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☐ EMERGENCY RULE ☒ NOTICE OF INTENT ☐ RULE ☐ POTPOURRI

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NOTICE OF INTENT

Louisiana Economic Development

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part XV. LED Procurement Code

Louisiana Economic Development (LED), as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 36:104 and Act 590 of the 2024 Regular Session, hereby provide notice of their intent to promulgate rules to be used by LED in place of state procurement law in R.S.39: 1551-1755.

The proposed *LED Procurement Code* provides flexibility in the selection of methods to be used for the procurement of goods and services, establishes competitive thresholds, outlines exceptions to competitive selection process, sets forth dispute resolution processes, establishes standards for integrity in procurements and provides a broad range of processes and procedures to be followed by LED and those seeking and doing business with LED.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part XV. LED Procurement Code

Chapter 1. Purpose, Applicability and Definitions

§101. Purpose and Legislative Authority

A. Goal. It is the goal of LED to procure goods and services in a manner that is open, fair, encourages competition, and affords vendors equal opportunities to compete.

B. Purpose. The purpose of this *LED Procurement Code* is to establish parameters of a procurement program designed to support and facilitate the mission of LED by applying best methods and business practices to the procurement of goods and services and to structure other business arrangements by LED. This *LED Procurement Code* is intended to promote the development and use of procurement processes which promote the pursuit of excellence and the best interests of LED while maintaining the highest possible integrity, broad based competition, fair and equal treatment of the business community and increased economies and efficiencies for LED.

C. Communication.

1. LED intends to continue as a LaGov agency, using the state's enterprise resource planning, a fully integrated computer system that includes financials, logistics, human resources, payroll and business intelligence, feeding into the Louisiana Checkbook for transparency. Similar workflow and approval processes to other LaGov agencies will be followed, with the exception of individual transactional approvals required by the Office of State Procurement (OSP).

2. LED is to be exempt from OSP's central purchasing authority and individual transactional approval requirements.

3. LED will communicate and collaborate with the Division of Administration, the Office of Planning and Budget, the Office of Statewide Reporting and Accounting Policy, Civil Service, the Department of Revenue, the Office of the Attorney General, and any other state agencies or public entities as may be applicable.

D. Authority. This *LED Procurement Code* is adopted in compliance with the Administrative Procedure Act, R.S. 49:950 et. seq., including the authority for review of LED rules by the House Committee on Commerce, the Senate Committee of Commerce, Consumer Protection, and International Affairs, the House Committee on Appropriations and the Senate Committee on Finance, and pursuant to R.S. 36:104 and Act 590 of the 2024 Regular Session and subject to the approval of the Commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

§103. Applicability

A. *Applicability.* This *LED Procurement Code* applies to the acquisition by the LED of all goods and services paid with public funds, and shall be used in place of the Louisiana Procurement Code, R.S. 39:1551-1755 and the procurement authority of the chief information officer and Office of Technology Services provided for in R.S. 39:15.1 *et. seq.*

B. *Revocation.* If LED's authority to use this *LED Procurement Code* should be revoked by the Division of Administration or otherwise by operation of law, LED shall end use of these provisions in keeping with the revocation notice and shall resume procurements pursuant to applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

§105. Definitions

Chief Procurement Officer-the Secretary of LED, or their designee, will designate and may change from time to time, one LED staff person to act as LED's Chief Procurement Officer

Commissioner - the Commissioner of Administration (COA), the head executive of the Division of Administration.

Consulting Service – work, other than professional, personal or social service, rendered by an independent contractor who possesses specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, including but not limited to, such areas as management, data processing, advertising and public relations.

Contract – a written agreement between parties with binding legal effect, for the procurement or disposal of goods and services for LED. Contract types may include but not be limited to: (AGY) Interagency, (CON) Consulting, (COP) Cooperative Endeavors, (MIS) Miscellaneous, (OTH) Other, (PO) Purchase Orders, (PER) Personal Services, (PRO) Professional Services and (SOC) Social Services.

Emergency Procurement-a purchase made after a written determination by the Secretary that there exists an emergency condition which creates a threat to public health, welfare, safety or public property, or conservation of public resources, and the emergency condition creates an immediate and serious need for goods or services that cannot be met through the normal procurement methods.

