NOTICE OF INTENT

Board of Supervisors of Louisiana State University
and Agricultural and Mechanical College
Office of Procurement
and Property Management

University Pilot Procurement Code
(LAC 34:XIII.Chapters 3-25)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 17:3139.5(5)(c)(i), notice is given that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College (LSU) proposes to adopt rules comprising the University Pilot Procurement Code as authorized by the Louisiana Granting Resources and Autonomy for Diplomas Act, (LaGrad Act) R.S. 17:3139 et seq., and approvals granted by the Board of Supervisors, Board of Regents and Division of Administration. The adoption and use of a University Pilot Procurement Code is one of several autonomies granted by the LaGrad Act for qualifying higher education institutions. Once approved by the Joint Legislative Committee on the Budget and promulgated, the University Pilot Procurement Code will be used by LSU in place of state procurement law in R.S. 39:15.3, 196 through 200, 1481 through 1526, and 1551 through 1755. The proposed University Pilot Procurement Code provides added methods of competition and flexibility in the selection of methods to be used for the procurement of goods and services, establishes competitive thresholds, expands public notice, outlines exceptions to the 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 LSU and those seeking and doing business with LSU.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part XIII. University Pilot Procurement Code

Chapter 3. Purpose, Applicability and Definitions

§301. Purpose and Legislative Authority

A. Goal. It is the goal of the university 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 university pilot procurement code is to establish parameters of a procurement program designed to support and facilitate the instructional, research and public service missions of the university by applying best methods and business practices to the procurement of goods and services and to structure other business arrangements by the university. This university pilot procurement code is intended to promote the development and use of procurement processes which promote the pursuit of excellence and the best interests of the university while maintaining the highest possible integrity, broad based competition, fair and equal treatment of the business community and increased economies and efficiencies for the university.

C. Communication. The university will communicate and collaborate with the division of administration, other state colleges and universities and other public entities when mutual benefit can be obtained.

D. Authority. This university pilot procurement code is adopted in compliance with the Louisiana Administrative Procedure Act (R.S. 49:950-999.25) and pursuant to the Louisiana Granting Resources and Autonomy for Diplomas Act (R.S. 17:3139-3139.7. as amended by Act 749 of 2014) and administrative approval granted by the Joint Legislative Committee on the Budget.

E. Implementation. Implementation of the university pilot procurement code is subject to approval by the management board and shall be adopted in compliance with the Louisiana Administrative Procedure Act (R.S. 49:950-999.25) and pursuant to the Louisiana Granting Resources and Autonomy for Diplomas Act (R.S. 17:3139-3139.7. as amended by Act 749 of 2014) and administrative approval granted by the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§303. Applicability

A. Applicability. This university pilot procurement code, together with established management board policies, applies to the acquisition by the university of all goods and services paid with public funds, and shall, as authorized by R.S. 17:3139.5.5.c.i, be used in place of these Louisiana procurement laws: R.S. 39:15.3, R.S. 39:196 through R.S. 39:200, R.S. 39:1481 through R.S. 39:1526, and R.S. 39:1551 through R.S. 39:1755.

B. Revenue Producing Enterprises. This university pilot procurement code also applies to transactions with no expenditure of public funds where university facilities, personnel or services will be utilized for revenue producing enterprises with other individuals or entities that will generate income for the university, consistent with established management board policies.

C. Other Institutions. Other institutions under the same postsecondary education management board as the initial qualifying institution may utilize this pilot procurement code, provided the procurement is conducted under the auspices of a shared services model managed by the initial qualifying institution.

D. Revocation. If the university's autonomy to use this university pilot procurement code should be revoked by the Board of Regents or the Division of Administration pursuant to R.S. 17:3139.3 or R.S. 17:3139.5.6, the university shall end use of these pilot provisions in keeping with the revocation notice and shall resume procurements pursuant to applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§305. Definitions

Aggrieved Party— a person who files a written protest in connection with the solicitation or award or the issuance of a written notice of intent to award a contract under the University Pilot Procurement Code and has or may have a pecuniary or other property interest in the award of the contract.

Anti-Competitive Practices—a practice among bidders or offerors which reduces or eliminates competition or restrains trade. An anticompetitive practice can result from an agreement or understanding among competitors to restrain trade such as submitting collusive bids or proposals, or result from business actions which have the effect of restraining trade, such as controlling the resale price of products.

Award—the acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a selected respondent.

Best and Final Offer (BAFO)—in a competitive negotiation, the final proposal submitted by a respondent after negotiations have been completed and which contains the respondent's most favorable terms in response to the solicitation.

CEO – The most senior administrator for the university system governed by the management board, also referred to as president.

Client Services - services provided directly to university clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

Chancellor—the chief administrative head of the institution of higher education, whether identified by this or some other title in the university's organization chart, also referred to as President.

Chief Financial Officer (CFO)—the most senior university executive responsible for financial controls for the university, whether identified by this or some other title in the university's organization chart. The CFO or designee has specified responsibilities under this university pilot procurement code.

Chief Procurement Officer (CPO)—as used in this university pilot procurement code is the director of procurement for the university and does not refer to the chief procurement officer for the State of Louisiana.

Collusion—see Anti-Competitive Practices

Common or General Use Item—a specification which has been developed and approved for repeated use in procurements in accordance with the provisions of R.S. 39:1651 (A) and (B).

Competitive Negotiation—a step toward a contract involving back and forth communication regarding costs and other criteria between the evaluation team and respondents who have been found suitable for award of a contract pursuant to evaluation of responses to a solicitation.

Competitive Reverse Auction (CRA)—a competitive online solicitation process conducted for goods and/or services in which respondents compete against each other online, in real time, in an open and interactive environment.

Competitive Sealed Bidding—the receipt of bids protected from inspection prior to bid opening. Bids may be received in any manner specified in the solicitation for bids including receipt by mail, by direct delivery, or through any secure electronic interactive environment permitted by rule or regulation.

"Consultant – an independent individual or firm contracting with the university to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the university except as to the result of the work. The university monitors progress under the contract and authorizes payment.

Contract—all types of university agreements; sponsored agreements including but not limited to purchase orders, for the procurement or disposal of goods and services and the generation of revenue for the university by the use of university facilities, personnel or services; “contract” shall not include:

1. contracts or appointments for employment;
2. licensing of university’s intellectual property specially regulated by the management board;
3. cooperative endeavor agreements.

Contract Controversy—a disagreement that may arise between the university and a contractor regarding the interpretation, application or breach of contract terms. This includes, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

Contract Modification—any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

Contractor—any individual or entity having a contract with the university.

Cooperative Buying Organization (CBO)—a public or private organization that offers goods or services to subscribing public or private procurement units from vendors located in the United States who have agreed to uniform terms, conditions and pricing in accordance with an agreement entered into by the participants pursuant to a competitive award process.

Cooperative purchasing—procurement conducted by or on behalf of more than one public procurement unit or by a public procurement unit with an external procurement activity or by a private procurement unit.

Electronic signature—an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record

Emergency Procurement—a purchase made after a written determination by the CPO that:

1. there exists an emergency condition which creates a threat to public health, welfare, safety, or public property, or conservation of public resources;
2. the emergency condition creates an immediate and serious need for goods or services that cannot be met through normal procurement methods;

Evaluation Team—a group of individuals designated to conduct interviews and negotiations during the evaluation of responses to a solicitation. The team members may be requested to provide scores for solicitations reviewed.

Firm, Fixed Price Contract—a contract where the total amount to be paid to the contractor is fixed and is not subject to adjustment by reason of the cost experience of the contractor. The term includes contracts where the unit price is set but the total price varies because actual quantities purchased deviate from the quantities estimated to be purchased. The term also includes contracts where the price may be adjusted in accordance with a contractually established price adjustment provision which is not based upon the contractor's costs.

