

LOUISIANA STATUTES

*** ARCHIVE DATA ***

*** THIS DOCUMENT IS CURRENT THROUGH THE 2002 SUPPLEMENT, 2001 SESSIONS ***

LOUISIANA REVISED STATUTES
TITLE 38. PUBLIC CONTRACTS, WORKS AND IMPROVEMENTS
CHAPTER 10. PUBLIC CONTRACTS
PART II. LETTING CONTRACTS

La. R.S. 38:2211 (2002)

§ 2211 Definitions

A. As used in this Chapter unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Bidding documents" means the bid notice, plans and specifications, bidding form, bidding instructions, addenda, special provisions, and all other written instruments prepared by or on behalf of a public entity for use by prospective bidders on a public contract.

(2) "Change order" means an alteration, deviation, addition, or omission as to a preexisting public work contract.

(3) "Change order outside the scope of the contract" means a change order which alters the nature of the thing to be constructed or which is not an integral part of the project objective.

(4) "Change order within the scope of the contract" means a change order which does not alter the nature of the thing to be constructed and which is an integral part of the project objective.

(5) "Contractor" means any person or other legal entity who enters into a public contract.

(6) An "emergency" means an unforeseen mischance bringing with it destruction or injury of life or property or the imminent threat of such destruction or injury or as the result of an order from any judicial body to take any immediate action which requires construction or repairs absent compliance with the formalities of this Part, where the mischance or court order will not admit of the delay incident to advertising as provided in this Part. In regard to a municipally owned public utility, an emergency shall be deemed to exist and the public entity may negotiate as provided by R.S. 38:2212(D) for the purchase of fuel for the generation of its electric power where the public entity has first advertised for bids as provided by this Part but has failed to receive more than one bid.

(7)(a) For the purposes of this Section, a "Louisiana resident contractor" includes any person, partnership, association, corporation, or other legal entity and is defined as one that either:

(i) Is an individual who has been a resident of Louisiana for two years or more immediately prior to bidding on work,

(ii) Is any partnership, association, corporation, or other legal entity whose majority interest is owned by and controlled by residents of Louisiana, or

(iii) For two years prior to bidding has maintained a valid Louisiana contractor's license and has operated a permanent facility in the state of Louisiana and has not had a change in ownership or control throughout those two years.

(b) For the purposes of Item (7)(a)(ii), ownership percentages shall be determined on the basis of:

(i) In the case of corporations, all common and preferred stock, whether voting or nonvoting, and all bonds, debentures, warrants, or other instruments convertible into common and/or preferred stock.

(ii) In the case of partnerships, capital accounts together with any and all other capital advances, loans, bonds, debentures, whether or not convertible into capital accounts.

(8) "Negotiate" means the process of making purchases and entering into contracts without formal advertising and public bidding with the intention of obtaining the best price and terms possible under the circumstances.

(9) "Public contract" or "contract" means any contract awarded by any public entity for the making of any public works or for the purchase of any materials or supplies.

(10) "Public entity" means and includes the state of Louisiana, or any agency, board, commission, department, or public corporation of the state, created by the constitution or statute or pursuant thereto, or any political subdivision of the state,

including but not limited to any political subdivision as defined in Article VI Section 44 of the Constitution of Louisiana, and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision. "Public entity" shall not include a public body or officer where the particular transaction of the public body or officer is governed by the provisions of the model **procurement code**.

(11) "Public work" means the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity.

(12) "Licensed design professional" means the architect, landscape architect, or engineer who shall have the primary responsibility for the total design services performed in connection with a public works project. Such professional shall be licensed as appropriate and shall be registered under the laws of the state of Louisiana.

B. Unless clearly indicated otherwise, compliance with this Part required of any public entity shall be done by the governing authority of such public entity if it has a governing authority.

La. R.S. 38:2212.1

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La. R.S. 38:2212.1 (2002)

§ 2212.1 Advertisement and letting to lowest responsible bidder; materials and supplies

A. (1)(a) All purchases of any materials or supplies exceeding the sum of fifteen thousand dollars to be paid out of public funds shall be advertised and let by contract to the lowest responsible bidder who has bid according to the specifications as advertised, and no such purchase shall be made except as provided in this Part.

(b) However, purchases of seven thousand five hundred dollars or more, but less than fifteen thousand dollars, shall be made by obtaining not less than three telephone or facsimile quotations. A written confirmation of the accepted offer shall be obtained and made a part of the purchase file. If quotations lower than the accepted quotation are received, the reasons for their rejection shall be recorded in the purchase file.

