



# Office of State Procurement

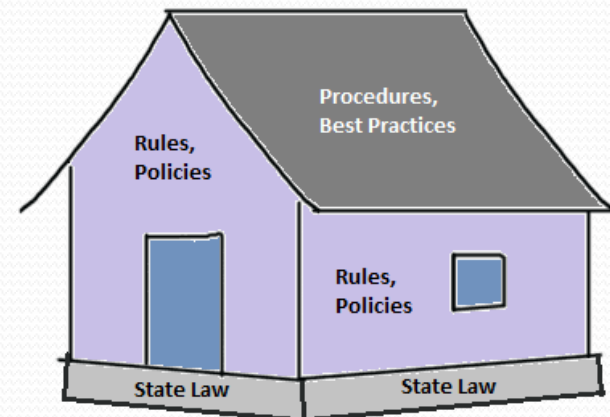
## *2019 Legislation re. Procurement*

Agency Training



# Why Should We Care?

- State law has the final say in disputes
- State law sets the outer limits on what's OK (rules, policies, procedures fill in the gaps)
- Because it's so foundational, it can (and should) inform and affect everything built on top of it
- Legislation reflects and affects the public mood re. procurement
- General tone of firm skepticism re. contracting (less of a focus in 2019 so far though)





# What Passed

## ***Title 38 / Title 48 Changes***

**A + B**

1. SB 200 by Sen. Cortez (Act 261)

- Affects political subdivisions of the State (Title 38 only, but not State w/ 38).
- Authorizes a limited pilot program of “A + B” bid method contracting
- Bundles project duration into cost as a bid evaluation using an estimated impact ‘cost’ per day – allows use of a technical element in bid process.

Example

Bidder	A. Bid Price	# Days	B. Day “Cost” (\$1,000 / day)	Total “Cost” (Basis for Eval.)
Alpha	\$14,000	5	\$5,000	\$19,000
Bravo	\$10,000	10	\$10,000	\$20,000



# What Passed



## 2. SCR 113 and SR 188 by Sen. Gary Smith

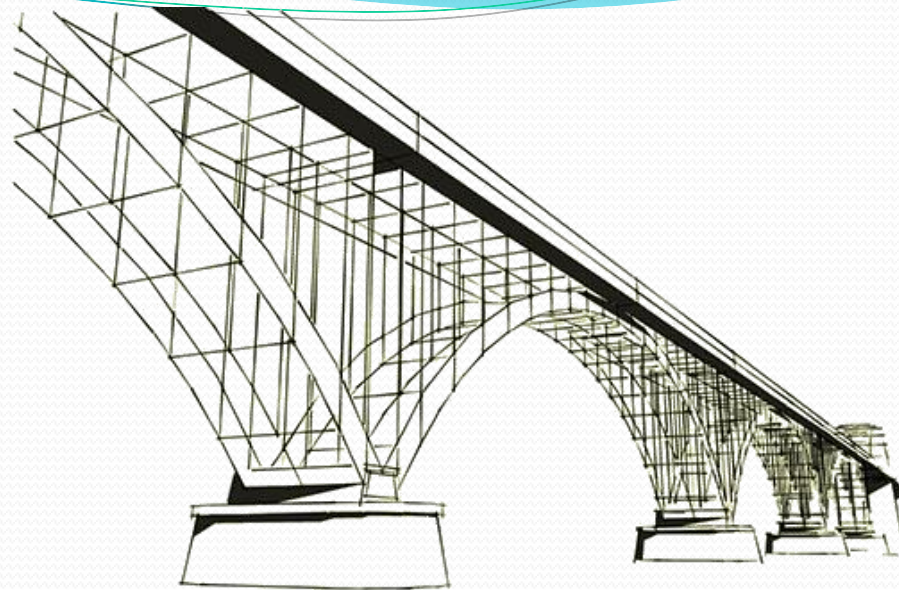
- No immediate effect on procurement.
- Create the Public Works Contracts Task Force to study the feasibility of increasing the contract limit applicable to Public Works contracts (Title 38).
- Current limit \$157,700 (\$150,000 from 2015 indexed to inflation).
- Committee includes Senate, FP&C, AGC, ABC, engineers, PJA, and LMA.
- Committee to meet, study and report back to the Legislature for next year's Session on whether limit should be raised in light of construction inflation.
- If legislation follows next year, State agencies and poli. subs. would be able to do larger projects without having the projects classified as Public Works.



# What Passed

## 3. SCR 122 by Sen. Morrish

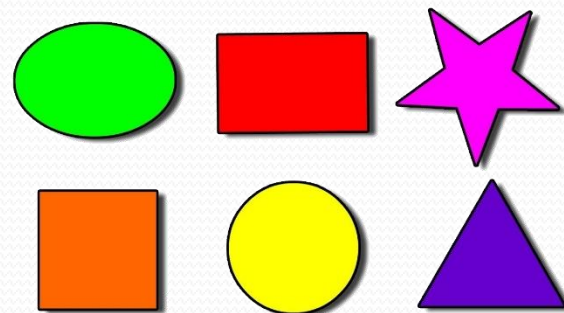
- Affects DOTD
- Directs DOTD to “expedite procurement, planning, engineering, design, and construction of a new I-10 Calcasieu River Bridge” next to the current bridge.
- Describes that “it is imperative that DOTD study the conditions, needs, issues, and funding relative to the procurement, planning, engineering, design and construction” of such a new bridge, “and to recommend any action considered necessary and appropriate.”
- Further directs DOTD to “seriously consider undertaking a public-private partnership” for the new I-10 Calcasieu River Bridge project as an alternative to the use of conventional methods.





