

ST. TAMMANY PARISH COUNCIL

RESOLUTION

RESOLUTION COUNCIL SERIES NO. C-2625

COUNCIL SPONSOR: JERRY BINDER PROVIDED BY: KEVIN DAVIS

A RESOLUTION ADOPTING THE UPDATED CDBG PROCURMENT PROCEDURES, ATTACHED AS EXHIBIT A, FOR THE ST. TAMMANY PARISH COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

WHEREAS, St. Tammany Parish Government ("STP") has been awarded HUD Community Development Block Grant (CDBG) funds to undertake essential community development and housing assistance activities.

WHEREAS, the HUD CDBG program requires all grant recipients to establish and maintain procurement policies which incorporate local, state, and federal regulations.

WHEREAS, the Parish has developed a comprehensive Procurement Manual for CDBG purchasing procedures.

THE PARISH OF ST. TAMMANY HEREBY RESOLVES to adopt the local procurement policies as described in EXHIBIT A for purchases and contracts related to the HUD CDBG entitlement program.

THIS RESOLUTION HAVING BEEN SUBMITTED TO A VOTE, THE VOTE THEREON WAS AS FOLLOWS:

Moved for adoption by \_\_\_\_\_, SECONDED BY \_\_\_\_\_

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS RESOLUTION WAS DECLARED ADOPTED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2009 AT A REGULAR MEETING OF THE PARISH COUNCIL, A QUORUM OF THE MEMBERS BEING PRESENT AND VOTING.

ATTEST:

\_\_\_\_\_  
JERRY BINDER, COUNCIL CHAIRMAN

\_\_\_\_\_  
THERESA L. FORD, COUNCIL CLERK



# **Community Development Block Grant (CDBG)**

## *Procurement Manual*

St. Tammany Parish Government  
April 2009



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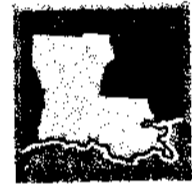
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## **NOTE:**

This manual is intended for use by St. Tammany Parish Government as a CDBG grantee and subrecipients controlling CDBG funds.

The information contained in this manual is intended for use as a set of guidelines only, and does not replace information provided by federal, state, and/or local agencies regarding laws, regulations, and policies.

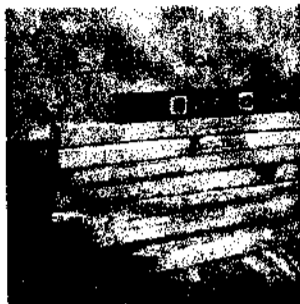
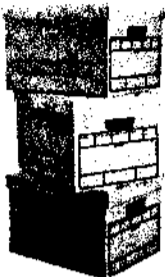
It is the responsibility of the subrecipient to keep up with changes to federal regulations, state laws, etc. to ensure that they are followed at all times.

## Definitions

For Procurement purposes, purchases generally fall into three categories:

### 1. GOODS:

Material, Supplies, Equipment: These purchases do not include Labor.



### 2. SERVICES:

Professional, Architectural, Engineering, etc. These purchases do not include material goods.



### 3. GOODS AND SERVICES:

Involves the purchase of both goods (building materials, etc) and services (labor).  
Construction usually involves contracts for labor **and** materials.



## Definitions

Louisiana Public Bid Law also creates a distinction within the "Goods AND Services" (Construction) Category:

**Public Work:** includes the erection, construction, alteration, improvement, or repair of any **public facility or immovable property owned, used, or leased by a public entity**. Public Work includes labor and materials (Louisiana R.S. 38:2212 A(1)(a))



**Non-Public Work:** by exclusion includes:

- Rehabilitation work on a privately owned home
- Construction on private property (although the bid law may be applied by the jurisdiction if Public funds are to be spent on project).
- Construction Management Services or any other services that do not include the cost of materials (see "Services").



\*NOTE: Federal Procurement Regulations do not make a distinction between 'Public Work' and 'Non-Public Work' projects. Therefore, all procurement of Goods and Services must follow federal regulations regardless of Public Work status under state bid law.

