

2017 Legislation re. Procurement

Louisiana NIGP

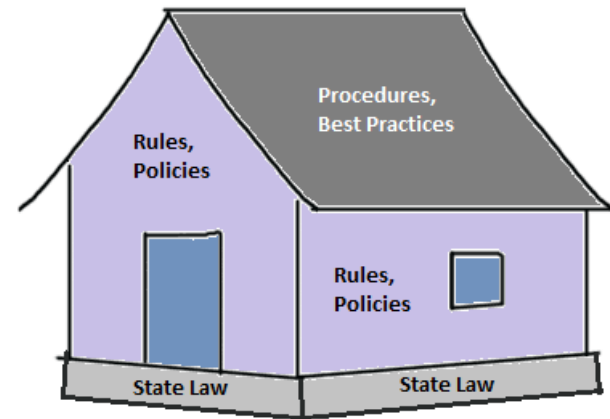
September 7, 2017

Jonathan Walker

LA DOA OSP

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
- We all want to do what's right
- Legislation reflects and affects the public mood re. procurement
- General tone of firm skepticism re. contracting



What Passed

- These show major new requirements that may affect our daily work in the future:
 1. HB 307 by Rep. Lyons (Act 211) (Title 39)
 - Requires a tax clearance be issued by the Department of Revenue (LDR) before any State contract can be approved.
 - This includes professional (PPCS) services, capital construction, products, goods, technical services, repairs, supplies, complex services, purchase/lease of property, and equipment.
 - Unworkable in its current form. Goes outside stated intent.
 - Would require all purchasing DPAs from OSP to be rescinded.
 - OSP and LDR are working together on a workaround/fix.
 - Not being implemented as enacted at this time.

What Passed

2. HB 554 by Rep. Schroder (Act 226) (Title 39)

- Streamlines the reverse auction process in Title 39.
- Eliminates requirement that the head of the using agency must certify that using the reverse auction process would be more advantageous than other available (bid) methods.
- Allows OSP to use reverse auctions for professional (PPCS) services contracts.
- Replaces fixed 20-day advertisement period with requirement that the notice period match what applies to regular bids.
- Requires OSP to report annually by September 1st on the use of the reverse auction process, and any savings achieved.

What Passed

3. SB 112 by Sen. White (Act 226) (Title 39)

- Amends the procedures required for performance-based energy efficiency contracting.
- Requires agencies who modify the scope of their performance-based energy efficiency contracts (such as by reducing the number of facilities included, for example, because of a facility closure or sale), to update their savings projections based on the lower anticipated volume.
- Further requires that any amendment to decrease the scope of such a contract by 20% or more will require the approval of the Joint Legislative Committee on the Budget (JLCB).

What Passed

4. SB 163 by Sen. Mizell (Act 248) (Title 39)

- Authorizes state prisons to purchase goods and services from vendors located in the parish in which the prison is located, if the prices are less than those of OSP or Prison Enterprises (PE), AND if the vendor meets the requirements of the Hudson or Veterans Initiatives managed by LED.
- OSP and PE worked together successfully to help narrow the effect of this Bill during the Legislative Session. Originally, it didn't have the Hudson/Veterans eligibility requirement.
- OSP does not view this Bill as a step in the right direction, but thankfully the scope is limited to just DOC agencies.

What *Didn't* Pass

- These show ideas that may come up again in the future. These are worthy of serious review even though not State law (at this time).

1. HB 112 by Rep. Bouie

Require that any vendor who contracts with a public entity comply with the Louisiana Equal Pay for Women act.

2. HB 139 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.

3. HB 335 by Rep. Richard

Require that all bidders for State/agency contracts include a \$100 fee check with their bid, to be paid to the Legislative Auditor's Office, to fund their general operations

What *Didn't* Pass

4. SB 138 by Sen. Riser

Lower the competitive (RFP) threshold for Consulting services from \$50,000 to \$25,000. This would result in 175 additional RFPs annually, requiring 17 additional personnel statewide, at an estimated cost of \$1.5 million.

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.

