



# Office of State Procurement

## *Labor and Materials*

Agency Training



## Labor and Materials - Topics

- What is a Labor and Materials project?
- What do I need to submit?
- What happens after the bid opening?
- What if something goes wrong during the project?



## What is a Labor and Materials project?

- Title 39 – Public Finance
  - RS 39:1594 - <http://legis.la.gov/legis/Law.aspx?d=96067>



## Title 38: Public Contracts, Works and Improvements

Any public work that is over \$157,700 must follow Title 38.

- Under Contract Limit as defined by FP&C – agency may handle alone, contact FP&C if clarification is required.

La. R.S. 38:2211(12) defines “public work” as the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity.

When in doubt regarding Title 38, please contact:

Brett Robinson- Office of Attorney General, Assistant Attorney General  
(225) 326-6083  
RobinsonBr@ag.louisiana.gov

Further reading: [https://www.legis.la.gov/legis/Laws\\_Toc.aspx?folder=75&level=Parent](https://www.legis.la.gov/legis/Laws_Toc.aspx?folder=75&level=Parent)



## Title 38 vs. Title 39

Title 38	Title 39
Major	Minor
New Construction	Repairs

OSP does not bid the construction of new buildings under Title 39. Agencies can also contact FP&C (State Office of Facility Planning & Control) if they are unsure as to whether a project should be processed under Title 38 or Title 39.



## What do I need to submit to OSP?

- Shopping cart
  - Agency determines need, develops specification, selects proper [UNSPSC](#) commodity class and transmits to the Office of State Procurement if over their delegated authority.
- ProAct Transmittal / Document Tracking through LaGov
- Cost Estimate
  - This should match your budget
- Specifications and/or Scope of Work
  - From agency. Not from a vendor.
- OSP Form(s)

### What is the UNSPSC?

Short definition – the commodity codes used in LaGov. The proper code selection is important, because this is what drives what vendors will get the email notification from LaPAC when the bid is posted.

The United Nations Standard Products and Services Code (UNSPSC) is a hierarchical convention that is used to classify all products and services. It is the most efficient, accurate and flexible classification system available today for achieving company-wide visibility of spend analysis, enabling procurement to deliver on cost-effectiveness demands and allowing full exploitation of electronic commerce capabilities.

The UNSPSC was jointly developed by the United Nations Development Programme (UNDP) and Dun & Bradstreet Corporation (D & B) in 1998. It has been managed by [GS1 US](#) since 2003.



# Labor and Materials Form

Procurement Training Website:  
<http://www.doa.la.gov/pages/osp/services/OSP-TrainingCenter.aspx>

OSP Labor and Materials  
Submittal Checklist  
Rev. 5-20-18

**Agency Information**  
Contact Person: \_\_\_\_\_  
Name: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

**Jobsite Information**  
Street: \_\_\_\_\_  
City: \_\_\_\_\_  
State/Zip: \_\_\_\_\_  
Parish: \_\_\_\_\_ \*Required if job is multi-parish

Job site contact:  Same As Agency Contact      Job site Requirements:  Visit  Mandatory Field  Justification: \_\_\_\_\_  
Name: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

Allowable work hours:  During Business       After hours

**Potential vendor(s)**  
\* Provide contact information for any vendor who provided a quote, any vendor known to the agency who may be able to perform the work, etc.

Business: \_\_\_\_\_ Vendor Number (V33...): \_\_\_\_\_  
Contact: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

Business: \_\_\_\_\_ Vendor Number (V33...): \_\_\_\_\_  
Contact: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

**Project Specific Information:**  
UNSPSC Code: <https://www.unspsc.org/search/code>       Proprietary  
Number(s): \_\_\_\_\_      Justification to be approved by OSP:  
Description: \_\_\_\_\_

Liquidated Damages: \_\_\_\_\_  
\* \$100 will be the default if not specified

Special requirements:  
Funding source:  Capital Outlay       Federal Grant       "Without approval, "or equal" must be added.  
 Operating       Other Grant       Other

Advertiser needs:  
\* OSP will follow normal advertising procedures unless otherwise indicated here:  
\_\_\_\_\_  
\_\_\_\_\_

Although not required, this is a helpful form to include with your shopping cart when submitting a Labor & Materials project to OSP for bidding. This form can save significant time involved by cutting out phone calls and emails with questions.



