



Policy for: Procurement

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Purpose:

This policy is to establish guidelines for the Louisiana Cancer Research Center (LCRC) staff who are engaged in the procurement of goods and services.

Definitions:

Procurement – buying, purchasing, renting, leasing, or otherwise obtaining any supplies, services, or major repairs.

Request for Proposal (RFP) – The RFP process is an alternative procurement method used for the procurement of supplies, services, major repairs, or when seeking a solution to a definitive problem, for highly technical equipment or complex services. An award is made to the responsible bidder whose proposal is the most responsive and advantageous to the LCRC with consideration to other evaluation criteria as well as to cost.

The RFP process is utilized for consulting/professional services. In addition to price, the award is based on other factors such as the proposer's experience with similar projects, sufficiency and creativity of the proposal in meeting LCRC's objectives, the proposer's unique experience, and the proposer's project team where a team is utilized.

Competitive Sealed Bidding – A procurement method that uses a formal closed bidding process in order to solicit bids from a variety of contractors to capture the best price.

Invitation to Bid (ITB) - An invitation to contractors or equipment suppliers, through a bidding process, to submit a proposal on a specific project to be realized or product or service to be furnished. The ITB process is used when LCRC has a definitive need. Award is made to the lowest responsive and responsible bidder.

Sole Source - A Sole Source condition exists when a particular item or service is available from only one supplier (usually the manufacturer) and is unique in that no other will be suitable or acceptable to meet the need. Compatibility is the paramount consideration.

Proprietary Purchase - A proprietary specification is one which cites a brand name, model number, or other designation which identifies a specific product to be offered, exclusive of others, but the product may be available from more than one source. Conditions for use occur when only one product will meet the LCRC's needs due to compatibility, standardization, or maintainability but is available from more than one source.

Emergency – An emergency condition is a situation which creates a threat to public health, welfare, safety or public property. The existence of such conditions creates an immediate and

serious need for supplies, services, or major repairs which would seriously threaten the health and safety of any person, the preservation or protection of property or the functioning of LCRC.

Responsive bidder - person who has submitted a bid which conforms in all substantive respects to the invitation for bids, including the specifications set forth in the invitation.

Kickback – compensation of any kind including but not limited to money, fees, commissions, credits, gifts or gratuities that is directly or indirectly accepted by an LCRC staff member from a vendor, contractor, or subcontractor competing for or doing business with LCRC, for the purpose of influencing the award of a contract.

Contracts - An agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other considerations.

Contractor – a person or company that undertakes a contract to provide materials or labor to perform a service or do a job.

Professional Services - customized services consisting of specialized intellectual or creative expertise based on personal skills or ideas of an individual(s) that are provided for a fee, which may be determined individually with each customer for each service contract. Professional services contracts and agreements may be with partnerships, firms or corporations as well as individuals.

Consultant – a person who provides expert advice or services for a fee.

Purchase Order (PO) - A written authority issued by LCRC to the vendor indicating the agreed price and quantities for goods and services. A PO encumbers funds in the financial system. Acceptance of a PO by a vendor forms a contract between LCRC and vendor.

Purchase Requisition (PR) – A request sent to the purchasing department, using a standardized form, to procure goods or services.

Cooperative Procurement – Generally involves the sharing of procurement contracts between government entities, but also include sharing of resources, including labor, advice and assistance. LCRC qualifies for cooperative purchasing as approved by the State's Division of Administration.

- **State Contracts** – As part of a Statewide Contract Management System, the Louisiana Office of State Procurement (OSP) provides a state contracts list from which LCRC may purchase certain services, materials and supplies. Contracts are agreements whereby LCRC can purchase directly at the prices and terms established in the contract which have gone through the required competitive process.
- **General Service Administration (GSA) Contracts** – Contracts bid and let under GSA which is a centralized authority for the acquisition and management of federal government resources. Under certain conditions and as a part of the State's cooperative procurement efforts, LCRC is able to procure from GSA schedules.
- **Piggyback Contracts** – Contracts issued by individual State entities that allow jurisdictions to use the contract established. An agreement of the contracting parties is

required in order to extend the pricing terms and conditions. LCRC as a smaller entity benefits by saving time and money. Piggyback options are also allowable between LCRC and its non-public partners in cases where a competitive process is evident and/or documented and such procurement process practical, economical and generally beneficial to LCRC. Caution should be used with entering into cooperative arrangements, as applicable Federal and State laws may govern such practices (i.e. unfair trade practices, joint ventures).