Goods-moveable property, including but not limited to, equipment, materials, supplies, insurance and license agreements for software, and excluding immovable property. Goods are not services.

Governmental body-any department, office, division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of government, For purposes of procurement of personal, professional, consulting, and social services contracts, governmental shall not include the judicial branch of state government.

Governmental entity-any governmental unit which is not included in the definition of "governmental body" in this Section.

LaPAC- Louisiana's internet based system for posting vendor opportunities and award information.

LED- Louisiana Economic Development, formerly known as the Department of Economic Development.

LED Procurement Code (LPC)—the rules adopted pursuant to the authority granted by Act 590 of the 2024 Regular Session, for use by LED, in lieu of state procurement statutes when LED procures goods or services or enters other contracts.

Louisiana Authorized Dealer-a company that satisfies the requirements of a resident business as defined in R.S. 39:1556 and is specifically authorized by the manufacturer to sell and/or provide service for its products,

OSP-Office of State Procurement, located within the Division of Administration.

Person-any business, individual, union, committee, club, or other organization or group of individuals.

Personal Service – work rendered by individuals which requires use of creative or artistic skills, such as but not limited to graphic artists, sculptors, musicians, photographers, and writers, or which use requires use of highly

technical or individual skills or talents, such as, but not limited to, paramedicals, therapists, foreign representatives, and expert witnesses for adjudications or other court proceedings. A *foreign representative* shall mean a person to represent LED in such foreign country.

Professional Service – work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, which independent contractor shall include but not be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, accountants and claims adjusters. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered.

Request for Proposal (RFP) – the RFP process is a procurement method used for the procurement of supplies, services, highly technical equipment or complex services. RFP responses are evaluated based on the relative merits of each proposer compared to others. An award is to be made to the responsible proposer whose proposal is the most advantageous to LED, with consideration to other evaluation criteria as well as to cost.

Request for Qualifications (RFQ) – the RFQ process is a procurement method used for the procurement of services on a basis of competence and qualifications for a fair and reasonable price. An award is to be made at the discretion of LED to the most qualified proposer(s), whose proposal is the most advantageous to LED.

Secretary–the Secretary of Louisiana Economic Development, or their designee.

Services–the furnishing of labor, time or effort by a vendor which may involve, to a lesser degree, the delivery or supply of a product, incidental to the required performance.

Small Entrepreneurship–a business currently certified as a small entrepreneurship by LED in accordance with R.S. 39:2006 (The Hudson Initiative) or a business currently certified as a small and emerging business by LED, in accordance with R.S. 51:941, *et.seq.* (SEBD Program).

Social Service–work rendered by a person, firm, corporation, organization, governmental body, or governmental entity in furtherance of the general welfare of the citizens of Louisiana, including but not limited to rehabilitation and health support, improvement of living conditions and health.

Sole Source Procurement –a purchase made when there is only one source for a good or service and only one vendor or supplier has the sole ability to meet the requirement of the procurement.

Veteran Owned Small Entrepreneurship – a business currently certified as a veteran or service-connected disabled veteran owned small entrepreneurship by LED, in accordance with R.S. 39:2176 (The Veteran Initiative).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

Chapter 3. Contracts

§301. General provisions

A. In order to ensure LED and the state are properly protected when entering into contracts, all LED contracts shall be reviewed by legal staff, processed by a contract reviewer familiar with state guidelines, approved and executed by the Secretary or their designee, as may be applicable.

B. LED staff shall attend periodic state training to ensure knowledge and competencies of any applicable regulations, policies and processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

§303. Contractual provisions

A. Clauses providing for the following may be included in contracts, except upon a written determination by the Secretary or their designee that the interests of LED are best served by omitting the clause. Standard clauses may include but not be limited to:

1. Beginning and ending dates;
 2. Description of work and goals and objectives;
 3. Maximum amount and schedule of payments to be made;
 4. Deliverables;
 5. Performance measures;
 6. Monitoring plan;
 7. Termination clauses, for cause and convenience;
 8. Remedies for default;
 9. Legislative Auditor right to audit;
 10. Assignability clause;
 11. Travel requirements in accordance with PPM 49, if applicable;
 12. Multi-year fiscal funding clause, if the duration of the contract crosses a fiscal year;
 13. Anti-discrimination clause, if applicable;
 14. An itemized budget for cost-reimbursement contracts;
 15. A clause requiring that Louisiana law shall apply to all disputes, and that venue for any actions brought against LED arising out of the contract shall be only in the Nineteenth Judicial District Court in East Baton Rouge Parish;
 16. Responsibility for payment of taxes, when applicable;
 17. Advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract and if necessary to provide for the lowest cost delivery of service. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts;
 18. Prohibition of Discriminatory Boycotts of Israel;
 19. Any additional clause required by an Executive Order.
- B. Contracts funded fully or in part by federal funds, in addition to meeting all state requirements, shall meet all applicable federal standards and shall contain all necessary clauses required by federal statutes, rules or regulations.