General Services Administration (GSA) Contract Schedules—long-term government-wide contracts awarded by the U.S. General Services Administration to commercial entities to provide government procurement access to a broad spectrum of commercial goods and services at volume discount pricing.

Goods—all property, including but not limited to, equipment, materials, supplies, insurance, license agreements for software and leases on real property excluding a permanent interest in land, all consistent with established management board policies. Goods are not services.

Intergovernmental or Interagency Contracts—contracts or agreements in which each of the parties is a governmental entity or between subdivisions or institutions under their jurisdiction.

Invitation to Bid (ITB)— a solicitation, whether attached or incorporated by reference, utilized for soliciting bids to provide goods or services in accordance with this university pilot procurement code.

Items for Resale—goods or services purchased by the university for retail sale to students, employees or the public.

Lease of Facilities—contracts for the lease or rental of space by or for the university shall require the authorization of the CPO. A lease or rental of more than 5,000 square feet in a privately owned building shall be awarded by use of an ITB or RFP as determined by procurement policies and approved by the CPO. Amendment of a lease of facilities shall be made only after approval by the CPO.

Management Board—the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College.

Multi-Step Bids or Proposals—a solicitation involving two competitive steps, combining the elements of both competitive sealed bids and competitive sealed proposals. The first step may require the submission of technical and price proposals with only the technical proposal being evaluated and scored. The second step involves the consideration of price proposals of those firms that have achieved the highest technical scores.

Negotiation—conferring, discussing, or bargaining to reach agreement in business transactions on a potential procurement.

Office of State Purchasing Contracts—contracts entered into by the Louisiana Office of State Purchasing and made available to other Louisiana procurement units.

President – the most senior administrator for the university system governed by the management board, also referred to as CEO.

Procurement—the process by which the ownership or use of goods or services is acquired. Also includes all functions that pertain to the obtaining of goods and services, including but not limited to description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Procurement Policies—policies shall generally describe requirements for selection and solicitation of sources, preparation and award of contracts and all phases of contract administration. Procurement policies may address other issues related to procurement and to revenue generating contracts.

Professional Services—work rendered by an independent contractor who has a professed knowledge of a particular aspect of learning or science and its practical application. A profession is a vocation founded on advanced specialized study and training which enables its practitioner to provide particular services.

Proprietary Specifications—a specification that cites brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

Protest—a written objection by a potential aggrieved party to a solicitation or award of contract, with the intention of receiving a remedial result. Protests must be filed in accordance with this University Pilot Procurement Code (UPPC).

Public Funds—legislatively appropriated funds, interagency transfers, statutory dedication, federal appropriations, self-generated funds, gifts and funds received by the university by grant or other method from governmental or private sources and which may be used to advance the missions of the university.

Request for Proposals (RFP)—a solicitation for proposals to supply services or a combination of services and goods where weighted criteria are the basis for award. An RFP may also be used for a solicitation for lease of facilities.

Request for Quotation (RFQ)—a solicitation for use in procurements that includes a description of the goods or services specified and requests that a potential vendor respond with price and other information by a designated time and date. Evaluation and recommendation for award are based on the quotation which offers the best price, quality, delivery and services from a respondent with a satisfactory record for performance and reliability.

Request for Quote and Qualifications (RFQQ) – a solicitation the university has identified the need and the services to resolve it and is looking for a firm's qualifications and costs or fees to provide the identified services

Respondent—an individual or entity that submits a response to a solicitation.

Responsible Respondent—a business entity or individual determined to be fully capable of meeting all requirements of the solicitation and subsequent contract and which has the personnel, financial and technical resources to perform as will be contractually required. A responsible respondent must be able to fully document in advance the ability to provide good faith performance.

Responsive Respondent—an individual or business entity that has submitted a bid/proposal/offer that fully conforms in all material respects to the requirements of the solicitation.

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.

Shared Service Model—the provision of a service or function by one part of an organization or group where that service or function had previously been found in more than one part of the organization or group. Funding and resourcing of the service is shared and the providing department effectively becomes an internal service provider.

Signature— a manual or electronic signature. See also *Electronic Signature*.

Small Purchases—Procurements not exceeding $5,000 or an amount as determined by the management board to be in the best interest of the university or to offset volatile economic conditions may be made in accordance with small purchase procedures, except that procurement requirements shall not be artificially divided so as to constitute a small purchase under this definition.

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 requirements of the procurement.

Solicitation—an ITB, RFP, RFQ, RFQQ, CRA, SFO or an electronic posting, document or any other communication used to obtain responses for the purpose of entering into a contract.

Solicitation for Offers (SFO)—a solicitation for a contract that will produce revenue or other significant benefit for the university.

University—Louisiana State University and Agricultural and Mechanical College, located at Baton Rouge and designated as the premier flagship university for the state, an institution of the Louisiana State University System and under the supervision and management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College.

University Pilot Procurement Code (UPPC)—the rules adopted pursuant to the authority granted by R.S. 17:3139.5.5.c.i, for use by the initial qualifying institution and those institutions operating under the auspices of a shared services model managed by the qualifying institution, in lieu of state procurement statutes when the university procures goods or services or enters other contracts.

Used Equipment—pre-owned or rebuilt/remanufactured/refurbished equipment that may be offered for purchase.

Vendor—a supplier or seller of goods or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§307. Delegation and Revocation of Purchasing Authority to Departments

A. Supervision. The CPO shall supervise assistants and other personnel as may be necessary for the efficient operation of university procurement.

B. Delegation. For the efficient operation of the university the CPO may delegate, in writing with the approval of the CFO or designee, to university deans, directors, or department heads, or their formally designated agents, authority to procure on behalf of their administrative units in keeping with this UPPC.

C. Compliance. The CPO will ensure where delegation or authorization to university deans, directors, or department heads, or their formally designated agents, authority to procure on behalf of their administrative units, that the UPPC, procurement procedures and ethical practices are followed to effectively mitigate potential risks to the university.

D. Revocation. The CPO may change, limit, expand or reverse such delegations at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 5. Competitive Solicitations

§501. Types of Competitive Methods

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

1. invitation to bid (ITB);
2. request for proposals (RFP);
3. request for quotation (RFQ);
4. request for quote and qualifications (RFQQ)

5. competitive reverse auction (CRA);
6. best and final offer (BAFO);
7. solicitation for offers (SFO);
8. competitive negotiation;
9. cooperative buying organizations (CBO);
10. multi-step bids or proposals.

B. Other procurement methods. Other procurement methods may be utilized where there is a written determination by the CPO and the CFO or designee that it is in the best interest of university to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§503. Addenda Modifying Solicitations

A. Modifications to ITB or RFP. An addendum modifying an ITB or RFP shall not be issued during the 72 hours excluding Saturdays, Sundays, and holidays preceding the response submission deadline unless the time for submitting responses is extended for at least one week.

B. Modifications to RFQ or RFQQ. An addendum modifying a RFQ or RFQQ shall not be issued during the 24 hours excluding Saturdays, Sundays, and postal holidays preceding the response submission deadline unless the time for submitting responses is extended for at least 24 hours.

C. Distribution of Addendum. Addendum(s) shall be sent to all prospective respondents known to have received a solicitation. Notification of addenda may also be made by posting on electronic bulletin boards, publication in appropriate newspapers and trade journals, email and postal notices to potential vendors, and by other means determined by the CPO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§505. Competitive Thresholds

A. Procurements. Single procurements of goods or services utilized within a twelve month period estimated to cost less than $50,000 shall be made using procedures determined by the CPO. Procurement of goods and services utilized within a 12 month period estimated to cost in excess of $50,000 or an amount as determined by the management board to be in the best interest of the university or to offset volatile economic conditions shall be made using the competitive methods set forth by the CPO unless exempt elsewhere in this UPPC.

