



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

State of Louisiana

Replaced with 04-02

DIVISION OF ADMINISTRATION OFFICE OF THE COMMISSIONER

MARK C. DRENNEN
COMMISSIONER OF ADMINISTRATION

MEMORANDUM OSP03-12

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

FROM: Denise Lea, Director

DATE: March 18, 2003

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

The Office of State Purchasing has released the new rules for Information Technology procurements which is effective immediately. A copy of the rules is attached for your reference.

- There are significant changes in the way agencies will procure software, software support services, and hardware maintenance. The Office of State Purchasing stands ready to assist agencies with these rules.
- Definitions have been added to assist you in determining the proper acquisition method.
- Depending on your feedback, this office will try to determine the necessity and type of training to be offered. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.

If you have any questions concerning the new procedures for Information Technology, please contact me at dlea@doa.state.la.us or 225-342-8062.

Attachments

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of the State Purchasing**

Procurement of Computer Equipment and Services (LAC 34:I.Chapter 55)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 39:199.C and D, the Office of the Governor, Division of Administration, Office of State Purchasing hereby gives notice of its intent to amend Rules relative to the purchase and lease of computer hardware and software; the procurement of hardware maintenance, software maintenance, and software support services; and the procedures for Procurement Support Team operations.

Further, the Office of State Purchasing proposes to repeal Rules relative to Emergency Procurement of Data Processing Equipment; Guidelines for Justification of Multi-Year Data Processing Leases; Unscheduled Maintenance of Data Processing Equipment; Procedures for Disposing of Leased, Rented or Purchased Data Processing Equipment; and Equipment Specifications in Solicitations, LAC 34:I.Appendix A.1-9:5, 1-9:6 and 1-9:7, 1-9:9, and 1-9:12, respectively.

The Office of the State Register will also renumber LAC 34:I.Appendix A to meet the APA mandate of prescribing "a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Louisiana Administrative Code." The following table will clarify the renumbering effort.

Former Section Number under Appendix A	New Section Number
New Material	5501
1-9:3	5503
1-9:4	5505, 5507, 5509, 5511
1-9:5	Repealed
1-9:6	Repealed
1-9:7	Repealed
1-9:8	5513
1-9:9	Repealed
1-9:12	Repealed

**Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part I. Purchasing**

Chapter 55. Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services, and Hardware Maintenance

§5501. General

- A. This Chapter describes the procedures that all agencies in the Executive Branch must follow for the procurement of Information Technology Hardware, Software, Software Maintenance and Support Services, and Hardware Maintenance. Situations not covered by these rules may be found in the general statutes and rules and regulations of the Procurement Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 29:

§5503. Procedures For Procurement of Information Technology Hardware

- A. This Section describes the information that all agencies in the Executive Branch must furnish when seeking approval of the Office of State Purchasing for the procurement of information technology hardware including installation with a cost exceeding the agency's delegated purchasing authority. Information technology hardware, for the purpose of this section, 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, mini-computers 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.
- B. This section does not apply to acquisitions from State Brand Name Contracts. Terms and conditions for Brand Name Contracts may contain additional procedures that an agency must follow. However an approved IT-10 is needed for all IT procurements in excess of \$100,000.
- C. For requests not covered by an existing contract, the following should be provided to the Office of State Purchasing to avoid delays in approval:
 - 1. A general description of the mission to be accomplished using the requested equipment.
 - 2. A detailed list of the proposed equipment, including quantities and estimated costs for lease, purchase, rental, maintenance, etc.
 - 3. An approved IT-10 form with all requests for procurements in excess of \$100,000.
 - 4. The Office of State Purchasing may require additional information or justification, as it deems appropriate for any particular procurement request.
- D. Each agency contemplating a procurement greater than the agency's delegated purchasing authority shall, upon definition of the preliminary functional requirements, submit a draft solicitation to the Office of State Purchasing. If the procurement exceeds \$100,000, the Office of State Purchasing shall schedule a Procurement Support Team (PST) meeting. The Procurement Support Team participation may include assistance in finalizing the solicitation. The Procurement Support Team participation must include, as a minimum, assistance in evaluation of bids or proposals and negotiations of contract terms (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77, (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:

§5505. Procedures for the Procurement of Information Technology Software

- A. This section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology software.