C. In addition to any required contractual clauses, proof of review and approval by other agencies may be required as follows:

1. contracts for private legal counsel to represent LED must have Attorney General approval, with the concurrence of the Commissioner of Administration, in accordance with R.S. 49:258;

2. all contracts must have Civil Service approval, unless exempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

§305. Non-competitive contracts

A. LED shall have express authority to enter into the following contracts:

1. contracts with values under \$75,001;

2. standardized template contracts, with minimal contractual modifications project to project, such as varying vendor names and financial award amounts. These may include but not be limited to:

a. the Louisiana Economic Development Award Program (EDAP);

b. certain *Social Service* and *Personal Service* contracts relative to the LED FastStart Program, with individual values less than \$250,001 within a 12-month period (FastStart);

c. the Economic Development Readiness Program (EDRED);

d. the Tier 1 Program with the Regional Economic Development Organizations (Tier 1);

e. the Louisiana Entertainment Development Fund Program (EDF);

f. the State Trade Expansion Program (STEP).

3. *Personal* and *Professional Service* contracts;

4. *Consulting Service* contracts with values under \$100,001.

B. Except that any contracts for Information Technology Equipment, Related Services and Software Purchasing shall be governed by the provisions of Chapter 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR

§307. Competitive contracts

A. Contracts exceeding the amounts provided in Section #305 shall be awarded as provided for in this Chapter.

B. Contracts for \$100,001 or more and *Social Service* contracts for \$250,001 or more, within a 12-month period, shall be awarded in accordance with regulations issued by LED in Chapter 5 of this *LPC*, unless it is determined, in writing by the Secretary, that *any one* of the following conditions is present:

1. Sole Source Procurement. A determination by the Secretary, supported by documentation, that only one source exists for the services rendered;

2. Emergency Procurement. A determination by the Secretary, supported by, documentation, that an emergency exists which will not permit the delay in procurement necessitated by the RFP procedure;

3. The state legislature has made an appropriation for that particular contractor or contractors via the appropriation bill or other statutes;

4. Local matching funds of greater than ten percent of the contract amount are required to be contributed by the contractor;

5. The contract is with another governmental entity or government body;

6. Funds are specifically designated by the federal government for a particular private or public contractor or political subdivision.

C. Except that any contracts for Information Technology Equipment, Related Services and Software Purchasing shall be governed by the provisions of Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR

Chapter 5. Competitive Solicitations

§501. General Provisions

A. The Secretary shall determine the appropriate solicitation methods to be used in procuring goods and services for LED. Among those methods are:

1. Request for proposals (RFP);
2. Request for qualifications (RFQ).

B. Other procurement methods. Other procurement methods may be utilized where there is a written determination by the Secretary that it is in the best interest of LED to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR

§503. Specifications.

A. Specifications shall be developed in a manner which are most likely to result in the broadest possible competition while securing quality goods and services which meet the need and expectations of LED.

B. Specifications shall include the following:

1. specifically define the task and desired results of the project;
2. identify LED liaison personnel and resources available to the contractor;
3. specify applicable procedures concerning billing, documentation requirements, progress reports, and final results, if applicable;
4. inform the potential contractors of the criteria and the selection methodology and the weight which will be applied to each significant evaluation criteria to be used in evaluating responses;
5. require potential contractors to include a description of the firm's qualifications and resumes for each of the key personnel;
6. specify the date and time not later than which proposals must be received by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR

§505. Public notification.

A. Public notification shall be made by the following methods:

1. RFQ's shall be advertised by posting on LED's website;
2. RFP's shall be advertised through a centralized electronic interactive environment administered by the Division of Administration, and in addition, shall be advertised in the official journal of the state at least once. The advertisement shall appear at least 10 calendar days before the last day that proposals will be accepted.