B. Information Technology. Single procurements of information technology software, installation, license, modifications, integration, training, hosted software, software subscriptions, support, etc. and hardware/software maintenance estimated to cost less than $100,000 during a 12 month period shall be made using procedures determined by the CPO. Procurement of information technology software and hardware/software maintenance estimated to cost in excess of $100,000 or an amount as determined by the management board to be in the best

interest of the university or to offset volatile economic conditions during a 12 month period shall be made using the competitive methods set forth by the CPO unless exempt elsewhere in this UPPC.

C. Professional Services. Procurements of professional services shall be made using procedures determined by the CPO. These include services that are rendered by an independent contractor who has a professed knowledge of some department of learning or science used in practical applications to the affairs of others or in the practice of an art founded on it, which independent contractors shall include and not be limited to lawyers, doctors, dentists, psychologists, advance practice nurses, veterinarians, architects, engineers, land surveyors, landscape architects, accountants, actuaries, claims adjusters, pharmacists, visiting professors and scientists.

D. Specialty Services by Individuals. Procurement of services rendered by individuals which require the use of graphic artists, sculptors, musicians, entertainers, photographers, and writers or which require the use of highly technical or unique individual skills or talents, such as, but not limited to, paramedics, therapists, handwriting analysts, foreign representatives, expert speakers, trainers within a continuing education program and expert witnesses for adjudications or other court proceedings shall be made using procedures determined by the CPO.

E. Artificial Division. Under no circumstances may a procurement requirement be artificially divided so as to avoid the application of competitive thresholds under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§507. Procurement of Insurance and Related Services

A. Contracts for Insurance. Contracts entered into by the university for the purchase of insurance or for obtaining services related to the operation of an insurance program shall be awarded in accordance with the provisions of this UPPC. Determination of the appropriate competitive method shall be made by the CPO

B. The university shall contract for consulting services with one or more licensed insurance producers. Such contract(s) may authorize one or more producers to advise the university regarding the insurance program and to procure insurance on behalf of the university.

C. System-Wide Programs of Self-Insurance. Unless specifically authorized in advance, in writing, by the CEO or president for the university system governed by the management board, the provisions of this section shall not apply to any procurement related to any system-wide program of self-insurance or any other system-wide insurance or other employment benefit related programs.

D. Splitting of Commissions Prohibited. It shall be unlawful for an agent to split, pass on, or share with any person, group, organization, or other agent, except the university, all or any portion of the commission derived from the sale of insurance to the university; except that on policies involving properties or exposure in more than one geographic area of the state, said commission may be split, shared, or passed on if authorized in writing by the CPO. In any such instance where the sharing of a commission on university insurance is authorized, it shall be only with a bona fide insurance agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§509. Specifications

A. Nonrestrictive Specifications. Specifications shall be developed in a manner which is most likely to result in the broadest possible competition while securing quality goods and services which meet the needs and expectations of the university. To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repairs items where two or more design, functional, or performance criteria will satisfactorily meet the university's requirements.

B. Proprietary Specifications. Proprietary specifications may be used only pursuant to the written approval of the CPO upon a determination that such use is in the best interest of the university.

C. Use of Existing Specification. If a specification for a common or general use item has been developed and adopted in accordance with university standards or a qualified products list has been developed and adopted in accordance with university standards for a particular supply, service, or major repair item, or need, it shall be used unless the CPO makes a written determination that its use is not in the university's best interest.

D. Bid or Performance Guaranty. Solicitations may include requirements for bid and/or performance guaranty.

1. Bid Guaranty. When specified in the solicitation for bids or advertisement for bids, a bond or certified check, made payable to the university, in the amount and in accordance with the specifications in the solicitation for bids, must accompany each bid.

2. Performance Bond. When required, the successful bidder must furnish a satisfactory bond of a surety company licensed to do business in Louisiana with all fees current, made payable to the university in a sum equal to the amount and in accordance with the specifications in the solicitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§511. Public Notice for Procurements; Submission Deadline

A. Public Notification. Public notification of solicitations for bids/proposals/offers/auctions/quotations may be made through a centralized electronic interactive environment. The notice for each solicitation may contain the name, address, email address and telephone number of the university contact person from whom detailed information may be obtained, shall describe the goods or services sought, and shall designate the forms to be used and the date, time and place for the receipt of bids/proposals /offers/auctions/quotations.

B. Time for Reasonable Notification. Notification of a solicitation shall allow a reasonable time for responses given the nature and complexity of the solicitation. Notification of solicitations may also be made by posting on electronic bulletin boards, publication in appropriate newspapers and trade journals, email and postal notices to potential vendors, and by other means determined by the CPO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§515. Receipt and Recording of Responses

A. Receipt of Solicitation Response. Responses to solicitations shall be received in the manner specified including receipt by mail, direct delivery, or through any secure electronic interactive environment permitted pursuant to the Louisiana Uniform Electronic Transaction Act.

B. Designated Place of Response. A response received at the designated place after the submission deadline shall not be considered whether delayed in transmission or for any cause whatsoever. In no case will late responses be considered.

C. Response Time. Responses to solicitations must be received at the time and place and in the format prescribed in the solicitation.

D. Delay of Response. If a receipt of a response is delayed by action of the university and this delay prejudices a respondent, the university shall cancel and reissue the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§517. Bid Submission Authority for Sealed Bids

A. Evidence of agency, corporate, or partnership authority may be required for submission of a bid to the university based on the type and complexity of the solicitation. If so required, the authority of the signature of the person submitting the bid shall be deemed sufficient and acceptable if any of the following conditions are met:

1. The signature on the bid is that of any corporate officer listed on the most current annual report on file with the secretary of state, or the signature on the bid is that of any member of a partnership or partnership in commendam listed in the most current partnership records on file with the secretary of state.

2. The signature on the bid is that of an authorized representative of the corporation, partnership, or other legal entity and the bid is accompanied by a corporate resolution, certification as to the corporate principal, or other documents indicating authority which are acceptable to the public entity.

3. The corporation, partnership, or other legal entity has filed in the appropriate records of the secretary of state in which the public entity is located, an affidavit, resolution, or other acknowledged or authentic document indicating the names of all parties authorized to submit bids for public contracts. Such document on file with the secretary of state shall remain in effect and shall be binding upon the principal until specifically rescinded and cancelled from the records of the respective offices.

B. Bids Binding. Unless otherwise specified all bids shall be binding for a minimum of 30 days. Nevertheless, if the lowest responsive and responsible bidder is willing to keep his price firm in excess of 30 days, the university may award to this bidder after this period has expired or the period as specified in the bid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§519. Mistakes in Responses

A. Errors in Responses. Patent errors in responses to solicitations supported by clear and convincing evidence may be corrected by the university or may be withdrawn, if such correction or withdrawal does not prejudice other respondents and such actions may be taken.

B. Minor Informalities. Minor informalities are a matter of form rather than substance which are evident from the solicitation documents or insignificant mistakes that can be waived or corrected without prejudice to other respondents. The CPO may waive such informalities or allow the respondent to correct them depending on which is in the best interest of the university.

