Judicial Council of California

STEP-BY-STEP GUIDE FOR THE PROCUREMENT OF NON-IT GOODS

CHAPTER 4A

Original Release Date:	Revised Effective:
October 1, 2011	January 1, 2026

Table of Contents

Introduction 3
Defined Terms 3
Step 1—Determine the Procurement Value 3
Step 2—Develop List of Prospective Bidders 4
Step 3—Assemble Procurement Team 4
Step 4—Select Solicitation Document Type 4
Step 5—Draft Solicitation Document 5
Step 6—Prepare Advertising 7
Step 7—Receive Bids 7
Step 8—Open Bids 8
Step 9—Determine if Competition has been Achieved 8
Step 10—Bid Clarification 8
Step 11—Evaluate Bids 8
Step 12—Notice of Intent to Award 10
Step 13—Create the Contract 11
Step 14—Create the Procurement Summary Document 11
Step 15—Notices or Reviews 11
Selected Topics Relevant to Solicitations of Goods 11
A. Incidental Services 11
B. Motor Vehicles 12
C. Solicitations of Printer or Copier Cartridges 12

INTRODUCTION

The most significant change to Judicial Branch Entity (JBE) procurement required by the California Judicial Branch Contract Law is that JBEs must procure non-IT goods above a threshold amount ($25,000, unless a higher amount is established by the JBE's Approving Authority) using a "lowest responsible bidder" methodology rather than a "best value" or "highest scoring bidder" approach. JBEs can no longer use these other approaches to procure non-IT goods valued above the threshold amount.

This chapter sets forth a step-by-step guide that Buyers can use when competitively soliciting non-IT goods.[1] For noncompetitive solicitation of non-IT goods, see chapter 5 of this Manual.

DEFINED TERMS

If not defined in the text of this chapter, the definitions of capitalized terms are set forth in the glossary.

STEP 1—DETERMINE THE PROCUREMENT VALUE

The value of the procurement directly affects the processes to be used in the procurement. The JBE employee requesting the procurement should estimate the total value of the procurement, including:

- Value of the non-IT goods to be procured;
- Value of any associated incidental services (such as installation);
- Delivery costs;
- Taxes (if applicable); and
- Other associated costs, as applicable.

JBEs may not split a single transaction into a series of transactions for the purpose of evading procurement requirements. In particular, a series of related services that would normally be combined and bid as one job cannot be split into separate tasks, steps, phases, locations, or delivery times to avoid adhering to competitive solicitation requirements.

[1] This step-by-step guide may be superseded in whole or in part if a JBE uses a special negotiation process. For more information regarding special negotiation processes, see chapter 2, section 2.1.H of this Manual.

See section A in the “Selected Topics Relevant to Solicitations of Goods” section below for additional information on incidental services acquired in connection with the procurement of non-IT goods.

STEP 2—DEVELOP LIST OF PROSPECTIVE BIDDERS

The JBE employee requesting the procurement should develop a list of Prospective Bidders. See chapter 4, section 4.1.B of this Manual for additional information on developing a list of Prospective Bidders.

STEP 3—ASSEMBLE PROCUREMENT TEAM

The Buyer, with assistance from the JBE employee requesting the procurement, should identify additional JBE personnel who will be involved in the procurement. This may include:

- Personnel to help develop the Solicitation Document;
- Evaluation Team members; and
- Legal counsel, if applicable. (See chapter 8, section 8.4.B of this Manual for more information on legal review of contracts.)

If required by the Local Contracting Manual, the Buyer should have these personnel sign confidentiality/conflict statements. See chapter 4, section 4.1.C of this Manual for additional information on confidentiality/conflict statements.

STEP 4—SELECT SOLICITATION DOCUMENT TYPE

Two types of Solicitation Documents are used in the procurement of non-IT goods:

- Requests for Quote (RFQs); and
- Invitations for Bid (IFBs).

See the table below for information about when each type of Solicitation Document should be used.

