

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 55. Procedures to Approve Brand Name, LaMAS and Multi-State Cooperative Contracts—PPM Number 57

§5501. Purpose

A. The purpose of this Policy and Procedure Memorandum is to ensure that consistent procedures under LAC 34:V.1709—Use of Brand Name, LaMAS (Louisiana Multiple Award Schedule), and Multi-State Cooperative Contracts—are followed in the establishment and use of contracts accepted as Louisiana Price Schedules (LaPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:3 (January 2016).

§5503. Brand Name Contracts

A. Definition. *Brand Name* refers to a particular commodity type or types by specific name. The Office of State Procurement will consider establishing a brand name contract where there is a valid business case and a sufficient state interest to create the contract and there is no existing Louisiana statewide competitive contract for the brand or for substantially the same commodity regardless of brand name. A brand name contract may be treated as a statewide contract and/or as a cooperative contract.

B. Procedure to Establish. A brand name contract may be solicited within the discretion of the Office of State Procurement if:

1. the commodity manufacturer or national supplier (or local distributor or representative) provides a minimum of three letters from three separate state or local government agencies designating a legitimate need for the commodity and their intent to purchase or rent the commodity if placed on contract;

2. the letters must specify the specific items, models or types to be purchased (where applicable) and the anticipated annual usage per item, model or type. The Office of State Procurement may require any additional information necessary in order to carry out a cost/benefit analysis of establishing the subject brand on a brand name contract;

3. if the brand name commodity or commodities are accepted, then the Office of State Procurement will competitively solicit any and all Louisiana vendors and distributors capable of providing the brand name commodity and will award a brand name contract by lowest price available. The solicitation will comply with law and rules related to Invitations to Bid;

4. nothing shall prevent the Office of State Procurement from negotiating additional reductions or discounts to a bid price, a price list or a manufacturer's price list submitted;

5. any vendor or distributor properly authorized by the manufacturer or distributor of the commodity, and which is capable of selling the brand name commodity at the established contract price, may be allowed by the Office of State Procurement to participate as a state vendor of the brand name commodity under the same terms and conditions established in the name brand contract;

6. where a brand name commodity is offered by the state as a cooperative contract, nothing shall prohibit the State from negotiating or collecting administrative fees or rebates described in PPM 54 from each vendor or supplier;

7. nothing herein shall require the Office of State Procurement to renew or to re-solicit a brand name contract upon its expiration or termination, or, if renewed, to requalify a particular vendor as a state vendor of the brand name commodity. The Office of State Procurement may accept or limit additions to brand name contracts, vendor changes, price reductions or item deletions at any time during the contract period. Price increases will be considered only when provided for in the state's contract terms and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:3 (January 2016).

§5505. LaMAS Contracts

A. Definition. A *LaMAS* contract is a Louisiana Multiple Award Schedule contract established pursuant to LAC 34:V.2706.

B. Procedures to Establish. LaMAS contracts are based on prices no higher than GSA prices and will only be considered when State Procurement determines that the commodity is open for consideration, that is, when there are no existing statewide competitive contracts for the commodity and there is a valid business case. State Procurement will post commodities on their website that are open for LaMAS contract consideration. A LaMAS contract may be established at the discretion of the Office of State Procurement if:

1. a written request is received from the GSA contractor or its authorized representative which:

a. requests the establishment of a contract and includes all pertinent information including detailed specifications of commodities;

b. includes consent to extend prices no higher than GSA to the state and to the state's local government units; and

c. includes a minimum of three letters from three separate agency heads which may include state agencies, political subdivisions or quasi-public agencies and which indicate a need for, and the intent to, purchase the subject commodities or services if a contract is established, including the anticipated annual usage of the commodity.

2. Nothing herein shall prevent the Office of State Procurement from verifying the veracity of any letter, statement or information presented.

3. Where a LaMAS commodity is offered by the state as a cooperative contract, nothing shall prohibit the State from negotiating or collecting administrative fees or rebates described in PPM 54 from the vendor or supplier.

