Judicial Council of California

LEVERAGED PROCUREMENT

CHAPTER 6

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

Table of Contents

Introduction 3
Defined Terms 3
6.1 Basics of Leveraged Procurement 3
6.2 Step-By-Step Guide to Using an LPA 3
6.3 Step-By-Step Guide to Establishing an LPA 7

INTRODUCTION

This chapter discusses the procurement of goods and services by Judicial Branch Entities (JBEs) through Leveraged Procurement Agreements (LPAs) that have been established by other entities. This chapter also discusses how a JBE may establish an LPA, and allow other entities to use the LPA to procure goods and services.

DEFINED TERMS

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

6.1 BASICS OF LEVERAGED PROCUREMENT

Leveraged procurement typically involves consolidating the procurement needs of multiple entities, and leveraging the entities' combined buying power to reduce prices, improve terms and conditions, or improve procurement efficiency.

In this Manual, a leveraged procurement generally refers to either:

- A JBE's procurement of goods/services through the use of an agreement (the LPA) that is established by a third party entity with a Vendor, and which enables the JBE to procure goods/services from the Vendor (without competitive bidding) on the same or substantially similar terms as in the LPA; or
- The establishment of an LPA by a JBE, on behalf of or in collaboration with other entities, that permits the JBE and other entities to procure goods or services from the Vendor that is contracted under the LPA.

As of January 1, 2014, information about LPAs established by the Judicial Council is posted at: *www.courts.ca.gov/procurementservices.htm*.

6.2 STEP-BY-STEP GUIDE TO USING AN LPA

The following are recommended steps for a JBE that intends to procure goods/services using an LPA that has been established by another entity:

STEP 1—Business Requirements
Define the JBE's business requirements. Estimate in good faith the total cost of what will be procured.

STEP 2—Identify an LPA
Identify an LPA for the desired goods/services and determine whether pricing is fair and reasonable.

Note: Use of an LPA may not necessarily promote the efficient use of public funds. For example, in some LPAs, the published pricing and other contract terms may represent only a starting point, and do not necessarily reflect volume discounts that Vendors may be willing to provide to JBEs. Any cost savings associated with the LPA could be undercut by paying the published price or accepting unfavorable LPA terms. Therefore, JBEs should consider whether they can obtain better pricing or other terms through Vendor negotiations or conducting competitive bidding.

STEP 3—Identify Multiple LPAs
If the identified LPA in Step 2 was established by a California governmental entity[1] and competitively bid, skip to Step 4.

If a JBE wants to use an LPA that is either (i) not established by a California governmental entity, or (ii) established by a California governmental entity but not competitively bid by such entity, then the JBE should identify at least *three* LPAs for the desired goods/services whenever multiple suppliers are known to exist, and compare the LPAs on a "best value" (also known as "value effectiveness") basis.[2]

The LPAs that the JBE identifies should be similar enough that work, pricing, and terms and conditions are subject to reasonable comparison. If multiple LPAs cannot be identified, and the JBE is procuring goods or services estimated to cost $10,000 or more, then: (i) the JBE should consider conducting a competitive solicitation if it knows there are Vendors of the desired goods/services other than the Vendor that is party to the LPA; or (ii) if the JBE does not know of any other Vendor of the desired goods or

[1] For the purposes of this chapter, a "California governmental entity" includes, for example: (i) a California state or local governmental agency or entity; or (ii) a public college or state university established by California.
[2] If using an LPA established (and competitively bid) through the Western States Contracting Alliance (WSCA)/National Association of State Procurement Officials (NASPO) (or similar multi-state, established LPA programs), or if using a DGS LPA and its instructions state that comparison of multiple LPAs (or obtaining multiple offers from Vendors) is not required, then the JBE may consider not identifying/comparing multiple LPAs.

services other than the Vendor that is party to the LPA, the JBE should consider following the sole source procedures in chapter 5 of this Manual before proceeding with the LPA, or consider conducting an independent sole source procurement.

Note: If comparing multiple LPAs, determine the criteria, including pricing, the JBE will use to determine "best value."[3]

STEP 4—LPA Review

- Review the LPA documentation[4] and confirm that: (i) the LPA documentation provides the JBE with sufficient rights to procure goods/services; and (ii) the terms and conditions in the LPA documentation are acceptable to the JBE, and consistent with this Manual.[5]
- Determine any maximum dollar limits (or other restrictions) that the LPA documentation places on the JBE's procurement. **Note:** In addition to any dollar limits imposed by the LPA, JBEs should consider setting their own dollar limits in their Local Contracting Manuals as a safeguard, since the JBE's use of another entity's LPA typically does not involve any further competitive bidding by the JBE.
- If required by the LPA instructions or as otherwise necessary (e.g., to reconfirm the current document version or communication protocols with the Vendor), contact the entity that established the LPA with the Vendor.
- DGS, other entities that establish LPAs, or Vendors may impose LPA-related administrative fees. These fees may outweigh the benefits of the LPA. JBEs should determine whether an LPA imposes administrative fees and how the fees will be collected from the JBE.
- If a JBE procures goods or services using an LPA that meets the requirements of certain socioeconomic or environmental programs (e.g., DVBE), some or all of the procurement could count towards the JBE's applicable goals. Review the LPA documentation for specific provisions regarding socioeconomic or environmental programs.

[3] Other best value criteria can include, for example: (i) the quality of the goods/services; (ii) the Vendor's warranties/guarantees, reliability of delivery/implementation, and contract terms and conditions; (iii) the Vendor's financial stability, technical competence, and prior record of performance; and (iv) DVBE or Small Business participation.