# Overview: Procurement Table

Funding Regulations:			
Type of Purchase:	Federal	State	Local
Purchase amount:	24 CFR 85.36	Public Bid Law	Purchasing Procedures
<b>GOODS</b>			
under \$10,000	Small Purchase Procedures.*		
between \$10,000 and \$20,000	Small Purchase Procedures.*	3 quotes	3 quotes
between \$20,000 and \$100,000	Small Purchase Procedures.*	Advertised sealed bid	Advertised sealed bid
over \$100,000	Advertised sealed bid	Advertised sealed bid	Advertised sealed bid
<b>SERVICES</b>			
under \$10,000	Small Purchase Procedures.*		Solicit proposals-no contract.**
between \$10,000 and \$100,000	Small Purchase Procedures.*		Solicit proposals-contract.**
over \$100,000	Requires advertised RFP.		Solicit proposals-contract.**
<b>GOODS AND SERVICES: Public Works</b>			
under \$5,000	Small Purchase Procedures.*		2 written quotes- no contract
between \$5,000 and \$100,000	Small Purchase Procedures.*		2 written quotes- contract
over \$100,000	Advertised sealed bid	Advertised sealed bid	Advertised sealed bid
<b>GOODS AND SERVICES: NON-Public Works</b>			
under \$10,000	Small Purchase Procedures.*		
between \$10,000 and \$20,000	Small Purchase Procedures.*		
between \$20,000 and \$100,000	Small Purchase Procedures.*		
over \$100,000	Advertised sealed bid		

\* Small Purchase Procedures require quotes from an adequate number of sources (24 CFR 85.36(d)(1))

\*\* Proposals solicited from three Service Providers chosen from the Professional Service List

Not specifically addressed by law/policy

## ONLINE RESOURCES

Disadvantaged Businesses Search (Louisiana): <http://www.laucp.org/UCP/UCPSearch.aspx>

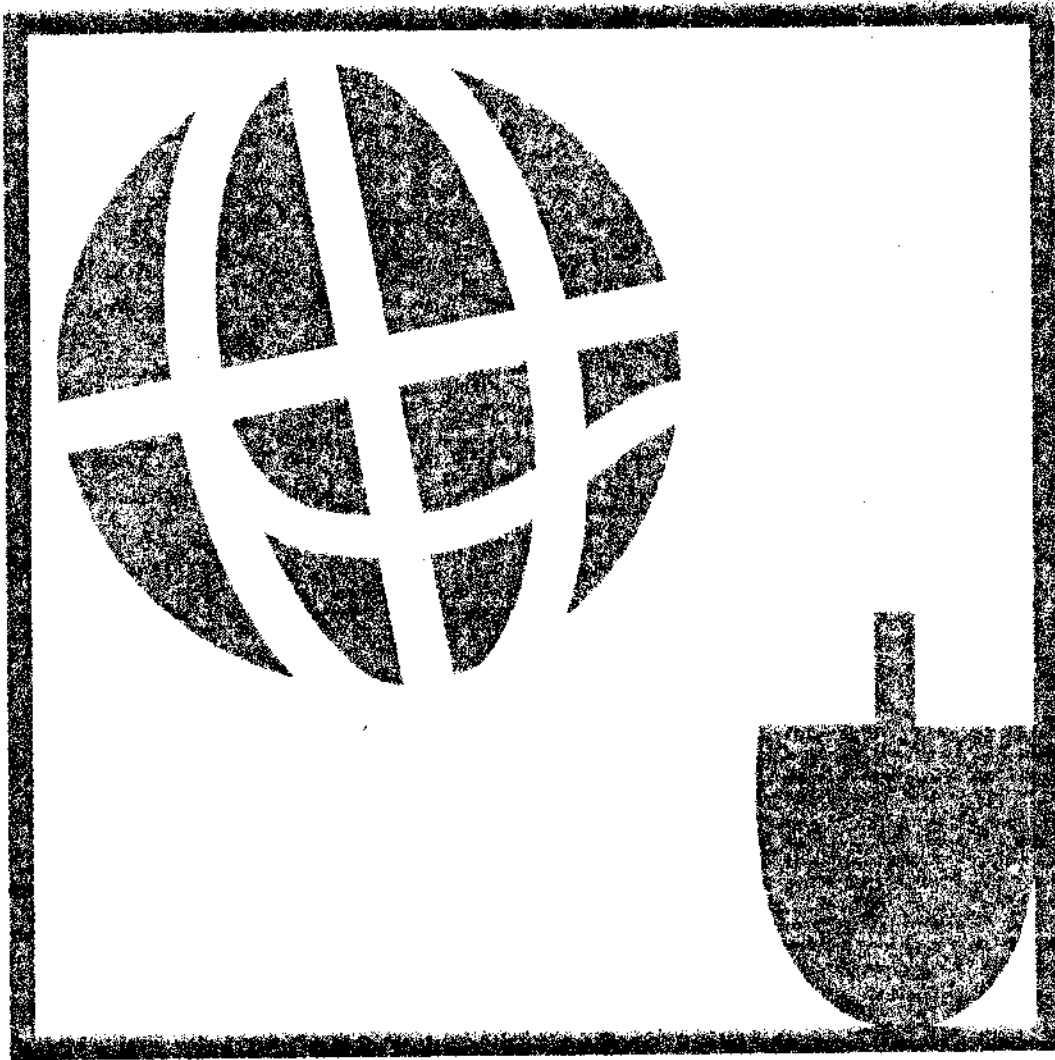
Davis Bacon: <http://www.w.dol.gov/waol>