# What Passed

## ***Title 39 Changes***



### 4. HB 194 by Rep. Brass (Act 101)

- Affects all agencies and political subdivisions governed by Title 39
- Technical only - corrects the statutory reference used to define early learning centers as "Private Procurement Units" from DCFS' statute to LDOE's.



# What Passed

## 5. HB 245 by Rep. Hodges (Act 155)

- Codifies / replaces E.O. JBE 2018-15 by Governor Edwards
- Affects all "executive branch agencies" governed by Title 39
- Requires all bidders and contractors to certify that they are not engaged in a boycott of Israel, and that they will not do so during the term of the contract.
- Not applicable to procurement contracts with a value of less than \$100,000 and for vendors with fewer than five employees.





# What Passed

## 5. HB 245 by Rep. Hodges (Act 155) (continued)

### Contract/PO boilerplate language being added to LaGov:

IN ACCORDANCE WITH ~~R.S. 39:1602.1 EXECUTIVE ORDER NUMBER JBE 2018-15, EFFECTIVE MAY 22, 2018~~, FOR ANY CONTRACTS WITH A VALUE OF \$100,000 OR MORE AND FOR ANY VENDOR WITH 5 OR MORE EMPLOYEES, THE VENDOR CERTIFIES THAT IT IS NOT ENGAGING IN A BOYCOTT OF ISRAEL AND IT WILL, FOR THE DURATION OF ITS CONTRACTUAL OBLIGATIONS, REFRAIN FROM A BOYCOTT OF ISRAEL.

**Professional Services contract / RFP templates are being updated as well.  
Agencies contracting within their DPA must ensure their own compliance with the Act.**





# What Passed

# *State Use Program*

## 6. HB 333 by Rep. Connick (Act 312)

- Updates various provisions re. the State Use Program to comply with Federal law, regulations and court orders, and make other cleanup edits:
  - Replaces “sheltered workshops” with “supported employment providers” (SEPs)
  - Requires SEPs offer “gainful, competitive, integrated employment, training and rehab. svcs”
  - Merges Title 38 and 39 provisions for clearer consistency
  - Requires that goods/services be “equal in quality and reasonable in the rate charged”
  - Eliminates references to “severe” disabilities
  - Adds behavioral, developmental, intellectual and sensory disabilities
  - Deletes statutory language for an inactive program under LWC for the Blind
  - Requires the State Use Council to conduct an RFP every 5 years to select the Program’s nonprofit coordinator (which has always been EDS), to provide central training, administration and support services for the SEPs.



# What *Didn't* Pass

## 1. HB 63 by Rep. Bouie

*Require that all Title 39 contractors comply with the Equal Pay for Women Act.  
(rejected in Committee)*

## 2. HB 565 by Rep. Jay Morris

*Require local government (Title 38) agencies intending to contract for design professional services to advertise the project, accept applications from licensed design professionals, and hold a public hearing, similar to the Selection Board process used by State agencies through FP&C.  
(never taken up in Committee)*

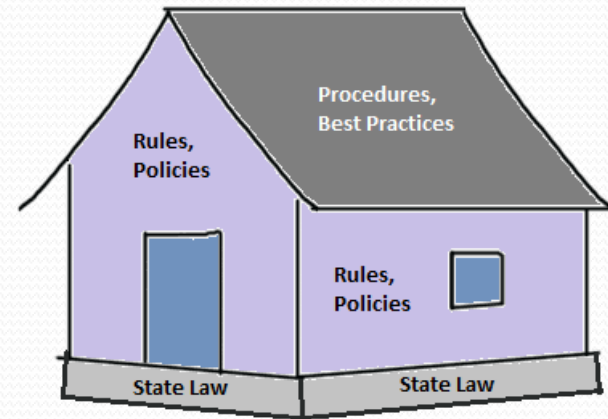
## 3. SB 144 by Sen. Price

*Forbid the use of purchasing cooperatives administered using the lead agency model (such as NASPO ValuePoint and U.S. Communities/Omnia), and require that only "sole proprietor" type cooperatives (such as MMCAP, Sourcewell, TIPS, and PCA) be allowable for use by Title 39 agencies.  
(withdrawn by the author)*



# Why Should We Care?

- Some failed bills reflect good ideas.
- Some, unfortunately, do not.
- Some reflect a flawed or partial understanding of how the procurement process works.
- Some will be back next year.
- Some will be State law one day.





# Office of State Procurement

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225-342-8010

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