C. Mistakes Where Intended Bid is Evident. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid may be corrected to the intended bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors. When an error is made in extending total prices, the unit bid price will govern. Under no circumstances will a unit bid price be altered or corrected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§521. Cancellation of Solicitations

A. Cancellation of Solicitation. A solicitation may be cancelled, prior to execution of a contract, by the CPO at any time when it is deemed in the best interest of the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§523. Withdrawal of Bids or Proposals

A. Withdrawal of Bid or Proposal. A bid or proposal which contains a patently obvious, unintentional and substantial mechanical, clerical or mathematical error or unintentionally omits a substantial quantity of goods or services called for in the solicitation may be withdrawn by the respondent if clear and convincing sworn, written evidence of such error or omission is furnished to the university prior to award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§525. Exceptions to the Competitive Solicitation Process

A. Exceptions. Exceptions to the competitive solicitation processes, when deemed in the best interest of the university, as the following, but not limited to:

1. equipment or vehicle repairs and repair parts from an authorized dealer or original equipment manufacturer;

2. equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warranty, etc.;

3. vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;

4. livestock procured at public auction;

5. livestock sperm and ova;

6. working class animals trained to perform special tasks, including, but not limited to, narcotics detection, bomb detection, arson investigation and rescue techniques;

7. publications and/or copyrighted materials procured directly from the publisher or copyright holder;

8. publications and/or copyrighted materials procured by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;

9. publications of articles, manuscripts, etc. in professional scientific, research, or educational journals/media and/or the procurement of reprints;

10. 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.;

11. public utilities and services provided by local governments;

12. prosthetic devices, implantable devices and devices for physical restoration;

13. educational training and related resources used to enhance the performance of university employees and good standing of state agencies, including memberships in and accreditations by professional societies and organizations;

14. materials, supplies, exhibitor fees and exhibit booths for conferences, seminars and workshops or similar events (business, educational, promotional activities) which enhance economic development or further the university's mission, duties and/or functions, with the approval of the CPO or equivalent;

15. food, material and supplies for teaching and training where procuring, preparing and serving of food are part of the prescribed course;

16. shipping charges and associated overseas screening and broker fees between international and domestic origins and destinations;

17. parcel services, including but not limited to Federal Express, United Parcel services, Airborne Express and Express Mail;

18. advertising where the CPO certifies that specific media is required to reach target audiences;

19. scientific and laboratory supplies, equipment and services for scientific research when procured by the university for laboratory, educational or scientific research; not to exceed $50,000 per transaction;

20. procurement or rental of mailing lists;

21. art exhibitions, rentals and/or loan agreements and associated costs of curatorial fees, transportation and installation;

22. instructors for continuing education courses taught on an as-needed basis;

23. procurement of services from subcontractors named in federal, state and private sponsored agreements when the grant award is received in which a portion of the services is subcontracted;

24. services paid for with federal funds provided specifically for such purposes;

25. used equipment and antique procurements;

26. Office of State Purchasing contracts or state master agreements;

27. procurements from GSA contract schedules;

28. intergovernmental or interagency contracts;

29. procurement of items for resale;

30. renewal of document storage facilities;

31. dues, registrations & membership fees;

32. analysis of research specimens necessary to preserve continuity of science;

33. goods or services purchased in foreign countries;

34. contracts for employee benefit plans as authorized by law;

35. client services;

36. procurements not exceeding the amounts established by the management board may be made in accordance with small purchase procedures, except that procurement requirements shall not be artificially divided so as to constitute a small purchase;

37. web based or subscription services;

38. services provided by expert witnesses;

39. renewal of termite service contracts.

B. Emergency Procurements. Emergency procurements shall be made using the most competitive process available consistent with the need for responding to the emergency. Reasonable efforts under the circumstances shall be made to obtain quotations from three or more vendors when goods or services are to be purchased on an emergency basis. Emergency procurement shall be limited to only those goods and services necessary to meet the emergency.

C. Cooperative Purchasing Agreements.

1. The CPO may approve a single purchase or approve ongoing participation in a cooperative purchasing agreement as a University-wide price agreement. The CPO has the final authority to approve the University's participation in cooperative purchasing agreements.

2. If it is in the best interests of the university after considering:

   a. the competitiveness of pricing under the contract;

   b. the competitiveness of the solicitation and award process;

   c. the efficiencies and cost savings of using the contract;

3. The University may participate in, conduct, sponsor or administer a cooperative purchasing agreement.

4. A report of all group purchasing or cooperative purchasing contracts by each institution authorized under these provisions shall be provided to the Joint Legislative Committee on the Budget no later than ninety days after the end of each fiscal year. Such report shall, at a minimum, include a measurement of the savings derived from the utilization of the group purchasing or cooperative purchasing process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 6. Reverse Auctions

§603. Application

A. Where the university utilizes the reverse auction process on behalf of a single institution, the CPO shall:

1. Determine it is in the best interest of the university to use electronic online bidding;
2. Determine specifications and terms and conditions for the procurement.

B. When applicable, prequalified products for a particular solicitation shall be announced seven days prior to the beginning of the auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§605. Addenda Modifying a Reverse Auction

A. It is the responsibility of the bidder to obtain any solicitation amendment(s) if the solicitation and addenda are posted on an electronic internet-based system for posting bid opportunities.

B. An addendum modifying a reverse auction shall not be issued during the 72 hours excluding Saturdays, Sundays, and postal holidays preceding the opening date and time unless the opening date and time is extended for at least one week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§615. Public Viewing of Auction Event

A. The public may view the internet auction event which will be conducted such that the names of the bidders will not be disclosed until after the completion of the auction, at which time the event record will be available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 7. Veterans and Small Entrepreneurships

§701. Initiatives for Veterans and Small Entrepreneurships

A. Hudson and Veterans Initiatives. Procurement procedures shall establish the means for implementation of the Hudson and Veterans' initiatives as required by R.S. 39:2001-2008 and R.S. 39:2171-2179 respectively. Whenever deemed by the CPO as in the best interests of the university, solicitations may include reserved points potential respondents certified as Small and Emerging Business (LA RS 51:941), or a Small Entrepreneurship (LA RS 39:2006) or a Veteran or Service-Connected Disabled Veteran-Owned Small Entrepreneurship (LA RS 39:21)

B. The CPO may waive the requirement of obtaining three or more Quotes when purchases do not exceed $50,000 per transaction from a small entrepreneurship certified under either the Hudson or Veteran Initiative when price is determined to be reasonable, in their sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 9. Revenue Generating Solicitations and Contracts

§901. Revenue Generating Contracts

A. Solicitations. Contracts or franchises by the university which will generate income or other significant benefit for the university and which will result in an exclusive right for the contracting party to provide goods or services, using university facilities, personnel or services shall be awarded by the use of an open competitive process which is approved by the CPO and the CFO or designee and consistent with management board policies. Such competitive process shall allow reasonable time for potential respondents to prepare responses given the nature and complexity of the responses solicited.

B. Exception to Competition. When it is determined by the CPO, with the written concurrence of the CFO or designee, consistent with established management board policies, that circumstances support the award of a revenue generating contract without competition, such a contract may be entered. Contracts by which services produced by the university are made available to entities outside the university need not be competitively awarded but shall be made on a basis that assures the recovery of costs associated with providing those services and a reasonable return to the university. Such contracts shall be structured in a manner which enhances opportunities for instruction, research, public service and other objectives of the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 11. Contracts with University or State Employees

§1103. Contracts with University or State Employees

A. Faculty of Other Universities. Contracts between the issuing university and a faculty member of any other university shall be subject to the policies and procedures promulgated by each respective university and the management boards having authority over the respective institution of higher education where the faculty member is employed. Such agreement shall be subject to the written approval of the chancellor of the university which employs the faculty member, and written notification of the agreement and approval shall be provided to the appropriate management board.

B. Faculty or Staff of the University. Contracts between university and any of its own employees, or between university and any other employee of the State of Louisiana or any of its political subdivisions, shall be consistent with the Louisiana Code of Governmental Ethics, the Code of Ethics for procurement as defined in LAC 34:XIII.Chapter 23, Civil Service rules, other applicable laws and regulations, and established management board policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 13. Evaluation and Award of Competitive Solicitations

§1302. Evaluation and Award

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

B. Lowest Cost. Unless otherwise specified in the solicitation an award based on a solicitation shall be to the responsible respondent whose bid is responsive to the terms, conditions and specifications and which offers the lowest cost to the university.