HUD Grantees Page: <http://www.hud.gov/groups/grantees.cfm>

Glossary of HUD terms: [http://www.huduser.org/glossary/glossary\\_all.html](http://www.huduser.org/glossary/glossary_all.html)

Louisiana State Legislature: <http://www.legis.state.la.us/>

Office of the State Register (LA Admin. Code & Executive Orders): <http://www.dca.louisiana.gov/osr/osr.htm>





## Federal Regulations

**TITLE 24--HOUSING AND URBAN DEVELOPMENT**  
**PART 85 ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS**  
**Subpart C Post-Award Requirements**  
**Sec. 85.36 Procurement.**

(a) STATES- NOT APPLICABLE

(b) Procurement standards.

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or

other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for

the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only--

- (i) After a determination that no other contract is suitable, and
- (ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

- (i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
- (ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

**(c) Competition.**

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

**(d) Methods of procurement to be followed.**

(1) **Procurement by small purchase procedures.** Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) **Procurement by sealed bids (formal advertising).** Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 85.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

- (A) A complete, adequate, and realistic specification or purchase description is available;
- (B) Two or more responsible bidders are willing and able to compete effectively and for the business; and
- (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

- (A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
- (B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
- (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.

(3) **Procurement by competitive proposals.** The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- (ii) Proposals will be solicited from an adequate number of qualified sources;
- (iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
- (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is

not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

**(4) Procurement by noncompetitive proposals** is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

- (i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
  - (A) The item is available only from a single source;
  - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - (C) The awarding agency authorizes noncompetitive proposals; or
  - (D) After solicitation of a number of sources, competition is determined inadequate.
- (ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
- (iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

**(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.**

(1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

**(f) Contract cost and price.**

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past

performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

**(g) Awarding agency review.**

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

- (i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
- (ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
- (iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or
- (iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

- (i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
- (ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

**(h) Bonding requirements.**

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**(i) Contract provisions.**

A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

[53 FR 8068, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19642, Apr. 19, 1995]