## Scope of Work vs. Specifications

- Scope of Work
  - Generally broader and describes the end result required.
  - Acceptable for smaller and less complex jobs.
- Specification
  - Any description of the physical, functional, or performance characteristics of an item, OR the nature of a supply, a service, construction job, or a major repair.
  - It may include a description of any necessary requirements for inspecting, testing, or preparing a supply, service, or major repair for delivery to your agency.
  - Necessary for complex jobs and jobs that have external requirements (Ex: industry standards, federal requirements, etc.)
- Any questions from vendors regarding specifications or scope of work should be submitted in writing to OSP. Agencies should not answer directly to a vendor.

### “External Requirements”

Things such as engineering standards, federal requirements, etc.

Agencies should not directly answer questions to a vendor regarding specifications or scope of work. This information should be sent to OSP so that an addendum can be published, thereby giving the information to all bidders to keep everything on a level playing field. One vendor having “inside information” that is not provided to other vendors can result in that vendor having an unfair advantage over the other vendors, and may lead to a protest.





## Importance of a Clear Specification



Minimizes protests that delay procurement



Helps bidders understand your requirements



Bids cannot be evaluated on criteria that is not included in the specification

Further reading: <https://www.doa.la.gov/osp/services/Specifications-OSP.pdf>

The third point is especially important for agencies to remember when writing up specs or a scope of work. We can only evaluate a bid on criteria / requirements that are listed in the bid, and cannot go around a low bidder if they are not including something that the agency may want, but failed to include in their specs. If it is a vital requirement, the bid would have to be cancelled, the specs revised, and then re-bid.



## Types of Jobsite Visits

- Mandatory Jobsite Visit
  - Vendor calls jobsite contact to make an appointment to visit the site
  - What we use the majority of the time
- Mandatory One-Day, One-Time Jobsite Visit
  - A specific date/time is published and all vendors show up for one meeting
  - A one-day, one-time jobsite visit **will** limit competition. Therefore, it must be approved by OSP upper management.
  - Examples where a one-day, one-time visit is appropriate:
    - Prisons, military installations, mental health or hospitals, etc. where security is restricted
    - Remote jobsites with no permanent staff on site, e.g. wildlife management areas
    - Highly complex jobs that require third party involvement
    - OSP will need to correspond with the agency to schedule a specific time and location, which will be stated in the bid.

If requesting a mandatory one-day, one-time jobsite visit, the agency must provide justification as to why this is necessary when submitting their shopping cart to OSP.



## Sole Source vs. Proprietary vs. “Or Equal”

- Sole Source
  - There is one vendor. No other vendor is capable of providing the good or service. This is exceedingly rare for Labor and Materials
- Proprietary
  - A specific brand is required (for labor and materials bids, this will usually involve equipment that will be installed).
  - Agency must submit a letter stating why only one brand name or item is suitable for their needs and include any special circumstances or unique characteristics.
  - The Chief Procurement Officer must approve letter.



## “Or Equal”

- Allows free and open competition.
- Allows vendors to submit the best, most cost-effective option based on their expertise.
- Required if there is no Proprietary justification approval from OSP.
- Examples:
  - NOT ACCEPTABLE: Paint – Sherwin Williams Rejuvenate Siding Restoration Practical Beige
  - ACCEPTABLE: Paint – Sherwin Williams Rejuvenate Siding Restoration Practical Beige **or equal**
- How do you determine what is equal?

Determining whether the submitted product meets specification requires some expertise at the Agency level.

For paint or other standard items, many agencies use “Match Color” in addition to “or equal” and require that the vendor speak with the project inspector on site prior to ordering materials. In certain special circumstances, even paint can be justified as proprietary – such as painting of a historical building, but – as previously stated - the agency would need to provide the justification.

For more complex items, we can request that the vendor submit their “or equal” product, and the agency will be allowed to confirm that it meets their needs prior to the award by reviewing specs, product literature, etc. If the agency determines that the product is not equal, they will need to submit adequate justification pointing out where the equivalent product does not meet specs, in order to avoid a protest. This is a case-by-case determination.



## What happens after bid opening?

- OSP Review
  - Bids are opened at the time, date, and location indicated on the solicitation
  - Bids are tabulated by OSP staff and submitted to the buyer
  - Buyer reviews bids to ensure they meet all requirements, and reports apparent lowest responsive bid amount to agency, sending any information that needs reviewing
  - Agency checks any "or equals" bid, if applicable, confirms amount is within budget, etc.
  - Buyer requests agency approval to continue – this does not mean a PO will be issued right away. OSP must go through another process in order to issue a PO.
  - Awarding and Closeout – Steps 1 through 5

Lowest – We begin with the lowest bidder

Responsive – Meets all requirements, including contractor license number

No exceptions noted – vendor cannot make exceptions to any terms, conditions, or specifications.