C. Highest Score. An award based upon a RFP shall be to the responsible respondent whose proposal was scored highest by an evaluation team based on the weighted criteria set forth in the RFP after completion of all steps of the evaluation process set forth in the RFP, taking into consideration price and the evaluation factors set forth in the RFP.

D. Greatest Return. The award based on a SFO which results in an exclusive right or franchise for the use of university facilities or services shall be made to the respondent that meets the terms and conditions of the solicitation and offers the greatest return to the university.

E. Notice. Written notice of the award of a contract shall be provided to all respondents requesting such notice and shall be made a part of the procurement file.

F. Tie Bids. Tie bids occur when responsive bids from responsible respondents are identical in price and meet all requirements and criteria set forth in the solicitation and are susceptible of award. When there is a tie between an out-of-state and Louisiana respondent, preference will be given to the Louisiana respondent. The CPO shall make an award when tie bids are received in any manner that will discourage tie bids. A written determination justifying the manner of award must be made.

G. Subsequent Award. In the event any contractor fails to fulfill or comply with the terms of any contract, the CPO may award the contract to the next lowest responsible respondent to the solicitation which resulted in the contract, subject to acceptance by that respondent, and may hold the defaulting contractor responsible for the difference in cost.

H. Independent Price Determination. Every solicitation shall provide that by submitting a bid or offer, the respondent certifies that the price submitted was independently arrived at without collusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§1305. Right to Reject

A. Rejection. The university 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. Also, the right is reserved to waive any technical defects when the best interest of the university will be served.

B. The university reserves the right to reject any or all responses to a solicitation from respondents that are an entity, or are principal individuals within an entity, which has been convicted of a felony or any misdemeanor involving moral turpitude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§1307. Responsibility of Bidders and Proposers

A. A reasonable inquiry to determine the responsibility of a bidder or proposer may be conducted. The unreasonable failure of a bidder or proposer promptly to supply information in connection with such an inquiry may be grounds for a determination of non-responsibility with respect to such bidder or proposer.

B. Whenever the CPO proposes to disqualify the lowest bidder, the university shall:

1. give written notice of the proposed disqualification to such bidder and include all reasons for the proposed disqualification;

2. give such bidder who is proposed to be disqualified, a reasonable opportunity to be heard at an informal hearing at which such bidder is afforded the opportunity to refute the reasons for the disqualification.

C. Except as otherwise provided by law, information furnished by a proposer pursuant to this Section may not be disclosed outside of the university without prior written consent of notice to the proposer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 15. Disputes and Contract Controversies

§1503. Dispute Resolution

A. Authority of CPO. The CPO is authorized to resolve protests and contract controversies. Detailed procedures will be regarding calculation of deadline dates, methods of transmitting protests and contract controversies, and similar administrative matters.

B. Protests

1. All protests to a solicitation shall be filed in writing with the CPO no later than three days prior to the response submission deadline, excluding Saturdays, Sundays, and postal holidays. All protests to the award of a contract shall be filed with the CPO no later than seven days after the issuance of the notification of award.

2. The CPO shall render a written decision regarding a protest within 14 days, excluding Saturdays, Sundays, and postal holidays after receipt of the protest and any subsequently submitted information. A written decision shall be furnished to the aggrieved party and other interested parties.

3. In the event of a timely protest relating to a solicitation or the award of a contract, university shall not proceed with the solicitation or the award of a contract unless the CPO makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the university.

4. Protest Bonds. Bonds may be required, and must have been included in the solicitation, when the university determines that the harm from delay of implementation of a contract could adversely affect the operations of the university.

C. Contract Controversies

1. All contract controversies shall be filed with the CPO no later than seven days after either the termination of the contract or the event giving rise to the controversy, whichever is later.

2. The CPO shall render a written decision regarding a contract controversy within seven days, excluding Saturdays, Sundays and postal holidays. After all parties to the controversy have had a reasonable opportunity to state in writing their position on the issues involved and their responses to the positions of other parties to the controversy, a written decision shall be furnished to the contractor.

D. Hearing. If the CPO determines that the issues involved in a protest or contract controversy are complex, obscure or would best be evaluated based on the testimony of the parties or others, the CPO may extend the relevant time periods or call for a hearing at which evidence may be received, a record created and a decision rendered by an independent hearing officer designated by the CPO. All interested parties shall be allowed to fully participate in such a hearing.

E. Decision of CPO. A decision of the CPO or a designated hearing officer regarding a protest or a contract controversy is final and conclusive except when:

1. the person or entity adversely affected has filed an appeal as provided in this section.

F. Appeal. Any person or entity aggrieved by the decision of the CPO or hearing officer regarding a protest or a contract controversy may appeal the decision to the CFO or designee within seven days of receipt of the written decision. Review by the CFO or designee of the decision of the CPO or hearing officer shall be based on documents submitted by the CPO and the person or entity aggrieved by the decision or, if a hearing was conducted, upon the record created from the hearing.

G. Final Administrative Determination. The decision of the CFO or designee regarding an appeal brought under LAC 34: XIII.1503.F may not be appealed. The decision of the CEO or designee shall constitute the final administrative determination regarding the protest or contract controversy.

I. Judicial Review. Any person or entity adversely affected by the final administrative determination regarding a protest or contract controversy may seek judicial review of the administrative determination in the Nineteenth Judicial District Court in East Baton Rouge Parish, which review shall be based on the record complied at the administrative level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§1507. Damages

A. Protest Damages. The CPO, or designee, any hearing officer, and any court properly hearing any matter arising out of any protest may award damages to the aggrieved party when the protest brought by such aggrieved party is sustained and the aggrieved party should have been awarded the contract but was not. Such damages shall be limited exclusively to reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney’s fees.

B. Contract Damages. The CPO, or designee, any hearing officer, and any court properly hearing any matter arising out of any contract controversy may award damages to the contractor when the contract controversy brought

by such contractor is sustained. Such damages shall be limited exclusively to the actual expenses reasonably incurred in performance of the contract.

C. Administrative Costs. Any administrative determination of costs or expenses recoverable pursuant to this section shall be final, subject to the discretionary review of the management board.

D. Limitations. In no event shall damages awarded by the CPO, or designee, any hearing officer, the CEO, or designee, or any court include attorney fees or any incidental, indirect, special, or consequential damages, including but not limited to loss of use, revenue or profit, whether reasonably certain or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 16. Inspection and Audit of Records

§1601. Right to inspect

A. The university may, at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§1603. Right to Audit Records

A. Audit of persons submitting cost or pricing data. The university may, at reasonable times and places, audit the books and records of any person who has submitted cost or pricing data to the extent that such books and records relate to such cost or pricing data.

B. Contract Audit. The university shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of five years from the date of final payment under the prime contract and by the subcontractor for a period of five years from the date of final payment under the subcontract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 17. Judicial Review of Administrative Determinations

§1702. Venue for Actions by or against the University in Connection with Procurement

A. Solicitation and Award of Contracts. The Nineteenth Judicial District Court shall have exclusive venue over an action between the university and a bidder, offeror, or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation. Such actions shall extend to all kinds of actions, whether for monetary damages or for declaratory, injunctive, or other equitable relief.

B. Debarment or Suspension. The Nineteenth Judicial District Court shall have exclusive venue over an action between the university and a person who is subject to suspension or debarment proceedings, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.