## State of Louisiana Procurement Laws

RS 9:2778	Governing Law
RS 38:2211 – 2296	Public Contracts (New Construction and Major Renovation Projects)
RS 39:196 – 200	Data Processing Procurement
RS 39:360 – 363	Fleet Management Program
RS 39:1481 – 1526	Professional, Personal, Consulting and Social Services Procurement
S 39:1551 – 1755	Louisiana Procurement Code (Equipment, Supplies and Operating Services)
RS 39:1761	Equipment Lease-Purchase Contracts
RS 42:1101 – 1170	Code of Governmental Ethics
RS 43:1 – 34	Public Printing
RS 43:111 – 211	State Advertisements
RS 44:1 – 41	Public Records
LAC Title 34	Purchasing Rules and Regulations; Government Contracts, Procurement and Property Control
LAC Title 34, Ch. 55	Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services, and Hardware Maintenance
E.O. BJ 08-67	Executive Order for Small Purchase Procedures

**Local Political Subdivisions:** The Louisiana Public Bid Law (La. R. S. 38:2211-2296) is applicable to all political subdivisions.

The following Other Procurement Methods are also authorized for all political subdivisions:

**State Contracts:** Purchases may be made from state procurement contracts, which may be available, without the necessity of bidding. (La. R. S. 39: 1702). Purchases cannot be made directly from federal GSA contracts.

**State Contracts through Local Dealer:** Purchases may be made from state procurement contracts which may be available, without the necessity of bidding and may be bought through a local vendor selling the exact same product. (La. R. S. 39:1710).

**Piggy Back Purchases:** Purchasing can be done jointly with other political subdivisions or purchase can be made under a viable contract entered by another Louisiana public entity of the vendor consents (La. R. S. 33:1321).

**State Agencies:**

- Procurement Codes: 39:1551-1736
- Insurance Requirements: 39:1527-1546
- Data Processing: 39:196-200
- Professional Services: 39: 1481-1526
- Lease Purchases: 39:1761
- Late Payments: 39:1695
- Advertisements of Bids: 43:111-211
- Printing: 43:1-34

**The following additional Louisiana Laws are applicable to both Local Political Subdivisions and State Agencies:**

- Public Works: 38: 2211-2296
- Public Records: 44:1-41
- Code of Ethics: 42:1101-1170

## **Louisiana State Bid Law**

(excerpted from 'The Legislative Auditor's Summary of the Public Bid Law',  
LLA Legal Division, Revised 10/3/2008)

### **Public Works R.S. 38:2212**

#### **A. Definition**

1. R.S. 38:2211 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.
2. R.S. 38:2212(A)(1)(a) provides that public work includes labor and materials.

#### **B. Contract Amounts R.S. 38:2212A(1)(d)**

##### 1. General Rule

- a. The contract limit shall be equal to \$100,000 per project including labor, materials, and equipment. Public works contracts can not be broken down so as to avoid the Public Bid Law.

#### **C. Procedures R.S. 38:2212**

1. There are no statutes governing public work contracts that are less than \$100,000. However, the Legislative Auditor recommends that for any public works project in excess of \$25,000, the governmental entity use a RFP process and/or solicit at least three bids.
2. Public works, which are estimated to cost less than the contract limit, may be undertaken by the public entity with its own employees.
3. All public works contracts over \$100,000 including labor and materials (or if inmate labor, \$50,000 per project) by a public entity shall be:

##### a. Advertised

- i. Advertised and let by contract to the lowest bidder who had bid according to the contract, plans, and specifications as advertised;
- ii. The advertisement shall be published once a week for 3 different weeks in a newspaper in the locality; the first advertisement shall appear at least 25 days before the opening of bids;
- iii. The first publication of the advertisement shall not occur on a Saturday, Sunday or legal holiday;
- iv. If at the end of the contract document phase, it is determined that the designer's estimate is more than the funds budgeted by the public entity for the project, the project shall not be advertised for bid. The designer's estimate shall be read aloud upon opening bids.\* Note: effective 8/15/2008 under Act No. 726 of 2008 Regular Session;
- v. Plans and specifications shall be available to bidders on the day of the first advertisement and until 24 hours before the bid opening date;
- vi. When attendance by bidders is mandated at a pre-bid conference, the date, place, and time of the pre-bid conference shall be stated in the first advertisement; and
- vii. If political subdivisions are required or elect to allow for electronic submission of bids, the advertisement shall contain the electronic address of the public entity and shall establish the specific times for public access to the electronic interactive environment for purposes of submission of bids;