- B. Information technology software, for the purpose of this section is defined as any program or series of programs offered commercially to computer installations.
- C. 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 to be acquired is under \$100,000, it is deemed to have the advance approval of the Office of State Purchasing and shall not be for a price greater than the vendor's published price.
 - 1. The agency must include in the procurement file a 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.
 - 2. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.
- D. It is the state's intent to compete information technology software (including modifications, installation integration, training, etc.), with a total cost greater than \$100,000 whenever possible.
 - 1. Any agency or entity that does not use the competitive process or an established standard or statewide agreement for procurement of information technology software with a total cost in excess of \$100,000 must fully justify its request to the Office of Information Technology and obtain concurrence prior to submission to the Office of State Purchasing for further processing.
 - 2. Information technology software procurements of \$100,000 or greater will be competitively obtained through and ITB, RFP or through an OIT pricing agreement administered by the Office of State Purchasing.
 - 3. Information technology software procurements of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.
 - 4. Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77, (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:

§5507. Procedures for the Procurement of Information Technology Hardware Maintenance

- A. This section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology hardware maintenance.
- B. For purposes of this section, 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.
- C. Procurements for information technology hardware maintenance under \$100,000 may be handled non-competitively and are deemed to have the advanced approval from the Office of State Purchasing and shall not be for a price greater than the vendor's published price. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.
- D. It is the state's intent to compete information technology hardware maintenance with a total cost greater than \$100,000 whenever possible.

1. Information technology hardware maintenance over \$100,000 may be procured non-competitively from the original equipment manufacturer (OEM) if the maintenance is for mission critical equipment (such as mainframes, mainframe peripherals, enterprise servers, or network backbone components). The agency must submit a letter of justification signed by the head of the agency or his designee to the Office of State Purchasing.
2. Any agency or entity that does not use the competitive process or an established standard or statewide agreement for procurement of information technology hardware maintenance with a total cost in excess of \$100,000 must fully justify its request to the Office of Information Technology and obtain concurrence prior to submission to the Office of State Purchasing for further processing.
3. Information technology hardware maintenance not covered in D1 must be competitively procured through the Consulting and Support Services Agreement (CSSA), Invitation to Bid (ITB), or Request for Proposal (RFP) process.
4. Information technology hardware maintenance of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.
5. Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77, (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:

§5509. Procedures for the Procurement of Information Technology Software Maintenance

- A. This section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology software maintenance.
- B. For the purposes of this section, 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, application software, and systems and network management software, tools and utilities.
- C. Procurements for information technology software maintenance under \$100,000 may be handled non-competitively and are deemed to have the advanced approval from the Office of State Purchasing and shall not be for a price greater than the vendor's published price. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.
- D. It is the state's intent to compete information technology software maintenance with a total cost greater than \$100,000 whenever possible.
 1. Any agency or entity that does not use the competitive process or an established standard or statewide agreement for procurement of information technology software maintenance with a total cost in excess of \$100,000 must fully justify its request to the Office of Information Technology and obtain concurrence prior to submission to the Office of State Purchasing for further processing.
 2. Information technology software maintenance in which the software vendor is the only authorized entity to provide product fixes, patches, updates, or upgrades 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.

3. Any other type of information technology software maintenance not covered in D1 or D2 must be competitively procured through the Consulting and Support Services Agreement (CSSA), Invitation to Bid (ITB) or Request for Proposal (RFP) process.
4. Information technology software maintenance with a cost of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.
5. Procurements shall not be artificially divided to circumvent the \$100,000 threshold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77, (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:

§5511. Procedures for the Procurement of Information Technology Software Support Services

- A. This section will describe the procedures that all agencies in the Executive Branch must follow when seeking to acquire information technology software support services.
- B. For purposes of this section, information technology software support services include capacity planning, performance analysis, on-site troubleshooting, custom modifications, etc.
- C. Procurements for information technology software support services under \$50,000 may be handled non-competitively and are deemed to have the advance approval of the Office of State Purchasing. The Office of State Purchasing will assist any agency in the negotiation of contract agreements and any other procurement related functions.
- D. Procurements shall not be artificially divided to circumvent the \$50,000 threshold.
- E. Information technology software support services of \$50,000 or greater must be procured using the Consulting and Support Services Agreement (CSSA) or the Request for Proposal (RFP) process in accordance with R.S. 39:1481 et seq. (Office of Contractual Review).
- F. Information technology software support services of \$100,000 or greater must have been included in an approved IT-10 from the Office of Information Technology.
- G. It is the state's intent to compete information technology software support services with a total cost of \$50,000 or greater whenever possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199D

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77, (February, 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:

§5513. Procurement Support Team Operations

- A. Procurement Support Team Composition
 1. A Procurement Support Team (PST) shall be formed in accordance with the procedures defined herein for every information technology contract in an amount \$100,000 or greater for the procurement of information technology hardware, hardware maintenance, software,

software maintenance, and software support services. All contracts shall be subject to the review and approval of other agencies as required by statute or regulations. Purchase release orders issued pursuant to a Direct Order Contract or a Brand Name Contract shall not constitute a contract for purposes of these procedures. The formation of a Procurement Support Team shall be accomplished by the Office of State Purchasing and shall include one or more representatives from each of the following: the Office of State Purchasing; the Legislative Legal Staff; the using agency initiating the procurement action; and the Legislative Fiscal Office. The Office of Information Technology will provide technical staff to assist the Office of State Purchasing and the Procurement Support Team.