4. Nothing herein shall require the State to reestablish a LaMAS contract upon its expiration or termination. The Office of State Procurement may accept or limit additions to LaMAS contracts, vendor changes, price reductions or item deletions at any time during the contract period. Price increases will be considered only when provided for in the state's contract terms and conditions and must be authorized by GSA or tied to a recognized index.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:4 (January 2016).

§5507. Multi-State Cooperative Contracts

A. Definition. A *Multi-State Cooperative Contract* is a contract which has been competitively solicited by the Office of State Procurement, or through a public procurement unit or external procurement activity as defined in R.S. 39:1702, utilizing a process which substantially complies with Louisiana's Request for Proposals process, and which may be offered for use to state, local governmental and federal entities inside of or outside of Louisiana.

B. Procedures to Establish. A Multi-State Cooperative Contract is established by:

1. Administration. A multi-state cooperative contract is administered by the Office of State Procurement where it conducts a statewide competitive solicitation which results in a statewide contract.

2. Sponsorship. A multi-state cooperative contract is sponsored by the Office of State Procurement when a solicitation and subsequent contract is developed in whole or in part by a separate public procurement unit or units or external procurement activities, and

a. the Office of State Procurement agrees that the competitive solicitation will be posted and advertised by State Procurement in compliance with the Louisiana's procurement laws, and

b. the resulting contract will be endorsed as a statewide contract upon it being determined by the Office of State Procurement that the solicitation and the resulting contract substantially complied with the Louisiana Procurement Code including rules, regulations and policy adopted by the Office of State Procurement.

3. Participation. The Office of State Procurement participates in a multi-state cooperative contract where a competitive solicitation and subsequent contract is wholly developed by a local public procurement unit or units or through an external procurement activity, and the Office of State Procurement subsequently signs a participation agreement with the sponsor, administrator or vendor awarded a contract. The Office of State Procurement will consider participating in a multi-state cooperative contract where there is a valid business case and a sufficient state interest to participate in the contract and there is no existing Louisiana statewide competitive contract for the same commodity or service.

a. The Office of State Procurement may allow any state agency or local government unit to buy from a multi-state cooperative contract it has agreed to participate in where the purchase by a state agency or local government unit is considered a small purchase.

b. The Office of State Procurement may adopt as a statewide cooperative contract any multi-state cooperative contract it agrees to participate in where the Office of State Procurement posts and advertises its intent to utilize the contract as a statewide cooperative available to all or to select state or local government agencies in the same manner as a Request for Proposals solicitation is required to be posted and advertised, and no vendor responds to the posting and advertising with a proposal which describes how the vendor, or similarly situated vendors, can surpass the price, terms or conditions of the contract.

c. If a credible response to the posting and advertising is received, then the contract should not be adopted as a statewide cooperative contract and the Office of State Procurement should proceed to post and advertise its own solicitation for the desired commodities or services unless other compelling circumstances exist. Compelling circumstances include, but are not limited to:

i. the need to establish a pilot program with one or more state agencies to investigate, study or review the efficacy of new or innovative procurement methods;

ii. the State faces a situation where a needed or required commodity or service will be unavailable until a competitive solicitation and contract can be developed; or

iii. the opportunity of the State to recognize immediate and provable savings on needed or required commodities or services would be lost.

d. Participation in a multi-state cooperative contract based on compelling circumstances should be of limited duration until such time as the Office of State Procurement can adequately sponsor or administer a multi-state cooperative or statewide contract.

C. In addition to any administrative fee negotiated on behalf of the Office of State Procurement pursuant to PPM 54, the Office of State Procurement may allow a separate public procurement unit or units which developed a solicitation and subsequent multi-state cooperative contract which the State participates in to collect an administrative fee from vendors based on the gross sales under the contract designed to reimburse actual costs incurred per the terms and conditions of the solicitation and contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:4 (January 2016).