3. In addition, at the discretion of LED, written notice of RFP and RFQ's may be provided to persons, firms or corporations who are known by LED to be in a position to furnish such services, at least 10 calendar days before the last day that proposals will be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR

§507. Right to Reject

A. LED reserves the right to reject any or all responses to a solicitation in whole or in part and to award by items, parts of items, or by any group of items specified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR

§509. Evaluation and Award

A. Responses to solicitations shall be evaluated in keeping with the criteria, specifications, terms and conditions set forth in the solicitation.

B. The final selection of a contractor shall be made by LED in accordance with the selection criteria established in the RFP or RFQ. An award is to be made to the responsible proposer whose proposal is the most advantageous to LED.

C. Written notice of the award of a contract shall be provided to all proposers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR

§511. Dispute Resolution

A. Right to protest. Any person who is aggrieved in connection with the solicitation or award of a contract issued by LED shall protest to the Secretary. Protests with respect to a solicitation shall be submitted in writing at least two calendar days prior to the opening of bids on all matters. Protests with respect to the award of a contract shall be submitted in writing within fourteen calendar days after contract award.

B. Authority to resolve protests. The Secretary shall have authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract.

C. Decision. If the protest is not resolved by mutual agreement, the Secretary shall, within fourteen calendar days, issue a decision in writing. The decision shall:

(1) State the reasons for the action taken.

(2) Inform the protestant of its right to judicial review in the Nineteenth Judicial District Court.

D. Notice of decision. A copy of the decision under Subsection C of this Section shall be submitted or otherwise furnished to the protestant and any other party intervening.

E. Finality of decision. A decision under Subsection C of this Section shall be final and conclusive unless one of the following applies:

(1) The decision is fraudulent.

(2) The person adversely affected by the decision has timely appealed to the court in accordance with R.S. 39:1691(A).

F. Stay of procurements during protests. In the event of a timely protest under Subsection A of this Section, LED shall not proceed further with the solicitation or with the awarding of the contract unless the Secretary makes a written determination that the awarding of the contract is necessary without delay to protect the substantial interests of LED. Upon such determination by the Secretary, no court shall enjoin progress under the award except after notice and hearing.

G. Award of costs to protestants. In addition to any other relief, when the protest is administratively or judicially sustained and the protesting bidder or proposer should have been awarded the contract but is not, the protesting bidder or proposer shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid or proposal preparation costs other than attorney fees, provided that any administrative determination of such costs shall be subject to the written concurrence of the attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

Chapter 7. Cooperative Procurement

§701. General Provisions

A. Where practical and beneficial to LED, a cooperative arrangement may be employed for the procurement of goods and/or services.

B. LED 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 OSP. The lists saves LED time and money that would otherwise be spent on performing required competitive procedures.

C. Under certain conditions and as part of the State's cooperative procurement efforts, LED may be able to utilize the General Service Administration (GSA) schedules.

D. If LED elects to make cooperative purchases outside the state contract, documentation will be maintained in LED's procurement files.

1. Any item so purchased, with a price 20 percent or more in excess of state contract pricing, shall require justification for the proposed purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

Chapter 9. Travel, Small Purchases and La Carte

§901. Travel

A. The Office of State Travel (OST), located within the Division of Administration, is responsible for setting Louisiana's general travel regulations, known as Policy and Procedure Memorandum 49 (PPM49).

B. LED shall continue to follow PPM49 for its travel purchases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

§903. Small Purchases

A. Unless otherwise provided by law, “small purchases” means any procurement of supplies or operating services not exceeding \$25,000

B. Except as otherwise provided by this Chapter, all small purchases shall be made in accordance with the following minimum procedures:

1. No competitive process is required for purchases not exceeding \$10,000 per single transaction.

2. Price quotations shall be solicited from three (3) or more bona fide, qualified vendors for purchases exceeding \$10,000 but not exceeding \$20,000.

a. Quotations may be made by telephone, facsimile, written, or other means and shall be awarded on the basis of the lowest responsive quotation unless such quotation is impracticable or unreasonable. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small entrepreneurship or a certified veteran owned small entrepreneurship.

i. LED files shall document and list all solicited vendors and each vendor’s contact person, summarize quotations received, indicate the successful vendor and state the reason why any lower quotation was rejected. LED files shall also contain written confirmation of the quotation from the successful vendor.

b. When the price is determined by the Secretary to be reasonable, the requirement to solicit three (3) quotations may be waived when purchasing from a certified small entrepreneurship or a certified veteran owned small entrepreneurship. Reasonable is a best value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in LED’s file.

c. The requirement to solicit at least one (1) certified small entrepreneurship or certified veteran owned small entrepreneurship may be waived for procurements posted on LaPAC.