(2) Any purchase by a local governmental unit of a used or new motor vehicle for conversion into a law enforcement vehicle, which purchase cost does not exceed the sum of fifteen thousand dollars shall not be subject to the threshold delineated in Paragraph (1) of this Subsection. Written specifications, quotations, and confirmation of accepted offers for such purchase shall be obtained and made a part of the purchase file. However, any such purchase which sum is in excess of fifteen thousand dollars shall be advertised and let for bid under the procedures outlined by the provisions of this Section.

B. (1) The advertisement required by this Section for any contract for materials or supplies shall be published two times in a newspaper in the locality, the first advertisement to appear at least fifteen days before the opening of the bids.

(2) The first publication of the advertisement shall not occur on a Saturday, Sunday, or legal holiday. Plans and specifications shall be available to bidders on the day of the first advertisement and shall be available until twenty-four hours before the bid opening date.

(3) Any proposal shall include no more than three alternates. An alternate bid by any name is still an alternate. Alternates, if accepted, shall be accepted in the order in which they are listed on the bid form. Determination of the low bidder shall be on the basis of the sum of the base bid and any alternates accepted. However, the public entity may accept alternates in any order which does not affect determination of the low bidder.

C. (1) Whenever a public entity desires to purchase technical equipment, apparatus, machinery, materials, or supplies of a certain type and such purchases are clearly in the public interest, the public entity may specify a particular brand, make, or manufacturer in the specifications let out for public bid as provided by this Part. If a particular brand, make, or manufacturer is specified, the model or catalog number also shall be specified.

(2) Wherever in specifications the name of a certain brand, make, manufacturer, or definite specification is utilized, the specifications shall state clearly that they are used only to denote the quality standard of product desired and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of product desired; and that equivalent products will be acceptable.

D. The provisions of this Section shall not apply to a public entity purchasing surplus materials and supplies from another public entity or the government of the United States or when the particular transaction is governed by the **procurement code**.

E. Any public entity may procure materials, supplies, and equipment from federal General Services Administration supply schedules in compliance with the Federal Acquisitions Streamlining Act (Public Law 103-355) and regulations adopted pursuant to that law, and with rules and regulations which may be adopted by the central purchasing agency of the division of administration. Such purchases need not comply with the competitive bidding requirements of this Chapter. However, such materials, supplies, or equipment shall not be purchased at a price higher than the price of the same item listed on any available state purchasing contract. No use shall be made of federal General Services Administration supply schedules under the provisions of this Section without the participation of a Louisiana licensed dealer or distributor.

F. Any public entity may purchase materials, supplies, and equipment pursuant to the cooperative purchasing provisions of Part VII of Chapter 17 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, R.S. 39:1701 et seq.

G. (1) Notwithstanding any provision of this Part, any hospital owned or operated by a hospital service district, a municipality, the state, or any other public entity may enter into an agreement with one or more qualified group purchasing organizations for the purpose of obtaining bids for the purchase of materials and supplies. Any such agreement shall provide that the qualified group purchasing organization shall submit a price list for those materials and supplies offered by it, and shall further provide that the prices quoted on the list shall remain in effect for a stated period of time not less than three months. Any such price list shall thereafter be considered for all purposes to be a valid and binding bid by the qualified group purchasing organization during the effective period of the agreement, and no additional bid by the qualified group purchasing organization shall be necessary.

(2) Any price lists submitted by a qualified group purchasing organization shall not be a public record and shall not be available for public inspection. The agreement setting forth the existence of the price list and the effective date thereof shall, however, be a public record, and that portion of the price list setting forth the price of the materials or supplies being purchased shall become a public record at the time of opening of bids for those materials or supplies.

(3) As used in this Section, "qualified group purchasing organization" shall mean an organization, whether for profit or not for profit, which has contracts for the sale of materials or supplies with at least fifteen hospitals within the United States.

(4) A hospital owned by the state may purchase equipment from a qualified group purchasing organization if the price is less than that for the same or comparable equipment on the state bid list. For that equipment not contained on the state bid list, the Department of Health and Hospitals shall, pursuant to the Administrative Procedure Act, promulgate rules containing a mechanism for determining that the purchase of the equipment through a qualified group without bidding is cost effective and is in the best interest of the state. Until said rules become effective, no equipment not contained on the state bid list shall be purchased from qualified group purchasing organizations without complying with all other applicable laws.

H. The commissioners, governing board, or governing authority of any hospital owned or operated by a hospital service district, a public trust, any municipality, or any other public entity may authorize by resolution, and the secretary of the Department of Health and Hospitals for any hospital owned or operated by the state, may authorize the participation in, or the purchasing from, a qualified group purchasing organization for the purchase of supplies and materials, without complying with this Section or any other applicable provision of law when it appears to any such authority or said secretary that participation would affect the economic situation or efficiency of operations of the hospital in a positive manner. A positive effect on the economic situation or efficiency of operations shall be presumed when the total price of items to be purchased from the qualified group purchasing organization is less than the total price of those items if purchased from the state bid list.

