

ADMINISTRATIVE MANUAL

CHAPTER 1

PROCUREMENT AND CONTRACTING

PART I – DEFINITIONS AND POLICIES

A. PURPOSE

The purpose of this Chapter is to establish policies and procedures for all procurement of goods and contracting for services undertaken on behalf of the Legal Services Corporation (LSC).

B. DEFINITIONS

1. Acquisition

Acquisition means the purchase or lease of goods and services. A purchase or lease of goods, which can be readily obtained through a single source under a single contract, shall be considered a single acquisition.

2. Contract Approval Form

The Contract Approval Form is the form that must be executed by the originator of any contract and signed by the General Counsel or his designee, and Comptroller prior to LSC awarding a contract.

3. Emergency

Emergency as used in this Chapter means when LSC's need for the goods or services is of such unusual and compelling urgency that LSC would be seriously injured by following the requirements otherwise required under this Chapter.

4. Expendable Property

Expendable property is property with a value of less than \$500.

5. Goods

Goods are expendable property, such as supplies, furniture, equipment, books, publications, and other items.

6. Nonexpendable Property/Capital Assets

Nonexpendable Property is property that has a value of more than \$500 with a useful life of greater than one year.

7. Independent Contractors

For the purpose of this Chapter, Independent Contractors are individuals, partnerships, corporations, associations or other types of organizations that may be engaged on a contract basis to provide services to LSC. Independent contractor status is indicated by an absence of control by LSC over the details, method, and manner that services and tasks are performed. However, LSC may require certain and definite results as specified in the terms of the contract. Independent contractors are not employees of LSC, are not entitled to LSC's fringe benefits and income taxes are not withheld from their pay. During the hours that contract services are being performed for LSC, consultants may not bill and receive payment from a second LSC-funded source for work or leave time.

8. Services

Services are the performance of labor using the provider's time, skills and expertise.

9. Purchase Order

The purchase order (PO) serves to confirm that LSC has entered into a contract to purchase expendable or nonexpendable items, or to secure services. When the goods are delivered or services rendered, the PO is either reduced or eliminated as may be needed when the associated invoices are paid.

10. Petty Cash

Petty cash is kept on-hand for payment of minor items. Petty cash funds have been established in the Comptroller's Office to provide a convenient and expeditious method to pay for small and "emergency" expenditures as provided for in Chapter 4 on Petty Cash.

C. POLICIES

1. Use of GSA Schedules

LSC has authority to purchase goods and services from the General Services Administration (GSA) schedules. (See GSA Order ADM 4800.2 E, Appendix B.) When obtaining competitive quotes, bids and proposals, and making purchases, the GSA schedule should be used unless the purchase

documents show a better value from other sources. Information on the GSA schedules can be found at: <http://www.gsa.gov/Portal/buying.jsp>.

2. Use of Small and Disadvantaged Business Enterprises (S/DBE)

Positive efforts shall be made to utilize small businesses and disadvantaged business enterprises whenever possible. To achieve this goal, persons responsible for contracting and procurement activities should take such steps as: making information on contracting and procurement activities available to facilitate participation by small and disadvantaged business enterprises; consider in the contracting and procurement process whether firms competing are small and disadvantaged business enterprises, or for larger contracts, whether firms intend to subcontract with small and disadvantaged business enterprises; use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency, and the GSA Office of Small Business Utilization. Information about contracting with S/DBEs can be found at: <http://www.mbd.gov/http://www.sba.gov> ; and http://www.gsa.gov/Portal/content/orgs_content.jsp?contentOID=22882&content_Type=1005

3. Procurement and Contracting Records

Records relating to procurement and contracting activities shall include, at a minimum, the basis for contractor/vendor selection and justification for lack of competitive bidding or proposals (as applicable). Documentation in the files shall be sufficient to constitute a complete history of the transaction, including the RFP or statement of work, the list of bidders solicited the response from each bidder, any analysis performed of the bids received, written correspondence or memoranda recommending selection of a bidder, and the contract approval form. Contract files that include contractor bids or proposal information and source selection information must be protected from disclosure to unauthorized persons. All procurement and contracting records shall be provided to the Comptroller's Office, which will maintain the information.