C. Actions under Contracts or for Breach of Contract. The Nineteenth Judicial District Court shall have exclusive venue over an action between the university and a contractor who contracts with the university, for any cause of action which arises under or by virtue of the contract, whether the action is on the contract or for a breach of the contract or whether the action is for declaratory, injunctive, or other equitable relief.

D. Finality for Administrative Determinations. In any judicial action under this section, factual or legal determinations by employees, agents, or other persons appointed by the university shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious or contrary to law. Administrative decisions will be made pursuant to LAC 34:XIII.Chapter 15 and LAC 34:XIII.Chapter 21 unless the decision is fraudulent or the person or entity adversely affected by the decision has timely appealed administratively or judicially.

E. Writs or appeals; district court decisions. Any party aggrieved by a final judgment or interlocutory order or ruling of the Nineteenth Judicial District Court may appeal or seek review thereof, as the case may be, to the Court of Appeal, First Circuit, or the Supreme Court of Louisiana, as otherwise permitted in civil cases by law and the constitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 19. Contracts

§1902. Contract Clauses; Administration

A. Required Contract Clauses. Clauses providing for the following requirements may be included in contracts, except upon a written determination by the CPO, approved in writing by the CFO or designee that the interests of university are best served by omitting the clause. The interest of the university that may include the following:

1. termination of the contract for default;
2. the right to audit records related to the procurement;
3. the right to suspend or terminate a contract based on the absence of budgeted funds for the acquisition of goods or services;
4. prohibiting illegal discrimination by the contractor;
5. requiring that Louisiana law shall apply to all disputes, and that venue for any actions brought against university arising out of the contract shall be only in the Nineteenth Judicial District Court in East Baton Rouge Parish.
6. liquidated damages as appropriate;
7. specified reasons for delay or nonperformance;
8. termination of the contract in whole or in part for the convenience of the university;
9. for cost reimbursement-based contracts, an itemized budget;

10. a description of reports or other deliverables to be received, when applicable;

11. a schedule when reports or other deliverables are to be received, when applicable;

12. responsibility for payment of taxes, when applicable;

13. assignability of the contract or rights to payments under the contract;

14. indemnification;

15. payment terms in accordance to R.S. 13:4202.B for the applicable time period.

B. Contract Clauses. May permit or require the inclusion of clauses providing for appropriate equitable adjustments in prices, time for performance, or other contract provisions.

C. Documentation. If it is determined by the university that additional evidence of the validity of a claim for payment is required, such evidence shall be requested within 10 days, excluding Saturdays, Sundays and postal holidays from the receipt of the bill. In instances where additional evidence is required, the bill shall be reviewed and payment or rejection made within 30 days from receipt of the evidence requested by the university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§1904. Participation by Respondent Constitutes Consent

A. Express Consent. Participation by a respondent in any procurement process governed by this UPPC shall constitute express consent to the procedures, limitations, and other terms and conditions contained in this UPPC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§1906. Multiyear contracts

A. Term. Except as otherwise provided in this section, no contract for goods or services may be entered into for periods of more than ten years. Payment and performance obligations for fiscal years after the initial year shall be subject to the availability and appropriation of funds therefor. No contract shall be entered into for more than one year unless the length of the contract was clearly stated in the specifications included in the solicitation. With respect to all multiyear contracts, there shall be no provisions for a penalty to the university for the cancellation or early payment of the contract.

B. Sponsored Agreements or Joint Agreements. Contracts or amendments to existing or future agreements or amendments issued under the authority of sponsored agreements or joint agreements between the Board of Regents and federal agencies for research, educational, or infrastructure development activities, and contracts or amendments to existing contracts issued by university under the authority of sponsored agreements or joint agreements issued by federal agencies or private sponsored agreements, may be entered into for a period corresponding to the performance period of the contract or agreement.

C. Capital Investments/Gifts. A nonexclusive contract with a vendor who has made a gift to the university of equipment utilized for promoting products and university activities at a substantial cost to the vendor, and which covers products for resale within the institution, may be entered into for a period not to exceed ten years.

D. Term of Revenue Generating Contracts. Nothing in this section shall limit the term of revenue generating contracts.

E. Exceptions. Notwithstanding the limitations set forth in this section, contracts of any type may be entered into for a longer term upon the express authorization of the management board, based on the written recommendation of the CPO and the chancellor that:

1. estimated, requirements cover the period of the contract and are reasonably firm and continuing; and

2. such a contract will serve the best interests of the university by encouraging effective competition or otherwise promoting economies in university procurement, which recommendation shall also state the estimated savings to be obtained by entering into a multiyear contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 21. Respondent and Contractor Relations

§2103. Contractor Communications

A. Registry. The business must be registered with the Louisiana Secretary of State's office.

B. Product Demonstrations. Potential respondents seeking to provide product demonstrations, presentations or exhibits to university personnel shall first request authorization to do so in writing to the CPO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§2105. Suspension Pending Debarment Investigation

A. Suspension. The CPO may issue a written determination to suspend a person or entity from doing business with the university pending an investigation to determine whether cause exists for debarment pursuant to University Pilot Procurement Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

§2107. Debarment

A. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the CPO shall have authority to debar a person from consideration for the award of contracts. The decision to debar shall be based upon substantial evidence that a cause for debarment or suspension under subsection B has occurred. In making the decision of whether to debar a person, the CPO shall take into consideration the seriousness of any violation and any mitigating factors. The CPO may suspend a person from consideration for an award of contracts for a period of up to three months if there is probable cause for debarment.

B. Causes. A person or entity may be debarred from further participation in contracts with the university on any of the following grounds:

1. conviction of the person or entity, or any of its officers, directors, principals, or key employees, of a criminal offense related to obtaining or attempting to obtain a contract with the university or the performance of a contract with the university;

2. conviction of the person or entity, or any of its officers, directors, principals, or key employees, of a criminal offense related to fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense involving moral turpitude;

3. conviction, or a civil finding of liability, of the person or entity or any of its officers, directors, principals, or key employees, of an offense under antitrust statutes of the United States, Louisiana, or any other state, for activities arising out of the submission of bids or proposals;

4. failure to perform in accordance with the terms of one or more contracts following notice of such failure, or a repeated failure to perform or of unsatisfactory performance of one or more contracts;

5. the person or entity is currently under debarment by any other government entity based upon a settlement, agreement or a final administrative or judicial determination issued by a federal, state or local governmental entity;

6. violation of any federal or state law regulating campaign contributions;

7. violations of any federal or state environmental law;

8. violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations;

9. violation of the Workers' Compensation Act;

10. violation of any Federal or State law prohibiting discrimination in employment;

11. three or more occurrences where a person has been declared ineligible for a contract;

12. unsatisfactory performance, including, but not limited to, any of the following:

a. failure to comply with terms of a state or university contract or subcontract, including, but not limited to: willful failure to perform in accordance with the terms of one or more contracts, a history of failure to perform or unsatisfactory performance of one or more contracts;

b. failure to complete the work in the time frame specified in the contract;

c. being declared in default on prior work or project;

d. failure to submit documents, information or forms as required by contract;

e. making false statements or failing to provide information or otherwise to cooperate with the university, contracting agency, or other state authorities;

f. discrimination in violation of laws or regulations in the conduct of business as a contractor;

13. any other act or omission indicating a lack of skill, ability, capacity, quality control, business integrity or business honesty that seriously and directly affects the present responsibility of a person as determined by the purchasing agency.

B. Hearing. When the CPO determines that a person or entity may have engaged in activities which are cause for debarment, a hearing shall be conducted by an independent hearing officer, designated by the CPO, in which evidence is received and a record created. The hearing officer shall issue a decision, including findings of fact and conclusions, based on the evidence produced in the hearing.