Sometimes, the preferred/suggested vendor doesn't have all of the required licenses, or submits the bid incorrectly, or is over your anticipated budget because of the additional terms and conditions (bonding, insurance, etc.) that they didn't know would be part of the project when they provided an initial quote.

By not providing the name of the vendor to the agency at this point, we are attempting to protect against protests that might require rebidding. We have to have a valid reason to go around a vendor, not just due to the fact that you may prefer to do business with a different vendor.



## Awarding and Closeout

- Step 1
  - Letter is sent to vendor requesting insurance, performance bond, labor and materials payment bond, affidavit, power of attorney, insurance, multiple copies of a signed contract, and any other applicable documents.
  - OSP reviews these documents once received, and may require additional follow up from the vendor.
- Step 2
  - Letter is sent to agency to obtain signed contract pages.
- Step 3
  - OSP creates a purchase order, Notice to Proceed, and compiles a packet of all necessary documentation to forward to both Agency and Vendor. At this point, either the ProAct Transmittal is marked as Awarded and the PO is uploaded to the Checklist tab or the PO is uploaded to LaGov for doc tracking agencies.

All correspondence that requires an original signature is sent via mail. If time is a major concern, then the Agency should submit a plan to OSP to have a runner collect the documentation.

Step 1 – issues that can arise

- Out of date insurance
- Bonding company requires documentation
- Too few copies submitted
- Missing fields, e.g. witness lines



## Awarding and Closeout (continued)

- Step 4
  - Vendor is required, per the letter sent to them in Step 3, to record the contract with the Clerk of Court in the parish where the work is being performed.
  - Recordation certificate or other verification of recordation is submitted to OSP.
  - OSP sends a letter to the Agency informing them that the recordation is on file. This letter includes the "Notice of Owner's Acceptance of Work" form.
  - At this point, the Agency may pay for up to 90% of the job's work that has been completed and/or materials stored on site.



## Awarding and Closeout (continued)

- Step 5
  - Agency submits signed "Notice of Owner's Acceptance of Work" to OSP when job is 100% complete.
  - OSP finalizes and forwards the document to the vendor.
  - Vendor submits the form to the Clerk of Court in the parish where the work is being done, which begins the Clear Lien period.
    - Clear Lien period ends 45 days after the vendor files the Notice of Owner's Acceptance of Work. This period gives sub-contractors or commodity manufacturers time to file a lien against the vendor for any unpaid expenses.
  - Vendor should submit final invoicing and Clear Lien certificate directly to the Agency.
  - Once obtained, the Agency may pay the final 10% retainage to the vendor.





## Issues

- Change orders
  - Once the job has begun, if unforeseen work is required that will cause increased expense (Ex: rotting wood or broken pipes behind a wall, etc.) and this was not included in the originally published bid scope of work, then a change order **must** be issued.
  - Steps:
    - LaGov workload redistribution of the PO to the agency
    - Make all necessary changes (increase funds, explain what the change is for, etc)
    - Change P-group back to the original OSP buyer
    - Click Order – will build approvals to OSP
  - Please enter a LaGov Help Desk ticket for technical questions regarding the LaGov system and how to enter a change order. Please contact OSP with questions about whether a change order is required or not, and what should be included.



## Issues

- Vendor deficiencies
  - A deficiency form might be needed due to (for example) use of an inferior product, product substitution without prior approval, poor service, no service, etc.
  - Agencies are encouraged to address the problem directly with the vendor initially.
  - If you are unable to resolve the problem, contact OSP and complete the deficiency form. (Found on the OSP website, Agency Center / Agency Forms)
  - Our goal is to ensure vendor performance, agency satisfaction, and improved overall contracts.
  - Please keep documentation as your project progresses – this is vital in the event of a deficiency problem.



## Office of State Procurement

OSP Main Phone Number:  
225-342-8010

Professional Contracts Help Desk:  
[DOA-PChelpdesk@la.gov](mailto:DOA-PChelpdesk@la.gov)

Purchasing Helpdesk:  
[DOA-OSPhelpdesk@la.gov](mailto:DOA-OSPhelpdesk@la.gov)