



Office of State Procurement

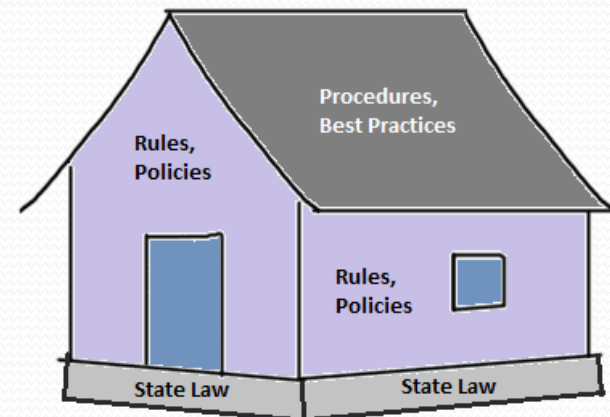
2018 Legislation re. Procurement

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 2018 so far though)





What Passed

Title 38 / Title 48 Changes

1. HB 272 by Rep. Hall (Act 306)

- Affects K-12 schools
- Cleans up R.S. 38:2212.1, to make it clear that school boards may access group purchasing organizations' (GPO) price lists for supplies, materials and equipment, but only if pricing is better than State contract pricing.
- Inclusion of equipment was inconsistent in the statute before.
- Initial legislation attempted a much broader roll-back, to allow schools to go directly to group purchasing organizations without a competitive process.





What Passed

2. SB 212 by Sen. Gatti (Act 365)

- Affects DOTD's activities under Title 48
- Amends R.S. 48:262 to allow DOTD to rent specialized maintenance equipment necessary to maintain and operate its facilities.
- DOTD has previously been able to lease equipment, but not rent.
- DOTD is not required to accept the lowest bid for these rentals and leases if doing so "would result in the use of so many different types or brands that economic operation of the equipment would be impracticable."

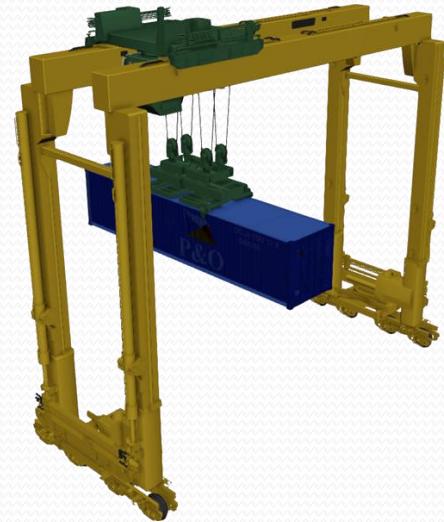




What Passed

3. HB 648 by Rep. Leger (Act 173)

- Affects port commissions and districts
- Amends R.S. 38:2320.1 to allow port commissions/districts to purchase specialized cranes and replacement parts through the RFP process.
- Allows use of the proposer prequalification process, with a request for qualifications (RFQ) preceding the request for proposals (RFP).
- Gives the port commissions and districts an RFP ability through Title 38 which is comparable to the RFP ability provided in Title 39.





What Passed

4. HB 819 by Rep. Berthelot (Act 465)

- Affects political subdivisions governed by Title 38
- Allows email/internet quotes for purchases of \$10,000 - \$30,000, in addition to existing phone/fax quotation processes.
- Exempts the procurement of law enforcement canines and other types of specialized dogs (such as search and rescue) from the Public Bid Law.





What Passed

Constitutional Changes

5. SB 263 by Sen. Erdey (Act 717)

- Affects political subdivisions (Title 38 & Title 39)
- Proposes to allow political subdivisions to donate or share the use of their equipment and personnel to another political subdivisions.
- Currently prohibited by LA Constitution, which says that public entities can't give away public property without receiving equivalent value. (improper donation of a thing of value)





What Passed

Title 39 Changes

6. SB 25 by Sen. Mills (Act 480)

- Affects all agencies and political subdivisions governed by Title 39
- Prohibits state agencies from hiring or contracting with lobbyists.
- Requires OSP to revoke procurement authority for agencies to contract with lobbyists for lobbying services, and to terminate any/all such contracts.





What Passed



7. SB 469 by Sen. Ward (Act 487)

- Affects all agencies and political subdivisions governed by Title 39
- Streamlines requirements for purchasing vehicles and towable equipment.
- Distinguishes “towable equipment” from “vehicles”, so that towable equipment (such as portable message boards, etc.) do not require a motor vehicle dealer’s license issued by the LMVC.
- Also allows public agencies to give bidders a 10-day grace period to submit their vehicle dealer’s license if they fail to do so with their bid.
- Effective August 1, 2018.



What Passed



8. HB 754 by Rep. Foil (Act 585)

- Affects all agencies and political subdivisions governed by Title 39
- Changes state law regarding the Veterans Small Entrepreneurship Initiative managed by LED (the "Vets" part of "Hudson/Vets")
- Increases the number of points Veteran-certified proposers earn on RFPs from 10% to 12%. OSP is updating its RFP templates to reflect this change.
- Increases the maximum annual revenues to qualify for the program from \$5 million to \$6 million. LED will handle this change internally.
- Makes several badly needed technical corrections to the statutes.