4. Budgeting for Contracting and Procurement

Vice Presidents, CAO and Office Directors are responsible for assuring that expenditures for procurement of goods and contracts for services are within their budgetary limitations.

5. Purchase Orders

The Comptroller's Office is responsible for preparing and executing all purchase orders. When property is received or services rendered in accordance with the provisions of a purchase order and the invoice is verified and approved,

the invoice will be processed for payment. For procurements in which a purchase order is required, no order will be placed nor will any invoice be paid until the purchase order has been approved. (No purchase orders will be issued for credit card, petty cash or emergency purchases.) The Comptroller's Office shall not issue a purchase order for contracts until after the required General Counsel approval for form and legal sufficiency has been obtained.

6. Awarding Contracts to LSC employees

Contracts generally may not be awarded to employees of the Corporation or businesses owned or controlled by the employee, their spouse, parents, or children. However, if an employee or business described in this paragraph is the only vendor available to provide, or offers the best value for the needed goods or services, the contract may be awarded after all facts concerning the employee's connection to the business are revealed to the President and the President has approved the contract.

7. Competition

Key to ensuring that LSC funds are expended in an efficient and effective manner is the requirement that all goods and services be obtained for the best-evaluated price and terms. Contracts shall be awarded based on the best value to LSC. Best value as used in this Manual is the most advantageous balance of price, quality, and performance achieved through competitive procurement methods in accordance with stated selection criteria. Competition is an integral component of this requirement. Competition requirements are set forth in Part II and Part III. No contract shall be awarded based on personal gain to the LSC employee awarding the contract, a relative of that employee, or that result in a conflict of duty, interest or responsibilities of the awarding employee.

8. Exceptional Circumstances

- a. There are circumstances where existing relationships with vendors have been established due to technical or quality requirements, and it is appropriate to continue working with them by entering into a new contract. When such a situation occurs that requires a renewal of the relationship, the circumstances shall be adequately documented in a memorandum by the Corporate Secretary, Vice President, CAO or Director of the originating office, and must be approved by the Comptroller. Any relevant material must be filed in the Comptroller's Office for audit purposes.
- b. When a specialized expertise is needed or when time is of the essence for a special project to be completed, a "sole source" contract may be appropriate. A memorandum detailing the need and/or timing must be completed and approved following the

appropriate procedures before initiating a contract or beginning the project and must be filed in the Comptroller's Office for audit purposes.

- c. There are exceptional circumstances when the support offices of LSC (OFAS, OHR, OIT & OIM), in order to provide efficient and effective support services to LSC, may use the U.S. Government Purchase Authorization Card described in Chapter 2 to purchase goods or services and need not follow all of the procedures set out in Chapter 1. However, the required approvals still need to be received and documented (See Definitions 8 Purchase Orders and 2 Contract Approval Form). These circumstances include emergencies or situations where the Director has received approval from the Vice President supervising the originating Office to make the purchase or enter into the contract following the authorities as established in Part 2, A of this Chapter.

9. The Inspector General

The Inspector General is authorized to solicit competitive proposals, negotiate and enter into contracts for goods and services in accordance with the requirements of this Chapter. The Counsel to the Inspector General will review proposed contracts for legal sufficiency and recommend to the Inspector General whether or not they should be executed. Contracts entered into by the OIG are not subject to approval or review by LSC Management, including the General Counsel, Comptroller or President. When this manual specifies that approval of the General Counsel or the Comptroller is required, the Inspector General shall make approvals for the OIG based on the advice provided by the Counsel to the Inspector General.

PART II - PROCEDURES FOR PROCUREMENT OF GOODS

A. AUTHORITIES

The President, the Vice Presidents, CAO, and Office Directors are authorized to initiate procurement of goods. Purchases that are greater than \$10,500 must be approved by the President. The Vice Presidents and CAO are authorized to approve purchases up to \$10,500 and Directors up to \$3,500. LSC's IG or designee is the authorizing official for the OIG purchases.

