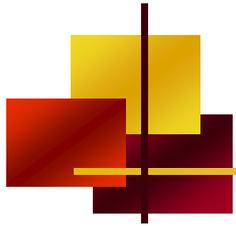


Bid Process/Purchasing

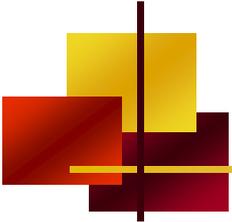


Michael Vallan

Assistant Attorney General

Louisiana Department of Justice

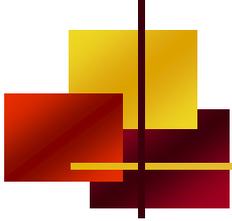
Office of the Attorney General



Using Louisiana's Public Bid Law

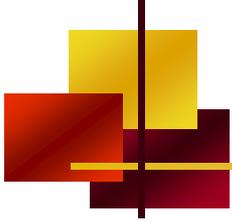
La. R.S. 38:2211-2296

Louisiana Department of Justice



Application

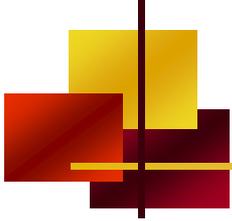
- All Political Subdivisions
- All Locally Elected Officials
- Louisiana Legislature
- State Judiciary
- State Agencies for Public Works Only



Application Public Works

- Construction
- Remodeling
- Utilities
- Roads and Bridges
- Improvements





Application

Public Works

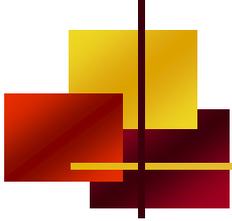
- Total Project cost of \$150K or More
- Projects under \$150K may be done by Force Account
- Design Build prohibited



SEP 17 2004





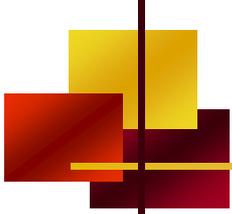


Application

Public Works

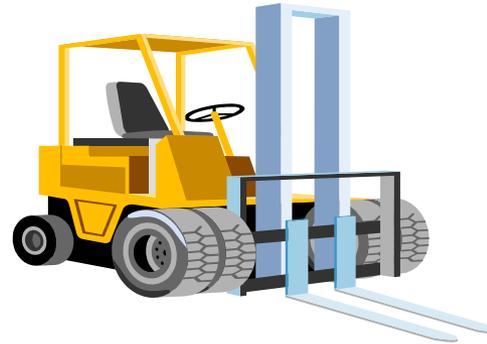
- Maintenance of Public Works can always be done with your own employees
- Construction of buildings can be done with your own employees if under 150K
- Contracts for construction over \$50K require a licensed contractor

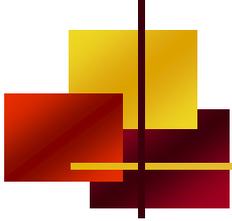




Application Purchases

- Equipment
- Vehicles
- Supplies
- All Other Movable Property

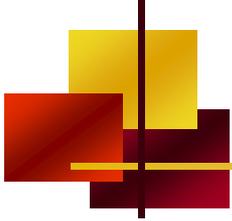




Application Purchases

- Below \$10K –
No procedure specified
- \$10K to \$30K –
Three telephone or fax quotes required
- \$30K and Above –
Advertise for sealed bids

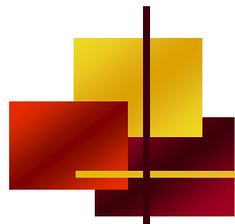


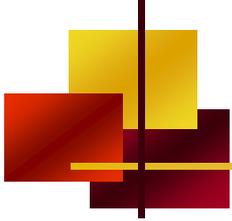


Application

PBL Does Not Apply to:

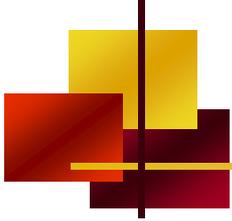
- Purchase of Services
Professional or Otherwise
- Pure Leases
- Insurance





Specifications

- Division or separation of any purchase or public works project to avoid bid law is *Illegal*