C. Effect. If the decision is to debar, the decision shall state the debarment period and inform the person or entity that no person representing the debarred person or entity during the debarment period may conduct business with the university and that any response to a solicitation received from the debarred person or entity during the debarment period will not be considered.

D. Administrative Review. A decision by the hearing officer to debar a person or entity may be appealed to the CFO or designee within seven days of receipt of the written decision on debarment. The CFO's review shall be based on the record created from the hearing.

E. Appeal. The decision of the CFO or designee may be appealed within seven days, excluding Saturdays, Sundays and postal holidays, after receipt of the decision of the CFO or designee to the chancellor. The decision of the chancellor shall constitute the final administrative determination regarding the debarment. The person or entity debarred may seek judicial review of the administrative determination in pursuant to the provisions of LAC 34: XIII. Chapter 15, which review shall be based on the record compiled at the administrative level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 23. Ethics

§2303. Integrity in Procurements

A. Code of Ethics and Ex Parte Communications. All parties involved in the procurement process, contract administration or contract performance are bound to act responsibly, fairly and in good faith. Any person acting for the university in the procurement process shall be held to the highest degree of integrity, honesty and trust and shall be bound by the Louisiana Code of Governmental Ethics, R.S. 49:1101 and the Code of Ethics for procurement which are in addition to applicable state laws, as follows.

1. Give first consideration to the mission and policies of the university and the laws of the State of Louisiana.
2. Strive to obtain maximum value for each dollar spent.
3. Decline all personal gifts or gratuities.
4. Grant equal consideration to all competitive suppliers.
5. Believe in the dignity and worth of the service rendered by the Procurement Office, and the responsibilities assumed as trusted public servants.
6. Conduct business with potential and current suppliers in good faith, devoid of intentional misrepresentation.
7. Demand honesty in sales representation whether offered through the medium of a verbal, electronic or written statement, an advertisement, or a sample of the product.
8. Receive the consent of originators of proprietary ideas and designs before using them for competitive purchasing purposes.
9. Make every reasonable effort to negotiate an equitable and mutually agreeable settlement of any controversy with a supplier; and/or be willing to resolve major controversies, pursuant to the established policies of the university.

10. Accord a prompt and courteous reception to all who call on legitimate business missions.

11. Cooperate with trade, industrial and professional associations, and with governmental and private agencies for the purposes of promoting and developing sound business methods.

12. Foster fair, ethical and legal trade practices.

13. Identify and eliminate participation of any individual in operational situations where a conflict of interest may be involved.

14. Resist encroachment on control of personnel in order to preserve integrity as procurement professional. Seek or dispense no personal favors.

15. Handle each procurement problem objectively and empathetically, without discrimination.

16. Support the professional aims and objectives of the National Institute of Governmental Purchasing, Inc. and the National Association of Educational Procurement.

B. Procurement procedures shall provide for restrictions on ex parte communications which are appropriate to the circumstances.

C. Conflicts of Interest. In addition to the limitations of Paragraph A of this section, If the CPO has reason to believe that a conflict of interest may exist for university procurement or contract administration personnel, the CPO shall direct the parties involved to take appropriate steps to eliminate an actual, perceived, or potential conflict of interest and shall monitor compliance with these steps.

D. Collusion. When collusion is suspected among respondents to a solicitation, a written notice of the relevant facts shall be transmitted to the district attorney for the parish in which university is domiciled, the attorney general and the inspector general for investigation. All documents involved in any procurement in which collusion is suspected shall be retained for a minimum of six years or until the district attorney for the parish in which university is domiciled, the attorney general and inspector general give written notice that they may be destroyed, whichever period is longer. All retained documents shall be made available to the district attorney for the parish in which university is domiciled, the attorney general and inspector general or their designees upon request.

E. Limitations on Consultants Competing for Contracts. Any person or entity, and any parent or subsidiary business entity of any entity contracting with university for the purposes of developing an ITB, RFP, or any other type of solicitation related to a specific procurement shall be prohibited from bidding, proposing, or otherwise competing for award of that procurement. Such persons or entities shall also be prohibited from participating as subcontractors related to performance of a contract resulting from that procurement. For purposes of this Section, the following activities shall not be considered developing an ITB, RFP, or any other type of solicitation:

1. architectural and engineering programming;
2. master planning;
3. budgeting;
4. feasibility analysis;
5. constructability review;
6. furnishing specification data or other product information;

7. any other services that do not establish selection qualifications or evaluation criteria for the procurement of an architect or engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Chapter 25. Management Board Authority

§2503. Management Board Policies Not Superseded

A. Special Policies and Provisions of Management Board. Nothing in this UPPC shall abridge any policies and provisions established by a management board, through its bylaws or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3139-3139.7 as amended by Act 749 of 2014.

HISTORICAL NOTE: Promulgated by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Office of Procurement and Property Management, LR 40:

Family Impact Statement

The provisions of this proposed Rule will have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The provisions of this proposed Rule will have no known impact on child, individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

The provisions of this proposed Rule will have no known impact on staffing level, direct or indirect cost, or overall ability, as described in R.S. 49:953(a)(1).

Public Comments

Interested parties may contact Sally McKechnie, Director of Procurement and Property Management for LSU by email at purchasing@lsu.edu for further information. All interested parties are invited to submit written data, views, comments or arguments related to these proposed rules through Friday, November 21, 2014 to the above email address or to 213 Thomas Boyd Hall, LSU, Baton Rouge, LA 70803. No preamble has been prepared for this proposed Rule. Interested parties are urged to review the full text of the proposed University Pilot Procurement Code, a downloadable version of which is available on the LSU Purchasing Website: www. fas.lsu.edu/purchasing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 25, 2014 at 9:30 a.m. in Room 329, LSU Capital Chamber, LSU Student Union, 310 Student Union, Baton Rouge, LA 70803. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Sally McKechnie, Director of Procurement and Property Management

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: University Pilot Procurement Code

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

Pursuant to Louisiana Revised Statutes 17: 3139.5(5)(c)(i) which allows the implementation of a pilot procurement code the proposed administrative rules may result in an overall net decrease in university expenditures depending upon the costs associated with implementation and the increased competitiveness of solicitations. The pilot procurement code allows LSU to improve operational efficiency and effectiveness. It reduces the redundancy and inefficiency of multiple levels of bureaucratic reviews and approvals. It provides for multiple solicitation methods chosen specifically to increase competition and the use of cooperative purchasing agreements that have been competitively awarded by not-for-profit cooperative buying organizations. Cooperative purchasing agreements will allow the use of catalogs for small dollar item purchases that can be compared through electronic catalogs thus allowing a second level of competition from dollar I. Many such purchases are now made at retail prices without competition. The bids/proposals/offers are expected to result in substantial savings by receiving lower prices through the comparison of prices available in a broader marketplace. Other states that have adopted pilot procurement codes specifically for higher education have realized savings through the establishment of best practices and policies in the area · of procurement. While the savings will be difficult to measure depending on the solicitation method, good/service purchased and the strategic decisions resulting from analysis of spending patterns, flagship institutions such as the University of Virginia, Colorado, Kansas and Oregon report success. We do not anticipate additional personnel or equipment to implement the pilot procurement code.

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

There should be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

There is no anticipated impact on businesses due to the implementation of the pilot procurement code. The code 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

The proposed administrative rules may increase competition among various businesses providing commodities and services to the university. To the extent businesses choose to participate in competitive solicitations, competition will likely increase among those businesses that provide the lowest price for the best goods or services.

