.**
- (3) Changed the definition of small purchases to mean any procurement not exceeding \$20,000. Further details are provided in (4), (5) and (6) below. This change was made to help expedite small purchases and is more in line with other states.
- (4) Previously purchases that were over \$500 but not exceeding \$2,000 were made by soliciting telephone, facsimile or other means to at least 3 bona fide, qualified bidders. The dollar limit has been changed to purchases exceeding \$500 (or \$1,000 if purchased with procurement card) but not exceeding \$5,000.
- (5) Previously purchases that were over \$2,000, but not exceeding \$10,000 were made by sending either facsimile or written solicitations to at least five bona fide, qualified bidders. The dollar limit has been changed to purchases exceeding \$5,000

but not exceeding \$20,000. Agency training and experience and the utilization of LaPAC website posting of solicitations will determine higher agency delegations. This office will release more information/instructions for an agency to request an increase in their delegation of authority above the \$10,000 threshold.

- (6) Delegations of authority for printing were \$500.00. That section was deleted and agencies are now encouraged to request their printing delegation to be raised to be equivalent to their other commodity delegations.
- (7) Section 5:A (14) currently provides for non-competitive purchases of wire, related equipment, time and material charges to accomplish adds, moves, and/or changes to telecommunications systems not exceeding \$2,000 dollars and is revised to include repairs and to increase the limit to \$2,500. The same vendors are utilized for repairs that provide services for adds, moves, and/or changes. Including repairs increases efficiency and response time. The \$500 increase is in line with the average increase in cost since this exemption was made a part of the small purchase executive order.
- (8) Added a new exemption to non-competitive purchases as section 5:A (24) for commercial Internet service not to exceed \$1,500 per subscription per year. Previously dial-up Internet service was available for \$20 to \$25 per month, well within the limit for no competitive bidding. The \$1,500 limit provides agencies with the flexibility to procure either DSL or Cable Modem services at speeds much greater than dial-up Internet access services.
- (9) In Section 6 a clarification of split purchasing has been added. "In absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive bidding process or the solicitation of competitive bids."

The State Purchasing website will be updated with this new information today. Should you have any questions, please feel free to contact me.

Attachment

EXECUTIVE ORDER MJF 02-56

Replacement of Executive Order No. MJF 98 - 20 Small Purchase Procedures

WHEREAS, the Louisiana Procurement Code, in R.S. 39:1596, authorizes the governor to establish procedures for the procurement of small purchases with the caveat that "procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section";

WHEREAS, Executive Order No. MJF 98-20, issued on May 4, 1998, as amended by Executive Order No. MJF 2000-29, issued on August 28, 2000, sets forth the procedure for the procurement of small purchases in accordance with the Louisiana Procurement Code; and

WHEREAS, the issuance of an updated executive order on small purchase procedures shall replace Executive Order Nos. MJF 98-20 and MJF 2000-29;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested through the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government, and the officers and employees thereof, (hereafter "agency") shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order.

SECTION 2: Unless the context clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

- A. "Small purchases" means (1) any procurement not exceeding twenty thousand dollars (\$20,000), or (2) any procurement of those items listed in Section 5 of this Order, regardless of price, except as noted in paragraphs 5(A)(14) and 5(A)(24).
- B. "Delegated purchasing authority" means the dollar amount delegated to an agency by the chief procurement officer of state central purchasing, as defined in R.S. 39:1556(3).
- C. "Certified small and emerging business" means a business certified as small and emerging business by the Division of Small and Emerging Business Development, Department of Economic Development, in accordance with the provisions of the Small and Emerging Business Development Act, R.S. 51:941, et seq., and included on the most recent list of certified small and emerging businesses issued by the Division of Small and Emerging Business Development.

SECTION 3: The following items are not subject to the procedures set forth in this Order:

- A. Those items purchased from an existing state contract; and
- B. Public works contracts which exceed five thousand dollars (\$5,000) and are governed by the provisions of R.S. 38:2241.

SECTION 4: Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures :

A. No competitive bidding is required (1) for purchases not exceeding five hundred dollars (\$500), or (2) for purchases made with the LaCarte Procurement Card not exceeding \$1,000 per single purchase transaction.

B. Price quotations shall be solicited by telephone, facsimile, or other means from three (3) or more bona fide, qualified bidders (1) for purchases exceeding five hundred dollars (\$500) but not exceeding five thousand (\$5,000), and (2) for purchases made with the LaCarte Procurement Card exceeding one thousand dollars (\$1,000) but not exceeding five thousand dollars (\$5,000). The purchase contract shall be awarded on the basis of the lowest responsive price² quotation solicited from the bona fide, qualified bidders. Whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business. Agency files shall document and list all solicited bidders and each bidder's contact person, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected. Agency files should also contain written confirmation of the bid from the successful bidder.