##### b. Bidder Information

- i. Bidder's signature required;
- ii. Bids shall be hand delivered by the bidder or his agent, who shall be given a written receipt;
- iii. Bids shall be sent by registered or certified mail with return receipt requested;
- iv. Bids shall not be accepted, either by mail or hand delivered, on holidays recognized by the U.S. Postal Service; and
- v. Political subdivisions must allow for the electronic submission of bids.



**c. Bid Form**

The bid form shall contain the following:

- i. Bid Security or Bid Bond,
- ii. Acknowledgement of Addenda,
- iii. Base Bid,
- iv. Alternates,
- v. Bid Total,
- vi. Signature of Bidder, Name, Title and Address of Bidder,
- vii. Name of Firm or Joint Venture Corporate Resolution and Louisiana Contractors License Number, and
- viii. Unit Prices, when utilized, for public works projects.

Other documentation required shall be furnished by the lowest bidder at a lower date, in accordance with the bidding documents.

**d. Escalation and De-escalation Clauses**

The bid specification may include a fixed escalation or de-escalation in accordance with the Consumer Price Index or other recognized industry indexes. R.S. 38:2212A(2). Escalation and de-escalation clauses operate to allow for unexpected fluctuations in costs, such as rising costs following hurricanes or for inflation, during performance of the contracts.

**e. Change Orders**

- i. All change orders shall be in writing;
- ii. Any change order outside the scope of the contract in excess of the contract limit shall be let out for public bid; and
- iii. Any change order pertaining to public work not required to be put out for bid, shall either be negotiated in the best interest of the public entity or let out for public bid. Where the change order is negotiated, the change order shall be fully documented and itemized as to costs. Where unit prices are contained in the initial contract, no deviations shall be allowed in computing negotiated change order costs.

**f. Addenda**

- i. Bid period may be extended up to 30 days through the issuance of an addendum without the requirement of re-advertising;
- ii. However, if the addendum is issued within 72 hours of the advertised time of opening bids, opening of bids is extended for at least 7 but not more than 21 working days without the requirement of re-advertising. The addendum shall state the revised time and date of opening bids;
  - (a) If the addendum modifying plans and specifications is issued within 7 days prior to the advertised time for opening bids, the public entity shall transmit within 24 hours of the issuance of the addendum a copy of the addendum to all prime bidders who have requested bid documents by one of the following methods:
    - (1) facsimile transmission;
    - (2) e-mail; or
    - (3) hand-delivery
  - (b) A copy of the addendum shall be sent by regular mail to all prime bidders who have requested bid documents.

**g. Documentation**

- i. Written confirmation of the accepted offer shall be obtained and made a part of the contract file; and
- ii. Records of all elements of the public bid process shall be retained for a minimum of 6 years following the purchase or completion of the public work.

**h. Alternates**

No more than 3 alternates shall be included in any proposal; 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.

**i. Disqualification**

To disqualify any bidder on grounds that bidder is not a "responsible bidder," the public entity shall:

- i. Give written notice to the bidder of the proposed disqualification and all reasons for disqualification; and
- ii. Give the bidder the opportunity to be heard at an informal hearing to refute the reasons for disqualification.
- iii. R.S. 38:2212.5 allows an exception to the general rule against prequalification for historic restorations that are not constructions or repairs of bridges or roads.

**j. Bonds.**

- i. Bid. 5% bid bonds or other forms of bid security are required. R.S. 38:2218.
- ii. Performance. Not less than 50% of contract for public works contracts of \$50,000 or more are required. R.S. 38:2216.

**k. Written Contract.**

When any public works bid is accepted, the public entity and bidder shall enter into a written contract. R.S. 38:2216A(1).