3. Price quotations shall be solicited from five (5) or more bona fide, qualified vendors for purchases exceeding \$20,000 but not exceeding \$25,000.

a. Quotations may be made by facsimile or written means and shall be awarded on the basis of the lowest responsive price quotation received unless such quotation is impracticable or unreasonable. Whenever possible, at least two (2) of the bona fide, qualified vendors shall be certified small entrepreneurship or certified veteran owned small entrepreneurship. LED files shall document and list all solicited vendors and each vendor’s response, summarize quotations received, indicate the awarded quotation, and state LED’s reason for any rejection of lower quotations.

b. When the price is determined by the Secretary to be reasonable, the requirement to solicit five (5) quotations may be waived when purchasing from a certified small entrepreneurship or certified veteran owned small entrepreneurship. Reasonable is a best value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in the LED file.

c. The requirement to solicit at least two (2) certified small entrepreneurship or certified veteran owned small entrepreneurship may be waived for procurements posted on LaPac.

d. A minimum of three (3) working days shall be allowed for receipt of quotations.

e. All written or facsimile 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 quotation. Precautionary measures shall be taken to safeguard the confidentiality of vendor responses prior to the closing time for receipt of quotations. No quotation shall be evaluated using criteria not disclosed in the solicitation.

C. The following items are considered small purchases and no competitive process is required for the following:

1. Repair parts for equipment obtained from the original equipment manufacturer or an authorized dealer. A Louisiana authorized dealer shall be used if practicable. This provision does not apply to the stocking of parts.

2. Equipment repairs obtained from the original equipment manufacturer or an authorized dealer. A Louisiana authorized dealer shall be used if practicable.

3. Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract obtained from an authorized dealer, A Louisiana authorized dealer shall be used if practicable.

4. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements.

5. Purchasing or selling transactions between LED and other state budget units or governmental agencies.

6. Publications, including electronic publications, subscriptions, and web-based subscription services, and/or copyrighted materials purchased directly from the publisher of copyright holder.

7. Publications and/or copyrighted materials purchased by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders.

8. Public utilities and services.

9. Non-customized training, including educational instructor fees, and related resources (except equipment) used to enhance the performance of LED employees and good standing of LED, including memberships in and accreditations by professional societies and organizations.

10. Materials, supplies, exhibitor fees, and exhibit booths for conferences, seminars, and workshops, or similar events (business, educational, promotional, cultural etc.) for participants in promotional activities which enhance economic development or further LED's mission, duties and/or functions, with the approval of the Secretary, if not covered by competitive state contract.

11. Wire, related equipment, time and material changes to accomplish repairs, adds, moves, and/or changes to telecommunication systems.

12. Food, materials, and supplies for teaching and per course training not exceeding \$25,000, where the purchasing, preparing, and serving of food are part of the regularly prescribed course.

13. Renewal of termite service contracts.

14. Commercial internet service not exceeding \$1,500 per subscription per year.

15. Advertising, where permitted by law and the Secretary certifies that specific media is required to reach targeted audiences.

16. Publication of articles, manuscripts etc. in professional scientific, research of educational journals/media and/or the purchase of reprints.

17. Royalties and license fees for use rights to intellectual property, such as but not limited to: patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names etc.

18. Equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warrant etc.

29. Mailing lists.

20. Art exhibition rentals and/or loan agreements and associated costs of curatorial fees, transportation, and installation.

21. Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail, when not covered by a competitive state contract.

D. For the following items, when the purchase is in excess of \$10,000 per single transaction, telephone, written, or facsimile price quotation shall be solicited, where feasible, from at least three (3) bona fide, qualified vendors. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small entrepreneurship or a certified veteran owned small entrepreneurship.

1. Convention and meeting facilities including security services if applicable, provided that any associated food or lodging must be in accordance with PPM 49.