Solicitation Document	Procurement Size	Description
RFQ	Up to $50,000[2]	Used for straightforward, uncomplicated, and low-risk procurements. *Note: Cannot be used if incidental services included in the purchase (e.g., set-up, installation) exceed $9,999.99, unless an exemption is granted. See section A in the "Selected Topics Relevant to Solicitations of Goods" section below for additional information.*
IFB	Any size	Used for more complicated, higher risk, and higher value procurements.

Note: The JBE may use other names for these Solicitation Documents; it does not need to refer to or title them as "RFQs" or "IFBs."

STEP 5—DRAFT SOLICITATION DOCUMENT

The Buyer should draft the final Solicitation Document. For requirements applicable to Solicitation Documents, see chapter 4, section 4.2 of this Manual.

In addition to the required provisions identified in chapter 4 of this Manual, a Solicitation Document for non-IT goods must comply with the following requirement:

- Product specifications must not be written with the intent of excluding goods manufactured, produced, grown, or otherwise originating in California (see PCC 10302.6).

The following subsections provide additional information useful in drafting the two types of Solicitation Documents.

[2] A JBE may adopt a higher or lower threshold for the use of RFQs in its Local Contracting Manual. If the JBE adopts a higher threshold, the JBE must ensure that (i) the higher threshold is reasonable and appropriate, and (ii) the JBE provides adequate oversight for the use of larger-value RFQs. Also, note that procurements under $10,000 may be conducted without a competitive solicitation; see chapter 5, section 5.1 of this Manual.

A. RFQs

An RFQ is used for straightforward procurements where Bids may be solicited by telephone or another method of electronic communication. If the Buyer solicits Bids by telephone, the Buyer must prepare and use a script (a narrative of the Bid requirements) so that each Prospective Bidder receives the same information and Bids may be evaluated fairly. Similarly, if the Buyer solicits Bids by e-mail or another written manner, the Buyer must send the same information to each Prospective Bidder so that Bids may be evaluated fairly.

The RFQ should:

- Be short, concise, and to the point;
- Include a general description of the non-IT goods to be solicited;
- Include quantities of the non-IT goods to be solicited;
- Include any required features of the non-IT goods to be solicited;
- Specify when the non-IT goods must be delivered;
- Specify how the Prospective Bidder must deliver its Bid (e.g., by telephone, e-mail, fax, etc.); and
- Include bidder instructions and applicable general provisions associated with the purchase, or a reference to the web page containing these, if applicable.

B. IFBs

The IFB must include the JBE's standard terms and conditions for the acquisition of non-IT goods. The JBE should also distribute with the IFB the terms and conditions specific to the procurement, or simply attach the entire proposed contract, including available appendices. The IFB should state that any material exception (addition, deletion, or other modification) to the JBE's terms and conditions will render a Bid nonresponsive. Note that the JBE, in its sole discretion, will determine what constitutes a material exception.

The IFB must state the time and place Bids will be publicly opened. This place must be accessible to Bidders and other members of the public, and may be at the JBE's facilities.

STEP 6—PREPARE ADVERTISING

A JBE must advertise any solicitation of non-IT goods **in excess of $50,000.**[3] See chapter 4, section 4.1.D of this Manual for advertising methods.

Because the advertisement should be released before or simultaneously with the Solicitation Document, the Buyer should prepare any necessary advertisement in conjunction with the Solicitation Document.

Note: If incidental services included in the purchase (e.g., set-up, installation) exceed $9,999.99, the solicitation must be advertised even if the total estimated value of the solicitation is under $50,000. See section A in the "Selected Topics Relevant to Solicitations of Goods" section below for information regarding exemptions to this requirement.

STEP 7—RECEIVE BIDS

Bids are received and handled as described in chapter 4, section 4.3 of this Manual. Some aspects of receiving Bids depend on the type of Solicitation Document used.

A. RFQs

Bids must be submitted as specified in the RFQ. The Buyer should document all Bids received and retain the documentation in the procurement file. In addition, the RFQ (script, e-mail, or other writing) should be retained in the procurement file.

Bids received pursuant to an RFQ solicitation remain confidential until a contract is executed.