General Purchasing – procurement of operating supplies/minor equipment and fixed asset equipment.

Capital Projects Purchasing – procurement of services, research, office and operations equipment, network and furniture to outfit the LCRC facility, funded by capital outlay grants.

Policy Statement:

LCRC will procure goods and services within the guidelines of best practices used when dealing with public funds to ensure timely, efficient and economically sound purchasing. Capital projects purchasing is subject to the Louisiana Procurement Code and/or public bid guidelines. All capital projects purchases are required to be approved by Facility Planning and Control (FP&C) prior to procurement in order to be eligible for payment. All procurement of goods and services shall be reasonable and necessary and shall assist in fulfilling the LCRC's Mission.

Purchasing Thresholds:

- Purchases that are \$5,000 or less per single transaction
 - There is no competitive process required, however competition is encouraged and used where practical, economical, and in the best interest of LCRC.
- Purchases greater than \$5,000 but not exceeding \$15,000
 - Quotes must be solicited from no less than three (3) or more bona fide qualified vendors, when multiple qualified vendors exist.
- Purchases greater than \$15,000 but not exceeding \$25,000
 - Quotes must be solicited from five (5) or more bona fide, qualified vendors.
 - Quotes must be in writing and a minimum of three (3) working days shall be allowed for receipt of quotes.
- Purchases greater than \$25,000
 - RFP process or competitive sealed bidding is required.
 - Goods and/or services may be procured by either the Invitation to Bid (ITB) process or the Request for Proposal (RFP) process. The ITB

process is used when LCRC has a definitive need. Award is made to the lowest responsive and responsible bidder. The RFP process is used when seeking a solution to a definitive problem, for highly technical equipment or complex services. Award is made to the responsible bidder whose proposal is the most responsive and advantageous to the LCRC with consideration to other evaluation criteria as well as to cost.

Alternative Procurement Methods

Sole Source Purchase

Sole Source purchases are permissible if the requirement is only available from a single supplier which is usually the manufacturer.

Proprietary Purchase

Proprietary purchases are permissible only if the requirement is manufactured by a single supplier but is sold through multiple distributors. Proprietary purchases must be competitively bid unless procured through a cooperative procurement process.

Emergency Procurement

Emergency procurement shall be limited to only those supplies, services, or major repair items necessary to meet the emergency, as well as have the appropriate approvals.

Emergency Purchasing Thresholds:

- Emergency purchase up to \$5,000 – prior approval by an Administrative Officer is obtained whenever practical.
- Emergency purchase above \$5,000 – prior approval by an Administrative Officer must be obtained. Quotations should be obtained from 3 or more bona fide vendors if time permits.

Cooperative Procurement

Where practical and beneficial to the LCRC, a cooperative arrangement may be employed for the procurement of goods and/or services. To the greatest extent, LCRC utilizes State Contract procurement but may also use those alternate cooperative procurement methods described in the definitions above.

State Contract

LCRC is eligible to procure any goods or services under the Louisiana State Contract. The items that are available for purchase through state contract have been subjected to a competitive process conducted by the Louisiana Office of State Procurement (OSP). The list saves the LCRC time and money that would otherwise be spent on performing the required competitive procedures

Only persons designated by an administrative officer are authorized to commit the LCRC to the purchase of goods and services; any expressed or implied commitment by other persons is unauthorized.

All purchases of goods or services must be processed via the purchase order system. Department Heads should initiate the purchase of goods and services through the requisition process.

No purchases of goods or services shall be artificially divided to fall within certain thresholds and avoid a competitive process.

Prepayment for the purchase of goods and services is not allowed except where contractually required.

LCRC is exempt from Louisiana and local sales and use tax and shall take all reasonable steps to avoid paying such taxes.

The LCRC will assume no liability for payment of purchases which were not made through approved purchasing procedures.

Radioactive Material Purchases

LCRC has a LA DEQ Broadscope research license which allows LCRC to order, receive, transport, use, store and dispose of radioactive materials. All radioactive material purchases must be approved by LCRC Environmental Health & Safety (EH&S) and procured through LCRC Purchasing.

Contracts

In order to ensure that LCRC is properly protected when entering into contracts, all contracts must be reviewed, approved and executed by an administrative officer. No one is authorized to execute any agreement other than the aforementioned positions.