B. PROCEDURES

In addition to the general requirements set forth in Part I, above, the following procedures shall be followed for the procurement of goods.

1. Procurement of Expendable Property

a. Office Supplies/Other Expendable Property

An inventory of regularly used office supplies sufficient to meet normal requirements is maintained in the LSC supply room. A list of the supplies kept in stock is available in the supply room upon request. Except as otherwise provided, requests for the acquisition of supplies not kept in stock or large quantities of regularly stocked supplies with a value of more than \$100 shall be submitted in writing to the Manager of Administrative Services. Requests must be signed off on by the Vice President, CAO, Director or designee of the originating Office and should be submitted on LSC form - Request for Property and Supplies. Employees are requested to submit such requests at the earliest possible date so they will be available when needed. Supplies with a value under \$100 may be purchased by staff authorized by a Director or designee without following this procedure and will be reimbursed out of Petty Cash (see Chapter 4).

b. Technology Supplies

Because of the unique nature of many technology purchases and the existence of independent relationships between OIT staff and technology vendors, technology supplies will be purchased directly

by OIT within their prescribed authority established in Part II, A. of this Chapter. The Inspector General or designee has authority to approve all technology purchases for the Office of the Inspector General.

2. Procurement of Books and Publications

Except as otherwise provided, requests for the purchase of books and publications with a cost of \$100 or more shall be submitted in writing to the reading room staff to determine whether LSC already possesses the requested book or publication, or a suitable substitute; requests must be signed off on by the Vice President, CAO, Director, Inspector General or designee of the originating Office. If the publication is already available at LSC, the reading room staff will so inform the originating office. If the originating office needs its own separate copy, the Director of the office must submit a justification for the additional copy before the publication is purchased.

An index is maintained in the reading room of all books and publications obtained for LSC. Thus, books ordered shall be delivered to the reading room for cataloging before they are forwarded to the requesting Office.

3. Procurement of Nonexpendable Property

- a. Except as otherwise provided, requests for the purchase of nonexpendable property shall be submitted in writing with a brief justification for the request to the Administrative Services Manager. Requests must be signed off on by the Director, Inspector General or designee of the originating Office making the request and should be submitted on LSC form - Request for Property and Supplies. The Manager of the Office of Administrative Services shall forward the request to the Comptroller's Office for the execution of a purchase order.
- b. For acquisitions of nonexpendable property with a value of over \$3,500, the Administrative Services Manager shall use the procedures set forth in Paragraph 5 of this section.

4. Emergency Procurement Procedures

In urgent cases, procurement requests may be made by telephone, but such requests must be confirmed in writing. In emergency situations, when it is necessary to make expenditures over \$100 for which a purchase order could not be obtained, the vendor shall be instructed to send the invoice to the attention of the employee who authorized the expenditure. Upon verification by the employee who authorized the expenditure of funds that the merchandise or services were received and the invoice is in order, it shall be signed and forwarded to the

Comptroller's Office along with a concise justification with the authorization needed following Part II, A, before payment can be made. The Comptroller, after review of the transaction, will approve the invoice for payment or seek additional information from the originator. All emergency procurements for an amount greater than \$3,500 must be approved by the CAO or the Vice President supervising the Office originating the request, and all requests for an amount greater than \$10,500 must be approved by the President.

5. Solicitation of Bids

Except as otherwise provided herein, solicitation of bids is required for the acquisition of nonexpendable property with a value of over \$3,500 in accordance with the following procedures:

- a. Single acquisitions with a cost from \$3,500 to \$10,500 may be processed on the basis of internet, email or telephone quotations from not fewer than three sources; quotations shall be recorded and filed in the Comptroller's Office for audit purposes.
- b. Single acquisitions with a cost exceeding \$10,500 must be subject to competitive bidding. The Comptroller's Office is responsible for the preparation of specifications, the solicitation of bids and the awarding of contracts for the acquisition of nonexpendable property. Such acquisitions should normally be processed on the basis of responses to written solicitation of bids from not fewer than three sources. If it is necessary to award a contract on the basis of fewer than three responses, this information shall be documented for the file, and quotations shall be filed for audit purposes. Solicitations for bids must require that the bidder certify that it is an Equal Opportunity Employer.
- c. Purchasing from a "Sole Source" is recognized in some instances due to technical or quality requirements, the lack of dependable vendors or when there is an emergency. When such a situation occurs, the circumstances shall be adequately documented by the Vice President, CAO or Director of the originating office, and must be approved by the Comptroller. The documentation should include attempts made to solicit bids for the contract, and the reasons why there are no other supplies or services that will satisfy the specific requirements. All relevant material must be filed in the Comptroller's Office for audit purposes.