B. IFBs

Bids must be submitted in sealed envelopes. A JBE should time/date stamp Bids as they are received.

Bids received pursuant to an IFB solicitation remain confidential until the Bids are publicly opened.

[3] All solicitations of non-IT goods in excess of $50,000 must be advertised, even if the JBE adopts a threshold for use of RFQs that is higher than $50,000.

STEP 8—OPEN BIDS

All Bids in response to IFBs must be publicly opened at the time and place specified in the IFB. If any person present at the opening requests that the Bids be read, the Buyer (or designee) must read the Bids aloud. Once opened, the Bids must be made available for public inspection.

Note: Because RFQs do not involve sealed Bids, this step is inapplicable to solicitations using RFQs.

STEP 9—DETERMINE IF COMPETITION HAS BEEN ACHIEVED

Two methods are used to determine whether competition has been achieved: one for RFQs and another for IFBs.

A. RFQs

If a Buyer obtains a single Bid, and the Buyer determines that the Bid is fair and reasonable, the Buyer does not need to obtain additional Bids. If a Buyer obtains a single Bid, and the Buyer determines that the Bid is not fair and reasonable, the Buyer should obtain at least one additional Bid.

B. IFBs

The Buyer should make reasonable efforts to obtain at least two Responsive Bids from Responsible Bidders. Advertising the solicitation constitutes a reasonable effort.

STEP 10—BID CLARIFICATION

If the JBE requires clarification regarding a Bid, the JBE should contact the Bidder that submitted the affected Bid.

STEP 11—EVALUATE BIDS

The Evaluation Team must evaluate the Bids using the criteria specified in the Solicitation Document. The requirements in this step are in addition to the general requirements set forth in chapter 4, section 4.4 of this Manual.

A Bidder’s exception to the JBE’s terms or conditions (addition, deletion, or other modification) may constitute a material deviation. A Bid with a material deviation is nonresponsive. JBEs have discretion to determine materiality.

For ease of reference, the following definitions are excerpted from the glossary:

- **Responsible Bidder** means a Bidder that possesses the required experience, facilities, and financial resources and is fully capable of performing the relevant contract.
- **Responsive Bid** means a Bid that complies with the requirements of the Solicitation Document and the terms and conditions of the proposed contract without material deviation.

Note: For purposes of determining the lowest Bid, the amount of sales tax must be excluded from the total amount of the Bid (PCC 10301). See chapter 3 of this Manual for more information regarding preferences, incentives, and discounts. See chapter 4, section 4.4.D of this Manual for guidance on determining whether a deviation is material.

A. RFQs

Under PCC 10301, JBEs must award contracts for non-IT goods above a threshold amount to the lowest responsible bidder. The default threshold amount is $25,000, but the Approving Authority may establish a higher threshold amount for his or her JBE.[4] If the Approving Authority establishes a higher threshold amount, the JBE should document this higher threshold amount in its Local Contracting Manual.

RFQs less than the threshold amount: JBEs are not statutorily required to award the contract to the lowest responsible bidder if the JBE has a valid business reason to do otherwise.

RFQs equal to or above the threshold amount: The JBE must award the contract, if at all, to the **Responsible Bidder** that submitted the lowest **Responsive Bid** after application of any preference, incentives, or discounts, if applicable.

[4] PCC 10301 allows the director of the Department of General Services (DGS) to establish a higher threshold amount applicable to procurements of non-IT goods by state agencies. Within the executive branch, purchasing authority resides primarily with DGS (see, e.g., *State Contracting Manual*, volume 2, section 1.A1.0). Within the judicial branch, however, each JBE possesses its own purchasing authority (see chapter 1, section 1.1.A of this Manual). Accordingly, the authority to establish a higher threshold amount for a JBE resides in the Approving Authority of that JBE. If the Approving Authority establishes a higher threshold amount, the Approving Authority must ensure that (i) the higher threshold amount is reasonable and appropriate, and (ii) the JBE provides adequate oversight for procurements conducted pursuant to the higher threshold amount.