[4] LPA documentation includes the LPA's user instructions, contract terms and conditions, ordering documents, etc. LPA user instructions can include, for example, the LPA's "user guides," "ordering instructions," or similar documents that may contain additional requirements for use of the LPA.

[5] See, for example, chapters 5 and 8 of this Manual.

STEP 5—Request for Offer

- If there is uncertainty about an LPA's terms and conditions or a potential LPA Vendor's willingness to accept an order from the JBE, the JBE should issue a Request for Offer (RFO). An RFO is a request made by the JBE to the potential LPA Vendor for a specific response or offer from the Vendor to clarify or confirm the terms of the JBE's procurement under the LPA.
- An RFO may be conducted by mail, fax, email, phone, or by other means as long as it complies with the LPA documentation. The RFO should describe the JBE's business requirements (e.g., through an SOW for services). To avoid lengthy, later-stage negotiations, a JBE may want to include the JBE's general terms and conditions (consistent with the LPA documentation).
- Because a JBE's procurement via another entity's LPA does not typically involve competitive bidding, do **not** include in the RFO language regarding bid protests, intent to award notices, or, for example, references to "bid," or "solicitation."

STEP 6—Best Value Comparison

If comparing potential LPAs (in connection with Step 3 above), compare LPAs (and RFO replies) to select the LPA that provides the "best value."

STEP 7—Finalize the Contract for Purchasing through the LPA

- Determine what form of contract the JBE will use to execute its purchase under the LPA.[6] The contract should contain sufficient references to the LPA.
- Prepare the contract, considering the LPA documentation, and any RFO (or Vendor's reply to an RFO).
- Discuss the contract with the Vendor (and, if necessary, the entity that established the LPA), and make any mutually acceptable, final revisions to the contract. Proceed with contract signature.[7]

STEP 8—Procurement Summary

Create a procurement summary for the procurement file. Confirm that the file includes the LPA documentation or a reference to its location, and, as applicable, a list of all

[6] The LPA documentation may specify the form of contract for executing a purchase under the LPA. Modifications to such forms (and other LPA documentation) may need to be discussed and negotiated with the entity that established the LPA and/or the Vendor.
In certain cases, a JBE's procurement under another entity's LPA may occur through an alternative arrangement. For example, in some cases, the entity that established the LPA may assign purchase rights under the LPA (e.g., rights under an option to purchase a specified quantity of goods) to the JBE by executing a contract with the JBE.

[7] If the JBE's purchasing contract under the LPA is for a total estimated cost of more than $1 million, see chapter 12, section 12.2 of this Manual. Following the execution of the purchasing contract, certain amendments to the purchasing contract may require an NCB process (see chapter 5 of this Manual).

potential LPA Vendors contacted and a recap of their offers, as well as a description of how the LPA was selected (including "best value" criteria).

6.3 STEP-BY-STEP GUIDE TO ESTABLISHING AN LPA

If the Approving Authority (or delegee) has authorized the JBE to establish an LPA,[8] the recommended steps for doing so are as follows:

STEP 1—Business Requirements

Define the business requirements of the entities that will be procuring goods/services under the LPA.

STEP 2—LPA Planning

Determine the structure of the LPA, including, for example, the following:

- Is the JBE establishing the LPA on its own or with the participation of other entities (i.e., will the JBE be the sole contractual party with the Vendor)? Consider the benefits and risks of entering into the LPA with the Vendor along with other entities.
- Which entities will have the right to procure under the LPA? What are the rights and obligations of the JBE and the other entities?
- Whether the LPA will contain any limits on the quantity or dollar amount (or other restrictions) regarding goods/services that entities procure under the LPA.
- If the LPA involves DVBE or Small Business participation, include provisions (for example, in the LPA user instructions) regarding to what extent entities procuring under the LPA may be able to claim DVBE or Small Business participation.

STEP 3—Vendor Selection / LPA Formation

Select a Vendor in accordance with the procurement requirements in this Manual.[9] Inform Bidders and Prospective Bidders about the entities that will have the right to procure under the LPA. To ensure that dollar thresholds for certain procurement methods are not exceeded, JBEs should consider using the most rigorous procurement methods available (e.g., using an RFP instead of an RFQ). Confirm that the LPA terms are consistent with this Manual[10] and address issues such as:

- Which entities can procure goods/services from the Vendor under the LPA (and the rights/obligations of those entities);[11]

[8] Consistent with the Director of DGS being authorized to establish LPAs for executive branch entities, the Approving Authority (or delegee) may authorize the JBE to establish LPAs.
[9] See, for example, chapters 4, 4A, 4B, and 4C of this Manual.
[10] See, for example, chapter 8 of this Manual.
[11] The JBE should consider stating in the LPA that the entity placing orders for goods/services is solely

- The Vendor's obligations to the entities procuring under the LPA; and
- Procedures/requirements for procuring under the LPA, documents for ordering goods/services, and any limits on quantity or dollar amount of goods/services.

STEP 4—LPA Execution

Finalize and execute the LPA.[12] If necessary, prepare user instructions for the LPA, based on the LPA's requirements. Distribute user instructions as necessary.

liable for its breach (i.e., the JBE will have no liability for breaches by other entities procuring under the LPA). Consistent with PCC 10298(b), JBEs must not incur financial responsibilities in connection with establishing LPAs for local agencies (e.g., a city or a county).

[12] If the JBE's own procurement under the LPA is for an estimated total cost of more than $1 million, see chapter 12, section 12.2 of this Manual.