6. Invoices

The Directors of each Office and the Administrative Services Manager shall review invoices that apply to their respective areas to ensure that

merchandise was received as specified. Upon verification that the invoice is in order, it shall be signed by the Director or designee and forwarded to the Comptroller's Office for payment.

PART III – PROCEDURES FOR CONTRACTING FOR SERVICES

A. AUTHORITIES

The President, the Vice Presidents, Corporate Secretary, CAO, and Office Directors are authorized to initiate contracts for services. Contracts that are greater than \$10,500 must be approved by the President. The Vice Presidents and CAO are authorized to approve contracts up to \$10,500 and Directors up to \$3,500. LSC's IG or designee is the authorizing official for the OIG and the Corporate Secretary for all contracts for the Board of Directors.

B. CONTRACTING PROCEDURES

In addition to the general requirements set forth in Part I, C, above, the following procedures shall be followed for contracting for services:

1. Authorities

- a. The President, the Vice Presidents, Corporate Secretary, CAO and Office Directors are authorized to solicit competitive proposals, negotiate and, with the review of the Comptroller and OLA, as set out below in paragraphs b and c, and the approval of the President as set out in paragraph 4, enter into contracts for services in accordance with the requirements of this chapter. Upon request, Comptroller's Office and/or OLA will assist in the performance of these functions, as appropriate.

The OIG prepares, awards and approves its own contracts for services in accordance with the competitive requirements set out in section 2 below.

- b. Legal Sufficiency Review:

The OLA must approve all contracts for form and legal sufficiency before they are awarded. Such approval must be provided in writing by notation on the Contract Approval Cover Sheet.

- c. Comptroller Review:

The Comptroller must approve all contracts before they are awarded to ensure that the requirements of this Chapter have been followed prior to the award of the contract and the preparation of a

purchase order. Such approval must be provided in writing by notation on the Contract Approval Cover Sheet.

d. **OHR Review**

For contracts for program visit consultants, the requesting office must submit the proposed contract to OHR with the required information and a contract approval form prior to the contract's being initiated. OHR will approve the contract and initiate the necessary approvals from OLA, Comptroller, and vice president and president, if required. After all approvals have been obtained, the Director of OHR will sign the contract and return it to the originating office for mailing.

2. Competition Requirements

Except as otherwise provided herein, solicitation of proposals is required for the acquisition of services with a value of \$3,500 or more before contracting is completed.

a. **Contracts for Services with a Cumulative Cost of \$3,500- \$10,500:**

Except as otherwise provided herein, solicitation of bids or proposals are required before contracts for services with a value over \$3,500 may be completed. Proposals may be solicited via the internet, email or telephone contacts from not fewer than three sources.

b. **Contracts for Services with a Cumulative Cost Over \$10,500:**

Contracts for services with a cumulative cost exceeding \$10,500 must, except as otherwise provided herein, be subject to competition through the receipt of proposals submitted in response to a request for proposals (RFP). RFPs must, at a minimum, clearly define the services to be performed, provide the address where the proposals are to be sent, and the time and date the proposals are due. RFPs may be advertised in publications or mailed to qualified contractors, or both. OLA will, upon request, provide assistance with the drafting of RFPs.