B. IFBs

The JBE must award the contract, if at all, to the **Responsible Bidder** that submitted the lowest **Responsive Bid** after application of any preference, incentives, or discounts, if applicable.

STEP 12—NOTICE OF INTENT TO AWARD

A. RFQs

When using an RFQ, the JBE is not required to post a notice of intent to award.

B. IFBs

There are both posting and notification requirements when using an IFB.

1. Posting

The JBE must post a "notice of intent to award" on its website or in a public place in the offices of the JBE at least 24 hours before the contract is awarded. Once the notice has been posted, the time for submitting a protest begins to count down.

Exception: The JBE does not need to post a notice of intent to award if (i) the JBE has adopted a protest threshold applicable to non-IT goods, and (ii) the procurement is below that protest threshold. For more information regarding protest thresholds, see chapter 7, section 7.2 of this Manual.

2. Notification

If the contract will be awarded to a Bidder that did not submit the lowest Bid (because, e.g., the lowest Bid was not a Responsive Bid, or the Bidder that submitted the lowest Bid was not a Responsible Bidder), the JBE must notify the lowest Bidder at least 24 hours before awarding the contract. The 24-hour period excludes Saturdays, Sundays, and legal holidays. If the lowest Bidder submits a valid protest, the JBE must not make an award until either the protest has been withdrawn or the JBE's protest hearing officer

has responded to the protest. For more information regarding protest procedures, see chapter 7 of this Manual.

STEP 13—CREATE THE CONTRACT

The Buyer should memorialize the purchase using a contract. Unless a purchase order is used, the contract must be signed by an authorized representative of the Bidder who can bind the Bidder contractually.

STEP 14—CREATE THE PROCUREMENT SUMMARY DOCUMENT

The Buyer should create a procurement summary document and place it in the procurement file. For more information on procurement summary documents, see chapter 4, section 4.7 of this Manual.

STEP 15—NOTICES OR REVIEWS

The JBE must complete any required notices or reviews. See chapter 2, section 2.2 of this Manual for additional details.

SELECTED TOPICS RELEVANT TO SOLICITATIONS OF GOODS

A. Incidental Services

Unless an exemption is granted, incidental services included with the purchase of non-IT goods:

- May not exceed $9,999.99, and
- Should be directly related to the purchase of non-IT goods, such as setup or installation.

Unless an exemption is granted, the solicitation must be advertised if the value of incidental services included in the purchase exceeds $9,999.99, even if the total estimated value of the solicitation is under $50,000.

The Approving Authority, or his or her delegee, may grant an exemption to these requirements if he or she determines, in his or her sole discretion, that the cost of complying with the requirement will likely exceed the savings generated by complying with the requirement.

B. Motor Vehicles

In establishing specifications for the purchase of a motor vehicle, and in determining the lowest responsible bidder, a JBE may consider the probable resale value of the vehicle as determined by:

- Recognized published used car marketing guides;
- Other established historical evidence of future used motor vehicle value; or
- Contractual guarantee of the apparent low Bidder that the resale value of the vehicle will be no less in proportion to Bid price than any other comparable vehicle complying with specifications for which a Bid was received.

Under Public Resources Code (PRC) section 25722.7, fleet vehicle purchases by JBEs must meet minimum fuel economy standards. Under PRC 25722.7(a) and (b), fleet vehicle purchases must meet the fuel economy standard in section 3620.1 of the *State Administrative Manual* (SAM), which sets forth a minimum miles per gallon standard for the combined annual purchases of vehicles by each JBE. Please refer to PRC 25722.7 and SAM 3620.1 for further information.

C. Solicitations of Printer or Copier Cartridges

If a JBE procures printer or copier cartridges, it must include a statement on the cover of the Solicitation Document (or in some other prominent place in the Solicitation Document) informing Bidders that it is unlawful to prohibit a printer or copier cartridge that is sold to a JBE from being recycled or remanufactured, except as noted below.

Exception: This requirement does not apply where the Bidder enters into signed agreements with its customers consenting to the return of the used cartridge to the Bidder for (a) recycling and remanufacturing, or (b) recycling.