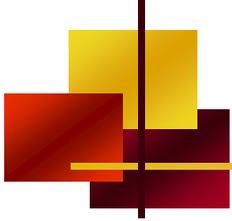


Specifications

“Requirements” Contracts

- Office Supplies
- Sand and Gravel
- Gasoline
- Tires
- Auto Parts
- Other Commodities needed in small, recurring amounts

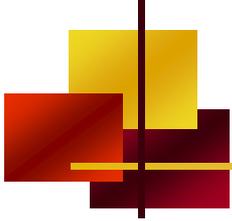




Specifications

Index Pricing

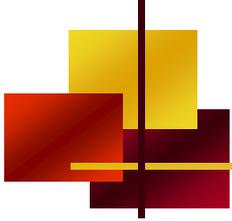
- Award based on *Margin over "Index Price"*
- *"Cost Plus"* contracts not allowed



Specifications

Must Be Open

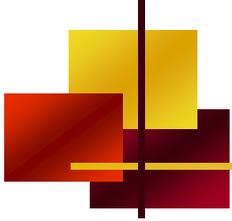
- May use a brand name and model number
- Must state that products of similar quality are acceptable
- Must be applied fairly
- Must not exclude products that are functionally equivalent to one described in specifications



Specifications

Alternates

- Maximum of 3
- Alternate by any name is still an alternate
- Order of acceptance cannot affect award

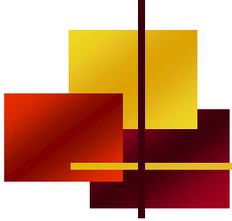


Specifications

Data Processing and Telecommunications

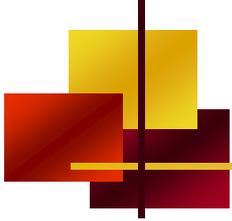
- May use ITB
- May use RFP
 - Advantages of RFPs
- May use RFP for service contract





Advertising for Bids

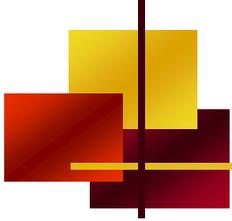
- Required above thresholds
- In the official journal
- Complete plans and specs available
- Funds must be budgeted
- Must tell when and where bids will be opened



Advertising for Bids

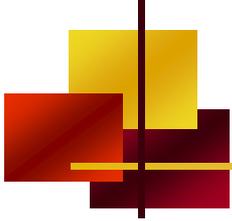
Public Works

- Once a Week for Three Different Weeks
 - Begin 25 days before bids are to be received
 - Time and place of mandatory pre-bid conference must be included in ad.
 - No addendum shall be issued within 72 hours of bid opening
 - Addendum issued within 7 days must be sent by fax, email or hand delivered



Advertising for Bids Purchases

- Two advertisements
- Must begin at least fifteen days before bids are to be received



Other Procurement Issues

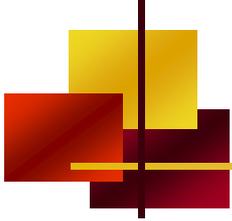
Emergencies

- Very narrow definition
- Public body must declare emergency
- Negotiate contract
- Advertise notice within 10 days of declaration
- Extreme emergency



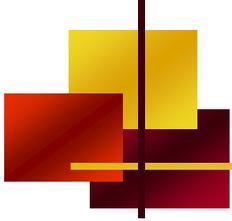






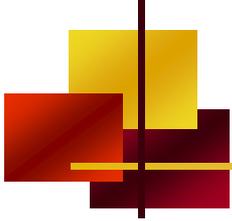
Opening of Bids

- Need not be done before the public body
- Late bids should be returned unopened
- Bids must be publicly opened and read aloud
- Designer's estimate must be read aloud
- Bids are public records



Bid Evaluation

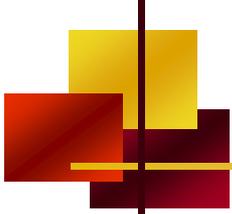
- Bidder “Responsibility”
- Bidder “Responsiveness”



Bid Evaluation

“Responsiveness”

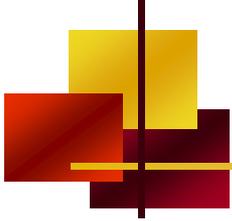
- Has bidder offered you what you ask for?