Contracts should normally be processed on the basis of not less than three responses from the RFP. If it is necessary to award a contract on the basis of less than three responses, the reason must be documented in writing and provided to the Comptroller for the file.

c. Exceptions to the Competitive Requirements:

Exceptions to the competitive proposal procedure may be made for professional services including, but not limited to, the retention of law firms to represent the LSC, and hiring of technology experts to enhance the expertise of the OIT. Exceptions may also be made in emergencies or when only one contractor is available. Before any of the exceptions are exercised, the appropriate Vice President or CAO shall clearly document for the files the reasons for the exception and obtain approval from the President, where required.

d. Contracting for services from a “Sole Source” is recognized in some instances due to technical requirements or expertise, the lack of dependable contractors or when there is an emergency. When such a situation occurs, the circumstances shall be adequately documented by the Vice President, CAO or Director of the originating office, and must be approved by the Comptroller. The documentation should include attempts made to solicit bids for the contract, the reasons why there are no other supplies or services that will satisfy the specific requirements, and a determination that the projected cost is fair and reasonable. All relevant material must be filed in the Comptroller's Office for audit purposes.

3. Preparation of Contracts

The following basic information shall be included in all contracts:

A clear, complete, and concise description of the specific services or tasks to be provided; a schedule for completion of the work; a statement of terms of the contract; the cost basis for the contract (including limitations of expenses); a specification that the contractor is an Independent Contractor and not an employee of LSC; a termination clause; provisions for invoicing and payment; provisions on amendments to the contract; and statements regarding indemnification, severability and applicable laws. Contracts requiring payment on an hourly rate basis must state the hourly rate and the estimated number of hours that will be required to fulfill the contract. Unless provisional or estimated rates are specifically negotiated, contracts should also state that rates shall not be changed without written approval of the Comptroller and the contracting authority. As appropriate, contracts should also have provisions on subcontracting, confidentiality, representation and warranties, anti-competition clause, the integration clause, clarification of a consultant's relationship with LSC, and intellectual property rights. OLA has a standard contracting form

and, upon request, will provide the standard contract template and will provide assistance with contract drafting.

4. Approval of Contracts Prior to Award

Prior to the award of any contract, the originator must obtain the review of OLA and the Comptroller. Without the appropriate approvals on the Contract Approval Form, the contract cannot be awarded and the Comptroller shall not issue a purchase order. The originator of the contract shall transmit the proposed contract with a completed Contract Approval Form to OLA. OLA shall provide a response to the originator within one week of receipt of the proposed contract and Contract Approval Form. Once OLA's approval has been obtained, the originator shall transmit the proposed contract and Contract Approval Form to the Comptroller. The Comptroller shall provide a response to the originator within one week of receipt of the proposed contract and Contract Approval Form. The proposed contract will then be presented to the Director, Vice President, CAO or President for approval. (See Part I C, Policies, paragraph 9 for policy applicable to OIG).

a. Awarding of Contracts:

Upon the awarding of a contract by an authorized individual, a copy of the contract, along with a copy of the Contract Approval Form, and the RFP and copies of the proposals received (as applicable), must be forwarded promptly to the Comptroller's Office. The Comptroller shall review contracts to ensure they are properly executed. Upon confirmation that a contract has been properly executed, the Comptroller's Office shall execute a purchase order.

b. Amendments:

If revision of a contract is required, the originator shall submit the amendment(s) to OLA for review and approval for form and legal sufficiency prior to execution. Amendments to contracts which seek to change or expand the scope of work as set forth in the contract may require a new contract if the changes are substantial. OLA will provide guidance on such issues and will, upon request, help prepare amendments to contracts.

Amendments to contracts must be forwarded promptly to the Comptroller's Office.

c. Invoices:

Contractors shall be required to submit invoices directly to the

Comptroller who will review them and send them to the originator of the contract. The originator must verify that the invoice is in order prior to forwarding the invoice for payment. Upon verification, the originator shall sign off on the invoice and forward it to the Comptroller's Office for approval and payment. If the originator of the contract receives an invoice, a copy is to be forwarded to the Comptroller for information. Invoices must be approved for payment or otherwise responded to within 30 days.

5. Procedural Sufficiency

The Comptroller will report quarterly in writing to the President on all consultant contracts signed during that quarter and on whether the procedures are being followed. Additionally, the report will provide the actions needed to attain complete compliance with the procedures.