2. Gasoline and fuel purchases not covered by competitive state contract.

3. Air and bus charters in accordance with PPM 49, including group travel that does not qualify for commercial rates available to individual travelers.

E. 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 process.

F. Methods of payment for small purchases may include, but not be limited to: P-Card, Purchase Orders, P-1 (ACH or check).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

§905. La Carte

A. Louisiana “La Carte” purchasing cards are credit cards issued for use by state agencies and state employees for the purpose of making purchases on behalf of their departments. It provides an alternative method of payment.

B. Such a card may be issued to an individual LED employees and known as a P-Card, or may be issued to LED itself, and known as a CBA (Controlled Billed Account.)

C. The Office of State Travel (OST), located within the Division of Administration, is responsible for setting regulations on the overall use of the La Carte cards.

D. LED shall continue to follow OST guidelines for use of the La Carte cards, except that the Single Transaction Limit for both CBA and P-cards shall be a maximum of five thousand dollars (\$5,000), or in an amount as otherwise approved in writing by the Secretary or their designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

Chapter 11. Information Technology Equipment, Related Services and Software Purchasing

§1101. General Provisions

A. The purchase, lease, and rental of all information technology equipment, related services, and software by LED shall be exempt from the requirements of R.S. 39:1551-1755, R.S. 39:196-200, and the oversight and procurement authority of the Chief Information Officer and Office of Technology Services (OTS) provided for in R.S. 39:15.1 et. seq., except that LED shall be required to continue as a LaGov agency for use of the enterprise resource planning.

B. LED shall work collaboratively with OTS to establish a transition plan to be completed by June 30, 2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

§1103. Competitive Thresholds

A. Single procurements of information technology equipment, software, installation, license, modifications, integration, training, hosted software, software subscriptions, support etc., collectively known as “IT”, and hardware/software maintenance estimated to cost less than \$250,001 during a twelve month period shall be made using procedures approved by the Secretary.

B. Procurements of information technology equipment, software, installation, license, modifications, integration, training, hosted software, software subscriptions, support etc., collectively known as “IT”, and hardware/software maintenance estimated to cost at least \$250,001 but less than \$1 million during a twelve month period shall be made using the competitive methods of an RFQ.

C. Procurements of information technology equipment, software, installation, license, modifications, integration, training, hosted software, software subscriptions, support etc., collectively known as “IT”, and hardware/software maintenance estimated to cost \$1 million or more during a twelve month period shall be made using the competitive methods of an RFP.

D. LED IT Procurement Support Team. A LED procurement support team may be formed for IT contracts in an amount greater than \$1 million, with the approval of the Commissioner. The LED IT procurement support team may include, but not be limited to, one representative per agency from the following: LED; the Attorney General’s Office (AG); and the Legislative Fiscal Office (LFO). At least two of the members of each procurement support team should have formal training in computer contract negotiations. The LFO and the AG shall each designate in writing to LED the names of a primary and an alternate team member. At least three members, one from each agency designated, must be present to constitute a quorum.

E. The individual agencies represented on the LED IT procurement support teams will have the following primary responsibilities:

1. Legislative Fiscal Office. The LFO shall have primary responsibility for the financial analysis of RFP’s, and review of funding procedures, and certification of specific appropriation for the proposed purpose prior to the final contract award.

2. Attorney General’s Office. The AG’s Office shall have primary responsibility for developing the legal terms and conditions of draft contracts, evaluating the legal impact of substantive terms and conditions, reviewing to ensure compliance with statutes and regulations, and legal negotiations.

3. Louisiana Economic Development. LED shall have primary responsibility for the determination of the compliance of proposals with the functional requirements, drafting of RFP’s, the evaluation of RFP’s, the award of the contract and for all management decisions of the procurement process.

F. The LED IT Procurement Support Team shall operate as a super-evaluator, following an initial evaluation by LED’s team, and, as a minimum, the LED IT Procurement Support Team shall review the RFP proposals, review LED evaluations of proposals, and review draft contract terms. There will be at least one group meeting to review proposals and it shall make a written group recommendation to LED.

G. LED shall review and consider any group recommendations, however, the final determination of an award shall be made by the Secretary, in writing, which shall be considered the Final Agency Determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR.