Contract Approval Threshold:

- All contracts that are valued at \$100,000 and above (including any and all amendments) are required to be approved by the Board.
 - Contracts shall not be artificially divided up to avoid the approval threshold. If a contractor is anticipated to be used multiple times within twelve months, a contract should be prepared for the total anticipated needs. If any amendments or additional contracts bring the total amount for a single contractor to \$100,000 and above, the contract complete with amendments must be brought to the Board for approval.

Professional Services and Consulting Services

Professional services and consulting services may be acquired when there is a need for such services that cannot or shall not be performed by LCRC personnel. When these services are used, they will be selected on the basis of demonstrated competence and qualifications at a fair and reasonable cost. A contractor should be selected first, based on demonstrated competence and qualifications, and second, on the price of the service.

Professional Services and Consulting Contracts shall:

- be fully and formally reviewed, approved, and executed by an LCRC administrative officer
- comply with IRS requirements for defining employees and independent contractors
- include a well define and agreed upon scope of work and deliverables
- define termination language, include a fiscal funding clause to permit LCRC to cancel an agreement if funds are not appropriated to LCRC to make required payments (required for multiyear contracts).
- be no longer than three years including all options to renew.
- include mutual indemnification in cases where indemnification is desired
- include a “right to audit” clause
- include a “compliance with applicable law” clause
- include cost and payment terms that do not conflict with other LCRC policies, local, state or federal requirements
- include all other terms necessary for the execution of a sound and legal agreement of the parties

Contracting Thresholds:

- For professional services or consulting contracts under \$50,000 (including any and all amendments), a RFP process is not required. However, LCRC shall document some credible basis for a contract and contractor selection which should include an identification of a need, a basis for price, and assurance that price is reasonable.
- For professional services or consulting contracts \$50,000 (including any and all amendments) and over, a competitive process (RFP) shall be used to select a service provider.
- For Sole Source providers, no competitive process is required. If the service is unique, requiring specialization that no other contractor could reasonably provide, the contractor would be considered a sole source provider. LCRC should exercise reasonable and prudent care in selecting
- special contractors and shall not unreasonably preclude consideration of other business entities.

- Contracts shall not be artificially divided up to avoid the competitive process threshold. If a contractor is anticipated to be used multiple times within twelve months, a contract should be prepared for the total anticipated needs and the appropriate approval process will apply.
- A written professional services agreement will be used for all agreements

Purchase Orders

Purchase Orders are considered binding agreements and can only be approved by an administrative officer.

LCRC purchase orders or contracts should be the only binding agreements. Caution should be used when signing vendor's preprinted form as vendors' terms may conflict with LCRC policies.

Procurement Files

A copy of the requisition or request document, the purchase order and the supporting documentation and approvals (sole source, contract numbers, e-quotes, etc.) that support the procurement method should be maintained in a file.

If procurement is by bid, the file will also include the specifications used, proof of advertisement (if required), a list of solicited vendors, addenda, copies of required documents such as insurance certificates, licenses, certifications, bid bonds, performance bonds, etc., and the rationale for bid selection.

A sole source file should include a declaration of sole source letter from the vendor and justification as to why no other product will be suitable or acceptable to meet its need.

Code of Conduct

- Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors or services from current or potential suppliers, which might influence, or appear to influence procurement decisions. The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) prohibits any person from: providing or attempting to provide or offering to provide any kickback; soliciting, accepting or attempting to accept any kickback; or including, directly or indirectly, the amount of any kickback in the contract price. The Act imposes criminal and civil penalties on any person who knowingly and willfully engages in the prohibited conduct addressed in the Act [FAR 3.502-2 (b) and (c)]. Supplier paid site visits or training for LCRC employees are not permitted unless stipulated as part of a formal supplier contract that was reviewed and approved by purchasing staff.
- Refrain from reciprocal agreements, which can prevent competition. Know and obey the letter and spirit of laws governing the procurement function and remain alert to the legal ramifications of purchasing decisions.
- Do not use LCRC procurement for personal purchases or for any personal benefit.

- Refrain from any private business or professional activity that would create a conflict between personal interests and the interests of the LCRC.
- Handle information of a confidential or proprietary nature to the LCRC and/or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- Strive to obtain the maximum value for each dollar of expenditure.
- Conduct business with potential suppliers in an atmosphere of good faith, free from intentional misrepresentation.