What Passed



9. SB 13 of the 2nd Special Session by Sen. Ward (Act 1)

- Affects all agencies and political subdivisions
- Updates and expands transparency requirements for contracts and expenditures, replacing LaTrac to create the Louisiana Checkbook.
- Contract reporting requirements are consistent with existing reporting tools available from LaTrac.
- Other changes (expenditure details, debt database, state employee salary database, etc.) are much more substantial than changes re. procurement.
- OSP has monitored and assisted with implementation of the Checkbook.



What Passed

Executive Order Changes



10. E.O. JBE 2018-15 by Governor Edwards

- Affects all agencies and political subdivisions 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

10. E.O. JBE 2018-15 by Governor Edwards (continued)

RFx boilerplate being added to LaGov:

34. PROHIBITION OF DISCRIMINATORY BOYCOTTS OF ISRAEL

IN ACCORDANCE WITH EXECUTIVE ORDER NUMBER JBE 2018-15, THE FOLLOWING APPLIES TO ANY BID WITH A VALUE OF \$100,000 OR MORE AND TO VENDORS WITH FIVE OR MORE EMPLOYEES:

BY SUBMITTING A RESPONSE TO THIS SOLICITATION, THE BIDDER OR PROPOSER CERTIFIES AND AGREES THAT THE FOLLOWING INFORMATION IS CORRECT: IN PREPARING ITS RESPONSE, THE BIDDER OR PROPOSER HAS CONSIDERED ALL PROPOSALS SUBMITTED FROM QUALIFIED, POTENTIAL SUBCONTRACTORS AND SUPPLIERS, AND HAS NOT, IN THE SOLICITATION, SELECTION, OR COMMERCIAL TREATMENT OF ANY SUBCONTRACTOR OR SUPPLIER, REFUSED TO TRANSACT OR TERMINATED BUSINESS ACTIVITIES, OR TAKEN OTHER ACTIONS INTENDED TO LIMIT COMMERCIAL RELATIONS, WITH A PERSON OR ENTITY THAT IS ENGAGING IN COMMERCIAL TRANSACTIONS IN ISRAEL OR ISRAEL-CONTROLLED TERRITORIES, WITH THE SPECIFIC INTENT TO ACCOMPLISH A BOYCOTT OR DIVESTMENT OF ISRAEL. THE BIDDER HAS ALSO NOT RETALIATED AGAINST ANY PERSON OR OTHER ENTITY FOR REPORTING SUCH REFUSAL, TERMINATION, OR COMERCIAALLY LIMITING ACTIONS. THE STATE RESERVES THE RIGHT TO REJECT THE RESPONSE OF THE BIDDER OR PROPOSER IF THIS CERTIFICATION IS SUBSEQUENTLY DETERMINED TO BE FALSE, AND TO TERMINATE ANY CONTRACT AWARDED BASED ON SUCH A FALSE RESPONSE.



What Passed

10. E.O. JBE 2018-15 by Governor Edwards (continued)

Contract/PO boilerplate language being added to LaGov:

IN ACCORDANCE WITH 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 E.O.



What *Didn't* Pass

1. HB 262 by Rep. McFarland

Require that any PPCS contract valued over \$50 million, or RFP for such a contract, be approved by the Joint Legislative Committee on the Budget (JLCB) before being considered by OSP for approval.

2. HB 528 by Rep. Henry

Requires contracts over \$2.5 million for the performance of a governmental function to include provisions that the public agency is entitled to receive a copy of all records and files related to the performance of the governmental function, and that such records and files are public records.

3. HB 652 by Rep. Pugh

"Hard" Louisiana Preference: Requires that State agencies and political subdivisions "shall, to the greatest degree feasible, contract with a Louisiana company" for services

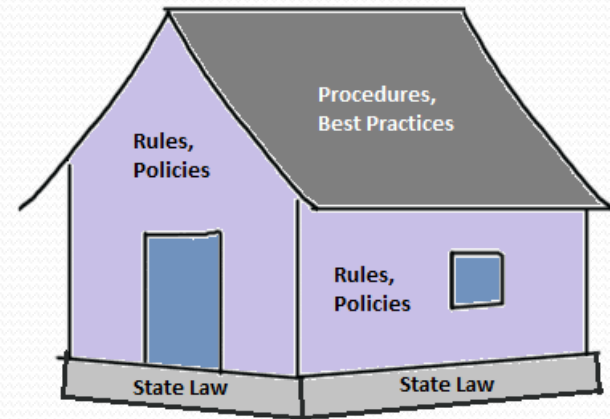
4. HB 847 by Rep. Amedee

Directs the Governor to review all CEAs with the New Orleans Saints and Pelicans, and further provides that he "may renegotiate the agreements for the purpose of reducing the indirect and direct state subsidies paid to the teams, franchises, or its owners."



Why Should We Care?

- Some of the 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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