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Statement

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on **Thursday, January 2, 2025** at the Louisiana Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Stephanie.LeGrange@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10:00 a.m. on **Friday, January 3, 2025** at the La Salle Building, 617 North Third Street, Griffon Room, Baton Rouge, LA 70802.

Anne G. Villa
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Stephanie Le Grange</u>	Dept.:	<u>Louisiana Economic Development</u>
Phone:	<u>225-342-5406</u>	Office:	<u>Off. of Business Development</u>
Return Address:	<u>617 N. Third Street</u>	Rule Title:	<u>LED Procurement Code</u>
	<u>Baton Rouge, LA 70802</u>		
		Date Rule Takes Effect:	<u>Upon Promulgation</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

The proposed rule change is not anticipated to result in significant costs or savings for Louisiana Economic Development (LED), but could result in a decrease in costs for services provided by Ancillary agencies. Act 590 of the 2024 Regular Session exempts LED from centralized state and IT procurement rules. The proposed changes outline the new procurement rules LED will follow, which have been reviewed and approved by the Commissioner of Administration. The proposed rule changes will allow LED to improve operational efficiency and effectiveness by reducing the inefficiency of multiple levels of bureaucratic reviews and approvals, but are not anticipated to result in any direct material effect on governmental expenditures or savings at the department. Currently LED transfers an estimated \$500,000-\$800,000 annually to the Office of Technology Services (OTS) for technology services and \$50,000 to the Office of State Procurement (OSP). LED anticipates that it will be able to procure and maintain the same services and cost efficiencies within these same funding limitations and utilizing existing personnel.

There are no anticipated costs or savings to local governmental units resulting from the proposed rule change.

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

The proposed rule change is not expected to impact revenue collections of state or local governmental entities.

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

There is no anticipated impact on businesses due to the proposed rule change and implementation of the LED Procurement Code. LED will continue to award contracts on a competitive basis and all businesses will be encouraged to continue to participate in all solicitation events.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment resulting from the proposed rule change.

Anne G. Villa
Signature of Head or Designee

Anne G. Villa, Deputy Secretary
Typed Name & Title of Agency Head or Designee

November 7, 2024
Date of Signature

Patricia Thomas, Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

11/08/2024
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

Act 590 of the 2024 Regular Session exempts Louisiana Economic Development (LED) from centralized state and IT procurement rules. The proposed rules outline the new procurement rules LED will follow, which have been reviewed and approved by the Commissioner of Administration. The proposed rule changes will allow LED to improve operational efficiency and effectiveness by reducing the inefficiency of multiple levels of bureaucratic reviews and approvals, but are not anticipated to result in any direct material effect on governmental expenditures or savings to state or local governmental units. LED anticipates that these new measures can be implemented utilizing existing resources and personnel.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act 590 of the 2024 Regular Session exempts Louisiana Economic Development (LED) from centralized state and IT procurement rules. The proposed rules outline the new procurement rules LED will follow.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, the proposed rules are not anticipated to result in any increase in expenditures.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ YES. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

The proposed rule change is not anticipated to result in a significant change in costs for LED, but could result in a decrease in costs for the Office of Technology Services and Office of State Procurement.

COSTS	FY 25	FY 26	FY 27
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	See Below	See Below	See Below
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$0	\$0	\$0
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	See Below	See Below	See Below
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in “A. 1.”, including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

By transitioning to the new procurement code, LED will no longer be required to pay for services provided by the Office of Technology Services and the Office of State Procurement. These agencies will see a decrease in annual collections from interagency transfer agreements with LED, but correspondingly will no longer have to provide services for the department.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Currently LED transfers \$500,000-\$800,000 annually to the Office of Technology Services (OTS) for technology purposes and \$50,000 to the Office of State Procurement (OSP). LED anticipates that it will be able to procure and maintain the same services and cost efficiencies within these funding limitations.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There are no anticipated costs or savings for local governmental units resulting from the proposed rule.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed rule change is not anticipated to impact revenue collections for the state or local governmental entities.

REVENUE INCREASE/DECREASE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in “A.” Describe all data, assumptions, and methods used in calculating these increases or decreases.

Not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There is no anticipated impact on businesses due to the implementation of the LED Procurement Code. LED will continue to award contracts on a competitive basis and all businesses will be encouraged to continue to participate in all solicitation events.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Not applicable.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no anticipated effect on competition and employment resulting from the proposed rule change.