**l. Time Limit R.S. 38:2215**

- i. Upon receipt of bids for a public work a political subdivision has 45 days upon the conclusion of to either accept the lowest responsible bidder or reject all bids;
- ii. By mutually written consent between the lowest responsible bidder and the public entity the deadline for awarding the contract can be extended by one or more extensions of 30 days;
- iii. The time limit is not applicable when:
  - (a) The contract is to be financed by bonds which are required to be sold after receipt of bids on the contract; or
  - (b) When the contract is to be financed in whole or in part by federal or other funds which will not be readily available at the time bids are received; or
  - (c) On contracts which require a poll of the legislature of Louisiana before funds are available to fund the contract; and
- iv. If the time limit is not applicable because of one of the exceptions outlined above, the fact that the limit does not apply and the exception that is applicable shall be mentioned in the specifications for the project and in the official advertisement for bids required in accordance with R.S. 38:2212.

## Materials and Supplies

### A. Contract Amounts R.S. 38:2212.1

There are different procedures for purchases of different types of items for various amounts. Materials and supplies purchases can not be broken down so as to avoid the Public Bid Law.

1. Purchases that are not governed by statute:

a. Purchases less than \$1,000

- i. No statutory requirement for bids or telephone or fax quotes;
- ii. However, it is good public policy to obtain and document 3 verbal quotes, if possible.

b. Purchases less than \$10,000

- i. No statutory requirement for bids or telephone or fax quotes as above;
- ii. However, it is good public policy to obtain 3 written quotes on purchases that are \$1,000 to \$9,999.

2. Purchases that are governed by statute:

a. Purchases are \$10,000 but less than \$20,000

- i. Three telephone or fax quotes;

- ii. Obtain written confirmation of accepted offer;
- iii. If lower quote than the accepted quote, reasons for rejection required.
- b. Purchases are \$20,000 or greater
  - i. Advertised and let by contract to lowest bidder according to specifications.
- c. \$25,000 or greater for purchase of road maintenance or improvement equipment
  - i. Advertised and let for bid

**C. Procedures R. S. 38:2212.1**

1. Purchases of materials or supplies totaling between \$10,000 and less than \$20,000:
  - a. Obtain at least 3 telephone or facsimile quotes;
  - b. Obtain written confirmation of the accepted offer for the file; and
  - c. If a lower bid than the accepted bid is not accepted, the reason for the rejection must be noted.
2. Purchases of materials and supplies totaling \$20,000 or more must be bid:
  - a. Advertised
    - i. Advertisement for bid shall be published 2 times in a newspaper in the locality; the first advertisement must appear at least 15 days before the opening of the bids;
    - ii. The first publication shall not occur on a Saturday, Sunday or legal holiday;
    - iii. Plans and specifications shall be available to bidders the day of the first advertisement and until 24 hours before bid opening date.
  - b. Bidder information
    - i. Political subdivisions must allow for the electronic submission of bids. See R.S.38:2212.1B(4)(a).
3. Exceptions:
  - a. Surplus Supplies

This Section does not apply to a public entity purchasing surplus materials and supplies from another public entity, or the government of the U.S. or when the transaction is governed by the LPC.
  - b. Office of State Purchasing

Any public entity may procure materials, supplies, and equipment by using the Office of State Purchasing. Such purchases need not comply with the competitive bidding requirements, but a higher price than the price available on the state purchasing contract cannot be paid.
  - c. Cooperative Purchasing

Any public entity may purchase materials, supplies, and equipment pursuant to the cooperative purchasing provisions in R.S. 39:1701 et seq.
  - e. Food items

There are specific rules and regulations when political subdivisions contract for perishable food items.
4. Bonds.

The public entity may require a performance of bond of not less than 50% of contract for materials and supplies. R.S. 38:2216B
5. Written Contract.