I. (1) Whenever a political subdivision enters into an estimated use or delivery contract for a perishable food item, the political subdivision shall be prohibited from awarding another estimated use contract for the same perishable food item without first having taken delivery of at least seventy-five percent of the perishable food item under the existing contract.

(2) "Perishable food items" as used in this Subsection shall mean consumable food items which have a shelf life of less than six months.

(3) Sheriffs and other political subdivisions which operate jails in the various parishes of the state shall be required to purchase food wholesale at the lowest prices quoted for quality products or at prices no greater than the wholesale rate for the same item.

J. The opening of bids shall be governed by the provisions of R.S. 38:2214.

K. The purchase of materials or supplies in the case of an extreme public emergency shall be governed by the provisions of R.S. 38:2212(D).

L. The public entity purchasing the materials or supplies may require a written contract or bond as provided in R.S. 38:2216(B).

M. Purchases made by a public safety agency following the guidelines and restrictions established pursuant to the expenditure of federal grant dollars shall be made by obtaining not less than three telephone or facsimile quotations.

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LOUISIANA REVISED STATUTES TITLE 39. PUBLIC FINANCE SUBTITLE III. GENERAL LAWS ON STATE DEBT CHAPTER 17. LOUISIANA **PROCUREMENT CODE** PART IX. TELECOMMUNICATIONS PROCUREMENT

La. R.S. 39:1752 (2002)

§ 1752 Definitions

For the purposes of this Part, the following words and phrases shall be defined as follows:

(1) "Agency" as used in this Part and in Part V of this Chapter 1 of this Title shall have the same meaning ascribed to it as provided in R.S. 36:3(1).

(2) "Competitive sealed bidding" means a method of procurement which strictly follows the requirements set forth in this Chapter except for such variations as are specifically established in this Part.

(3) "Local area network" means a limited distance data processing/communications network or system used to link **computers** and peripheral devices.

(4) "Multi-year contracts" are contracts for a term of more than one year, not to exceed ten years.

(5) "Procurement" means the selling, buying, purchasing, renting, leasing, or otherwise obtaining telecommunications systems, telecommunications services, or their related software as well as all activities engaged in, resulting in, or expected to result in the selling, buying, purchasing, renting, leasing, or otherwise obtaining telecommunications systems, telecommunications services, or their related software by the state or its agencies.

(6) "Software" means **computer** programs and documentation essential to and necessary for a telecommunications system or telecommunications service to perform productive operations.

(7) "Telecommunications service contract" means a contract for the procurement of telecommunications services to include but not be limited to long distance, pay telephone, radio paging, and utility-type services such as local dial tone.

(8) "Telecommunications systems", which shall include telecommunications equipment and related services, and "telecommunications services" are limited to the equipment and services and means to provide:

(a) Telecommunications transmission facilities and services.

(b) Voice telecommunications systems and services.

(c) Local area network systems and services.

(d) Wide area network systems and services.

(e) Video systems and services, except those video systems and services specifically reserved to the Louisiana Educational Television Authority pursuant to R.S. 17:2501.

(f) Wireless systems and services to include, but not be limited to, cellular and personal communications systems.

(g) Radio systems, to include but not be limited to two-way radio systems; however, the operational abilities and priorities of two-way communications of the departments in the executive branch shall not be impeded.

(h) Intercom and electro-mechanical paging systems.

(i) Any and all systems and services based on emerging and future telecommunications technologies relating to Subparagraphs (a) through (h) of this Paragraph.

(9) "Telecommunications systems contract" means a contract for the procurement of telecommunications systems including equipment and related services to include but not be limited to installation and maintenance.

(10) "Telecommunications systems lease contract" means a contract between a supplier of telecommunications systems and the division of administration, office of telecommunications management, or the procuring agency, through which telecommunications systems may be procured for a term which shall not exceed ten years. The contract may be either an operating lease, installment purchase, or a financed lease without a balloon payment.

(11) "Telecommunications transmission facility" means any transmission medium, switch, instrument, wiring system, or other facility which is used, in whole or in part, to provide any transmission.

(12) "Utility" means any telecommunications service provided by the office of telecommunications management and used in the essential operations of a state agency, such as local dial tone, wide area network, and local area network.

(13) "Wide area network" means a data processing/communications network or system generally utilizing common carrier facilities to link geographically dispersed local area networks to other local area networks or **computer** systems.