Bid Evaluation

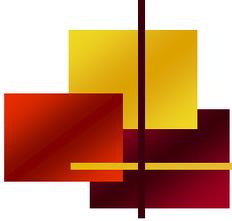
“Responsibility”

- Refers to the character or quality of the bidder
- Past experience with bidder
- Are you safe doing business with this contractor?



Bid Evaluation

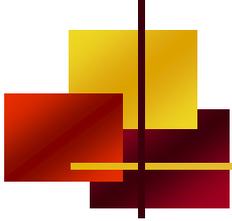
- Disqualification for lack of responsibility
 - Must provide a hearing
- Rejection for unresponsiveness
 - Notify bidder of reason



Bid Evaluation

Withdrawing a Bid

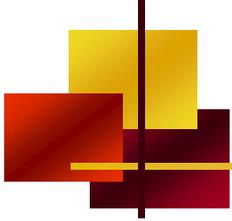
- Must be done by affidavit
- Must be done within 48 hours of bid opening
- Only for “patently obvious, unintentional and substantial mechanical, clerical or mathematical errors, or errors of unintentional omission of a substantial quantity of work, labor, material, or services”



Bid Evaluation

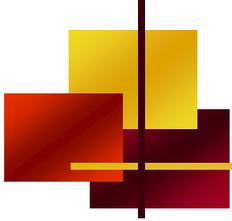
Cancellation of Solicitation

- Must have “just cause” after bids opened
- Within 45 days must:
 - Award to lowest bidder
 - Reject all bids for just cause
 - Extend deadline with consent of low bidder



Bid Evaluation Informalities

- Statute forbids waiver
- Requirements stated in bid documents can not be waived

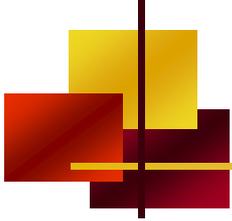


Other Procurement Issues

Product Preferences

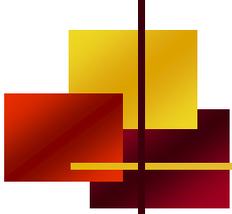
- Food stuffs and paper products, grown manufactured or processed in Louisiana; mandatory 10% price preference
- Grown outside Louisiana and processed within Louisiana; mandatory 7% preference
- Other products – public entity may choose to give “second bite” for Louisiana products whose price is within 10% of low bid price for non-Louisiana product





Bonds

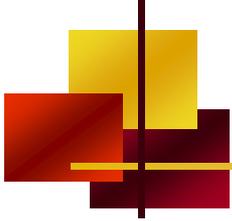
- Statutory requirements change frequently
- Bonds should be provided by US Treasury listed surety or Louisiana owned surety



Bonds

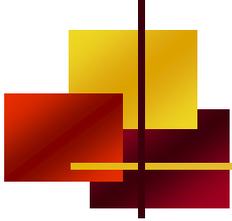
Bid Bond

- Mandatory for public works at 5% of bid amount
- Optional for purchase of materials and supplies



Bonds

- Performance Bond
 - Mandatory for all public works let by bid
 - 50% of contract amount
- Payment Bond
 - Mandatory for all public works \$25K or more
 - 50% of contract amount

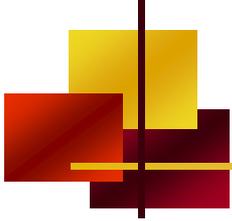


Other Procurement Issues

Legal Remedies

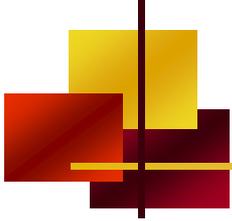
- May be sought by any bidder or any citizen
- May request an injunction or mandamus
- May seek damages for illegal acts
- “Whistle blower” may request AG investigation
- Potential award of attorney fees and penalties





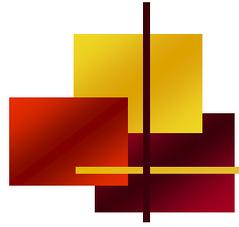
How to Avoid the PBL

- Use state contracts
- Use state contracts through local dealer
- “Piggy back” purchases
- Adopt the procurement code



Support Procurement Professionalism

- National Institute of Government Procurement (NIGP)
- National Association of State Procurement Officials (NASPO)



You May Contact My Office

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