C. Written price quotations shall be solicited from five (5) or more bona fide, qualified bidders for purchases exceeding five thousand dollars (\$5,000) but not exceeding twenty thousand dollars (\$20,000). The purchase contract shall be awarded on the basis of the lowest responsive price quotation received from the bona fide, qualified bidders. Whenever possible, at least two (2) of the bona fide, qualified bidders shall be certified small and emerging businesses. Written solicitations received by facsimile or by hand delivery shall allow for bids to be accepted for a minimum period of five (5) calendar days. Written solicitations received by mail shall allow for bids to be accepted for a minimum period of ten (10) calendar days.

All written solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable bid. Precautionary measures shall be taken to safeguard the confidentiality of bid responses prior to the closing time for receipt of bids. No bid shall be evaluated using criteria not disclosed in the solicitation.

Agency files shall document and list all solicited bidders and each bidder's response, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected.

SECTION 5: Except as provided in paragraphs A(14) or A(24) of this Section, the following items are considered small purchases regardless of price and may be procured in the following manner:

A. No competitive bidding is required for the following items:

(1) Repair parts for equipment obtained from an authorized dealer³;

(2) Equipment repairs obtained from an authorized dealer or by telephone or facsimile solicitation to at least three (3) bona fide, qualified bidders; whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business;

(3) Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract, obtained from an authorized dealer or by telephone or facsimile solicitation to at least three

- (3) bona fide, qualified bidders; whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business;
- (4) Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;
- (5) Livestock purchased at public auction;
- (6) Purchasing or selling transactions between state budget units and other governmental agencies;
- (7) Publications and/or copyrighted materials purchased directly from the publisher or copyright holder;
- (8) Publications and/or copyrighted materials purchased by libraries from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;
- (9) Public utilities and services provided by local governments;
- (10) Prosthetic devices, implantable devices, and devices for physical restoration, which are not covered by a competitive state contract;
- (11) Educational training and related resources (except equipment) used to enhance the performance of state employees, including memberships in professional societies and organizations, except for customized training which is covered under R.S. 39:1481, et seq;
- (12) Purchases for clients of Blind and Vocational Rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7%, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;
- (13) Materials, supplies, exhibitor fees, and exhibit booths at conferences, seminars, and work shops, for participation in promotional activities which enhance economic development may be procured in accordance with this Section with the approval of the department secretary, or agency equivalent, if not covered by competitive state contract;
- (14) Wire, related equipment, time and material charges to accomplish repairs, adds, moves, and/or changes to telecommunications systems not exceeding two thousand five hundred dollars (\$2,500);
- (15) Working class animals trained to perform special tasks, including but not limited to narcotics detection, bomb detection, arson investigation, and rescue techniques;
- (16) Food, materials and supplies for teaching and training where the purchasing, preparing, and serving of food is part of the regularly prescribed course;
- (17) Shipping charges and associated overseas screening and broker fees from an international origin to a domestic destination;
- (18) Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne

Express, and Express Mail;

(19) Renewal of termite service contracts;

(20) Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Trust Fund Program⁴;

(21) Purchase of clothing at retail necessary to individualize clients at state developmental centers in compliance with Federal Regulations for ICF/MR facilities;

(22) Health insurance for the managers of Randolph-Sheppard programs, as defined by 20 U.S.C. §107, et seq., and paid from income generated by unmanned vending locations;

(23) Purchases made to resell as part of a merchandising program with the written approval on file from the secretary of the department, or agency equivalent, when it is not practical or feasible to obtain competitive price quotations; or

(24) Commercial internet service not exceeding one thousand five hundred dollars (\$1,500) per subscription per year.

B. For the following items, telephone and/or facsimile price quotations shall be solicited, where feasible, from at least three (3) bona fide, qualified bidders and whenever possible, at least one (1) of the bona fide, qualified bidders shall be a certified small and emerging business:

(1) Farm products including, but not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods, when it is determined that market conditions are unstable and the bidding process is not conducive for obtaining the lowest prices;

(2) Food, materials, and supplies needed for:

(a) Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available; and/or

(b) Juvenile detention homes and rehabilitation facilities/homes where the number of inmates, students, or clients is unstable and unpredictable;

(3) Convention and meeting facilities⁵;

(4) Gasoline and fuel purchases not covered by competitive state contract;

(5) Equipment for blind operated facilities not covered by competitive state contract;

(6) Feed commodities, including but not limited to soybean meal, cottonseed meal, and oats for use on prison farms;

(7) Aircraft parts, repairs, inspections, and modifications approved by the head of the agency, the head of Division of Administration Flight Operations, or its designee, and performed by an FAA-certified mechanic and/or at an FAA - certified repair station in accordance with FAA requirements; or

(8) Air and bus charters, in accordance with Policy & Procedure Memorandum No. 49 - General Travel Regulations, including group travel that does not qualify for commercial rates available to individual travelers.

SECTION 6: In the absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive bidding process or the solicitation of competitive bids.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 8: Executive Order No. MJF 98-20, issued on May 4, 1998, and Executive Order No. MJF 2000-29, issued on August 28, 2000, are hereby rescinded and terminated.

SECTION 9: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 30th day of October, 2002.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State