

NOTICE OF INTENT

Department of Civil Service Board of Ethics for Elected Officials

Purchases by Small Municipalities

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Board of Ethics for Elected Officials intends to adopt rules, as required by R.S. 42:1123(22), which affect municipalities having a population of 1,500 or less.

The rules will have no economic impact or fiscal impact on the budget of the state and no fees are involved. No preamble to the proposed rules has been prepared.

Proposed Rule

A mayor or a member of a governing authority (the elected official.) of a municipality with a population of 1,500 or less (according to the most recently published decennial census), or a legal entity in which the elected official has a controlling interest, may enter into transactions under the supervision or jurisdiction of the municipality only if a plan is developed by the municipality in accordance with the rules set out below. The plan must be approved by the Board of Ethics for Elected Officials (the board.) prior to its implementation.

1. The elected official involved must immediately recuse himself or herself from acting in his or her governmental capacity in matters affecting the transaction and file quarterly affidavits concerning that recusal with the clerk of the municipality and the board. The affidavits must set out the name and address of the elected official, the name and population of the municipality, and a description of the transactions that occurred during the preceding quarter. The plan of the municipality should set out the due dates of the quarterly affidavits.

2. The plan developed by the municipality must address how the transaction must be supervised after an elected official is recused.

3. Individual transactions of \$250 or less are not required to be subject to the following rules. However, if such transactions involving a single elected official exceed \$2,500 in the aggregate within the calendar year, the guidelines contained in Rule Number 4, below, do apply.

4. For transactions in excess of \$250 but less than \$2,500, telephone quotations with written confirmation or facsimile quotations must be solicited from at least three vendors within the municipality, the parish, or within a 50 mile radius of the municipality. However, in the case of an emergency, no quotations shall be required so long as the elected official recuses himself or herself from the transaction and files an affidavit as required in Rule Number 1, above, within three days of the occurrence of the transaction. *Emergency* shall be defined in the plan adopted by the municipality and subject to board approval.

5. In the case of a transaction in excess of \$250 but less than \$2,500, if the quotation submitted by the elected official or legal entity in which the elected official has a controlling interest is the lowest received by the municipality the transaction is allowed. The plan adopted by the municipality and subject to board approval may specify situations in which a quotation submitted by the elected official or his or her legal entity may be accepted even if it was not the lowest received by the municipality.

6. An elected official or legal entity in which the elected official has a controlling interest may enter into transactions with the municipality in excess of \$2,500 only after written invitations are sent to at least three bona fide qualified bidders, other than the elected official or his legal entity, and upon specific advance approval by the board. Any such request for approval must include the details of the proposed transaction, a copy of the written invitation, copies of the bids received in response to the invitation, and the method of recusal developed by the municipality. The plan developed by the municipality shall set out the details of the bid process.

Interested persons may direct their comments to Maris LeBlanc McCrory, Board of Ethics for Elected Officials, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809; or by telephone at (504) 922-1400, until June 10, 1996.

R. Gray Sexton
Executive Secretary

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Administrative costs will be incurred by state and local government that should be absorbed within existing budgets. Local governments may experience some savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons which may be affected by the proposed action include competitors of businesses owned by the elected officials in the affected municipalities. If those businesses do not offer a lower price than that offered by the elected official they could lose sales. It is impossible for this agency to assign a dollar amount to such transactions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed action could increase competition in that an additional company could seek to do business with the municipality.

R. Gray Sexton
Executive Secretary
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H. Gordon Monk
Chief Coordinator of the
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