2. At least two members of each Procurement Support Team shall have formal training in contract negotiations. The Legislative Fiscal Officer, the speaker of the House of Representatives and the president of the Senate (jointly), and the head of the Purchasing Agency (or his designee), shall each designate in writing to the Office of State Purchasing the names of a primary and an alternate team member. It shall be the responsibility of each named agency to keep the Office of State Purchasing advised of any changes in designated individuals.
 3. The individual agencies represented on procurement support teams will have the following primary responsibilities. These responsibilities may be enlarged or modified as appropriate to each given situation by the procurement support team leader with the concurrence of the Office of State Purchasing.
 - a. Legislative Fiscal Office. The Legislative Fiscal Office shall have the primary responsibility for the analysis of solicitations and review of funding procedures and certification of specific appropriation for the purpose prior to the final contract award.
 - b. Legislative Legal Staff. The Legislative Legal Staff shall have the primary responsibility for developing the legal terms and conditions of draft contracts, evaluating the legal impact of substantive terms and conditions, review to ensure compliance with statutes and regulations, and legal negotiations.
 - c. Office of State Purchasing. The Office of State Purchasing shall have primary responsibility for insuring compliance with procurement procedures and regulations, the drafting of solicitations, and the evaluation of bids and proposals.
 - d. The Procuring Agency. The procuring agency shall have primary responsibility for the determination of compliance of bids or proposals with the functional requirements, and for all management decisions at each phase of the procurement process.
 4. The Office of Information Technology shall provide technical staff to assist the Office of State Purchasing and the Procurement Support Team. They shall provide advice and support in the area of information technology techniques, negotiation techniques, developing the structure and content of solicitations, and evaluation of bids or proposals, as requested by the Office of State Purchasing.
- B. Procurement Support Team Involvement. The Procurement Support Team participation may include assistance in finalizing the solicitation. Procurement Support Team participation must include, as a minimum, assistance in evaluation of bids and proposals, and negotiations of contract terms (if applicable). Assistance shall consist of reviewing the evaluation process and recommendation of award. Procurements requiring this level of support will involve the active participation of all of the members of the Procurement Support Team as a unit.
1. The Office of State Purchasing, pursuant to the guidelines established therein, shall be responsible for convening a Procurement Support Team if the procurement is \$100,000 or greater. The Office of State Purchasing will designate the team leader.

2. At least four members, one from each office designated, must be present to constitute a quorum.
3. There will be at least one meeting during the procurement process. Each member of the Procurement Support Team must assist in the evaluation of bids or proposals, and negotiation of contracts (if applicable). The Procurement Support Team will make written evaluations and recommendations as a group; these will not supplant written individual agency approvals as required by statute or regulations. This review must be indicated by the signature of each team member on the Procurement Support Team review form, which is maintained by the Office of State Purchasing. In the event a team member indicates acceptance or concurrence of any activity, and the team member's agency subsequently refuses to approve the process pursuant to its statutorily required review, the reviewing agency and the individual team member must submit to the team leader written reasons for their actions. The team leader shall file these documents in the final activity file.
4. In situations where formal negotiations with prospective vendors or a successful bidder or proposer are appropriate, such negotiations will be conducted by a negotiation team appointed by the Procurement Support Team leader. One member of the negotiating team will be designated as lead negotiator. The results of such negotiations will, of course, be subject to all statutorily required reviews. The lead negotiator and at least one other member of the negotiating team should have formal training in contract negotiations.
5. After the procurement process has been completed, one copy of the documentation related to the procurement will be retained on file by the Office of State Purchasing.
6. The Office of State Purchasing shall have final statutory approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:199.C and D.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 10:77, (February 1984), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), LR 29:

Family Impact Statement

The proposed amendments should not have any known or foreseeable impact on any family as defined by R.S. 49:972 or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons may submit written comments until 5:00 p.m., April 21, 2003 to Denise Lea, Director, Office of State Purchasing, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Denise Lea
Director