Sally McKechnie
Director of Procurement and Property Management

Evan Brasseaux
Staff Director
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	Sally McKechnie	Dept.:	Procurement Services
Phone:	(225) 578-2307	Office:	Finance & Accounting Services
Return Address:	LSU	Rule Title:	University Pilot Procurement Code
	213 Thomas Boyd Hall		
	Baton Rouge, LA 70803	Date Rule Takes Effect:	TBD

SUMMARY
(Use complete sentences)

In accordance with Section 953 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)

Pursuant to Act 749 of the 2014 Louisiana Legislative Regular Session and Louisiana Revised Statutes 17: 3139.5(5)(c)(i) which allows the implementation of a pilot procurement code, the proposed administrative rules will result in an overall net decrease in university expenditures associated with increased competitiveness of solicitations. The pilot procurement code allows LSU to improve operational efficiency and effectiveness by streamlining processes where there has been redundancy and inefficiency of multiple levels of administrative review and approvals. It provides for multiple solicitation methods chosen specifically to increase competition as well as the use of cooperative purchasing agreements that have been competitively awarded by cooperative buying organizations. Cooperative purchasing agreements allow the use of competitively negotiated pricing catalogs for small dollar purchases resulting in an additional level of competition to be completed quickly and efficiently. Many such purchases are now made at retail prices without competition. LSU will also achieve savings through the use of reverse auctions where the price decreases as sellers compete to offer lower bids than their competitors while still meeting all of the specifications of the original contract. LSU estimates savings of approximately $2.5M from cooperative purchasing agreements and reverse auctions over the next three fiscal years.

The bids/proposals/offers are expected to result in substantial savings by receiving lower prices through the comparison of prices available in a broader marketplace. Other states that have adopted pilot procurement codes specifically for higher education have realized savings through the establishment of best practices and policies in the area of procurement.

It is possible LSU could achieve savings in FY 16 and thereafter from authority granted in the proposed rules to procure insurance services. However, LSU does not anticipate using the Pilot Procurement Code for the initial acquisition of insurance in FY 15 authorized under R.S. 17:3139.5(5)(c)(iii) and approved by the JLCB. LSU will use authority under the Office of Risk Management (ORM) in FY 15.

Additional personnel or equipment is not anticipated to implement the pilot procurement code.

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

There should be no effect on revenue collections of state or local governmental units.

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

There is no anticipated impact on businesses due to the implementation of the pilot procurement code. The code 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)

The proposed administrative rules may increase competition among various businesses providing commodities and services to the university. It is anticipated that businesses will have greater opportunity to demonstrate value to the university versus just lowest cost. This is expected because of the ability to utilize procurement methods based on more than just cost, but, service, delivery and quality. The university does not anticipate a negative effect on local businesses as a result of this rule.

Signature of Agency Head or Designee	Legislative Fiscal Officer or Designee
Sally A. McKechnie, Director – Procurement Services	
Typed Name & Title of Agency Head or Designee	
September 18, 2014	
Date of Signature	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).

The proposed rules are to establish a pilot procurement code for LSU pursuant to Act 749 of the 2014 Louisiana Legislative Session, as authorized in La. R.S. 17:3139.5(5)(c)(i) referred to as the La Grad Act in place of Louisiana Procurement laws La. R.S. 39:15.3, 196-200, 1481 through 1526 and 1551 through 1755.

LSU entities covered under the Procurement Code include those under the supervision and management of the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College that participate in the shared services agreement .

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

The demand for greater productivity, efficiency and spending restraint in American public higher education continues to grow. State cutbacks in funding for public universities, combined with increased student enrollments, have made it imperative for institutions to scrutinize current spending and implement new reforms and practices that fully leverage taxpayer and tuition dollars being spent, while ensuring accountability.

Act 749 of the 2014 Louisiana Legislative Regular Session identifies La. R.S. 17:3139.5(5)(c)(i) as the legislation that allows the initial qualifying institution (LSU A&M) to establish a pilot procurement code for procurement autonomy.

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.

The proposed rules will not result in an increase in the expenditure of funds. Use of additional competitive methods will result in greater efficiencies, more competition, purchases at lower prices and overall university savings.

(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) ___x___ 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?

Pursuant to Act 749 of the 2014 Louisiana Legislative Regular Session and the Louisiana Revised Statutes 17: 3139.5(5)(c)(i) (LA Grad Act) which allows for the implementation of a pilot procurement code, the proposed administrative rules may result in an overall net decrease in university expenditures associated with implementation and the increased competitiveness of solicitations. The pilot procurement code allows the university to improve operational efficiency and effectiveness. It reduces the redundancy and inefficiency of multiple levels of administrative reviews and approvals. It provides for multiple solicitation methods chosen specifically to increase competition and the use of cooperative purchasing agreements that have been competitively awarded by cooperative buying organizations. Cooperative purchasing agreements will allow the use of catalogs for small dollar item purchases that can be compared through electronic catalogs thus allowing a second level of competition for small purchases. Many such purchases are now made at retail prices without competition. LSU will also achieve savings through the use of reverse auctions where the price decreases as sellers compete to offer lower bids than their competitors whilst still meeting all of the specifications of the original contract. LSU estimates savings approximately $2.5M from cooperative purchasing agreements and reverse auctions over the next three fiscal years.

The bids/ proposals/ offers are expected to result in substantial savings by receiving lower prices through the comparison of prices available in a broader marketplace. Other states that have adopted pilot procurement codes specifically for higher education have realized savings through the establishment of best practices and policies in the area of procurement. While the savings will be difficult to measure depending on the solicitation method, good/ service purchased and the strategic decisions resulting from analysis of spending patterns, flagship institutions such as the University of Virginia, Colorado, Kansas and Oregon report success. Additional personnel and equipment to implement the pilot procurement code are not anticipated.

It is possible LSU could achieve savings in FY 16 and thereafter from authority granted in the proposed rules to procure insurance. However, LSU does not anticipate using the Pilot Procurement Code for the initial acquisition of insurance in FY 15 authorized under R.S. 17:3139.5(5)(c)(iii) and approved by the JLCB. LSU will use authority under the Office of Risk Management (ORM) in FY 15.

COSTS	**FY 15**	**FY 16**	**FY 17**
Personal Services	N/A	N/A	N/A
Operating Expenses	N/A	N/A	N/A
Professional Services	N/A	N/A	N/A
Other Charges	N/A	N/A	N/A
Equipment	N/A	N/A	N/A
Major Repairs & Constr.	N/A	N/A	N/A
TOTAL	**Decrease**	**Decrease**	**Decrease**
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.

University procedures, forms and contracting documents will be adapted to efficiently and effectively comply with the proposed rules. Costs savings will be associated with the ability to use more competitive procurement methods, including the use of cooperative buying agreements and reverse auctions.

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

There is no anticipated need for funding to implement the proposed rule. Existing staff and resources will be used.

SOURCE	FY 15	FY 16	FY 16
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?

   Not applicable.

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 will be no impact on local government units concerning workload and paperwork requirements.

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

   There will be no impact on funding of local government units as a result of the adoption of these rules.

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

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

There will be no increase or decrease in revenues as a result of using the pilot procurement code.

REVENUE INCREASE/DECREASE	FY 15	FY 16	FY 17
State General Fund	– 0 –	– 0 –	– 0 –
Agency Self-Generated	– 0 –	– 0 –	– 0 –
Dedicated Funds*	– 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.

There should be no effect on revenue collections of state or local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

A. What persons 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 business due to the implementation of the pilot procurement code. The additional competitive processes will provide different methods of solicitation by which business may participate. The university does not anticipate a disproportionate effect on directly affected persons or non-governmental groups as a result of this rule. The code will continue to award contracts on a competitive basis and all businesses will have the ability 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.

There should not be any impact on receipts and/or income resulting from using the pilot procurement code.

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.

The proposed administrative rules may increase competition among businesses providing commodities and services to the university. A positive impact to the businesses in the community is expected, by allowing more means and methods of competition.