CONTRACT APPROVAL FORM

Originator of Contract: _____

Proposed Contractor: _____

Purpose of Contract: _____

Total Dollar Value of Contract: _____

I certify that the following steps have been taken:

- Use of GSA Schedule for Solicitation of Bids/Proposals
- Positive efforts were made to utilize S/DBEs
- A minimum of three proposals were solicited and received (for goods over \$3,500 or services over \$10,500)
- An RFP was issued to solicit proposals (contract valued at over \$10,500) or competitive bidding was used to solicit bids (procurement valued at over \$10,500)
- Rationale for selecting the proposed bidder is attached

If any of the above are not checked, please explain:

Proposals were received from the following bidders:

.....

Signature of Director

Date

Signature of OHR Director (for program visit consultant contracts only)

Date

Proposed contractor: _____

Dollar value of contract: _____

Certifications

Date transmitted to **OLA**: _____

Approval of Office of Legal Affairs of contract for form and legal sufficiency _____
Signature _____ *Date* _____

Date transmitted to **Comptroller**: _____

Approval of Comptroller for procedural sufficiency _____
Signature _____ *Date* _____

If contract is over \$3,500, obtain the following approval:

Date transmitted to **Vice President or Chief Administrative Officer**: _____

Approval of Vice President or Chief Administrative Officer _____
Signature _____ *Date* _____

If contract is over \$10,500, obtain the following approval:

Date transmitted to **President**: _____

Approval of President: _____
Signature _____ *Date* _____

Contract Originator's Contracting Procedure Outline

- Step 1 Identify the need for services and the anticipated value of the resulting contract.
- Step 2 If the anticipated value of the contract is less than \$3,500, or if the contract is for legal or accounting services, consult the GSA schedule and other appropriate sources and take appropriate measures to utilize S/DBEs. Proceed to Step 5.
- or
- Step 3 If the anticipated value of the contract is between \$3,500 and \$10,500, obtain at least 3 proposals (these can be obtained via the phone, email or the Internet, if desired), consulting the GSA schedule and other appropriate sources and taking appropriate measures to utilize S/DBEs. If this is not possible because of an emergency or other reason, document this for the file. Proceed to Step 5.
- or
- Step 4 If the anticipated value of the contract is greater than \$10,500, draft and publish a request for proposals (OLA can assist with drafting of the RFP, upon request), consult the GSA schedule and other appropriate sources and take appropriate measures to utilize S/DBEs. If this is not possible because of an emergency or other reason, document this for the file. Proceed to Step 5.
- Step 5 Select a contractor and prepare a draft contract (OLA can assist with contract drafting, upon request). Do not execute the contract with the contractor yet.
- Step 6 Complete the Contract Approval Form and forward with a copy of the draft contract to OLA for approval for form and legal sufficiency. If OLA has any concerns, OLA will contact the originator and work out issues. Once OLA can approve the contract for form and legal sufficiency, OLA signs off on the Contract Approval Form and returns the Form and the draft contract to the originator.
- Step 7 Submit the Contract Approval Form with OLA's sign-off and a copy of the draft contract to the Comptroller for approval for procedural sufficiency (i.e., that all procedural requirements to this point have been satisfied). If the Comptroller has any concerns, the Comptroller will contact the originator and work out issues. After the Comptroller approves the draft contract for procedural sufficiency, the Comptroller will sign the Contract Approval Form and return the Form and the draft contract to the originator for completion.

- Step 8 Execute the contract with the contractor. Forward copies of the executed contract along with the signed Contract Approval Form, and copies of the RFP and proposals received (as applicable) to the Comptroller. If the contract is not properly executed, the Comptroller will contact the originator. Once the contract is properly executed, the Comptroller will execute a purchase order.
- Step 9 When invoices for work performed on a contract are received, if the Comptroller has not received a copy, a copy should be sent. Once the invoice is approved for payment (with required signature(s) and date), send the original to the Comptroller.
- Step 10 Each quarter, the Comptroller will provide a written report to the President on the experience with issuing contracts and purchase orders.