When any materials and supplies bids are accepted, the public entity and bidder may enter into a written contract. R.S. 38:2216B

(Full text available at: [http://www.lta.state.la.us/userfiles/file,Public%20Bid%20Law%202-1-09.pdf](http://www.lta.state.la.us/userfiles/file/Public%20Bid%20Law%202-1-09.pdf))

## St. Tammany Parish Purchasing Guidelines

### **Purchases of materials, supplies & equipment**

- **Less than \$10,000** – requisition and Purchase Order (PO)
  - **Between \$10,000.00 - \$20,000** – 3 telephoned, faxed or written quotes and requisition/PO
  - **Greater than \$20,000** - Requires public advertising & sealed bid
- Purchases in excess of \$20,000 and not in the approved budget require Council approval.*

### **Public Works – erection, construction, alteration, improvement or repair to any public facility**

#### Public Works under \$100,000

- If vendor is incorporated or an LLC, it **must** be in "good standing" with the Secretary of State
- Vendor must maintain acceptable levels of liability insurances as required by the Parish
- Projects over \$5,000 require the standard contract
- Projects over \$25,000 require Performance and Payment Bonds @ 100 % of the project's cost
- Projects over \$50,000 require a state licensed contractor
- Projects greater than \$5,000 but less than \$100,000 **require two written quotes** and a requisition/ PO

#### Public Works over \$100,000

- Require public advertising & sealed bids
- Require Council approval unless identified on the Capital Outlay Budget.

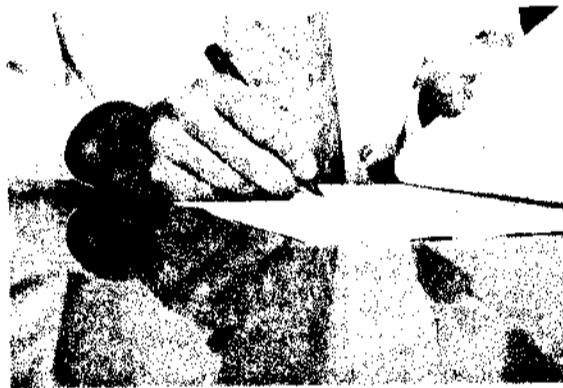
### **Professional services – engineering, surveying, computer consulting, legal, accounting, insurance, and similar services.**

- Three service providers shall be selected from the Professional Service List and solicited for proposals on the specific project (Statement of Qualifications are used to develop this list and are accepted at any time).
- In determining award, cost will be considered, the award will not be based solely on price. Other variables to be considered include, but are not limited to, qualifications, experience, and prior work history with the Parish.
- All professional services in the amount of \$10,000 or more shall be let by standard contract.

*(See St. Tammany Parish Purchasing Procedures Manual for more information.)*

## Subrecipients

- Organizations that enter into Subrecipient Agreements for CDBG funds with St. Tammany Parish are required to follow the Procurement guidelines outlined in this manual at a minimum.
- Subrecipient Organizations may choose to follow their own procurement procedures, provided that such procedures are more restrictive than those included in this manual. Subrecipients that choose to follow their procedures will submit a copy to St. Tammany Parish Government for inclusion in the grant file.
- Subrecipients will submit copies of bid advertisements, contracts, and any other procurement documents to St. Tammany Parish Government, Office of Social Services, for review prior to publishing advertisements and/or entering into contracts. This requirement may be waived for CDBG Subrecipients after at least one successful procurement process. Subrecipients will be notified in writing if and when this requirement has been waived. Until that time, subrecipient is responsible for submitting documents for review.
- All subrecipients will submit copies of bid advertisements, contracts, and other procurement documents for the grant file.



Questions regarding any of the information presented in this manual should be directed to:

St. Tammany Parish Government  
Office of Social Services  
P.O. Box 628  
Covington, LA 70434  
985-898-3074  
SocialServices@stpgov.org

## Summary

To meet federal, state, and local regulations for CDBG funded purchases, the following are the most restrictive requirements for each category of purchase by dollar amount:

### GOODS:

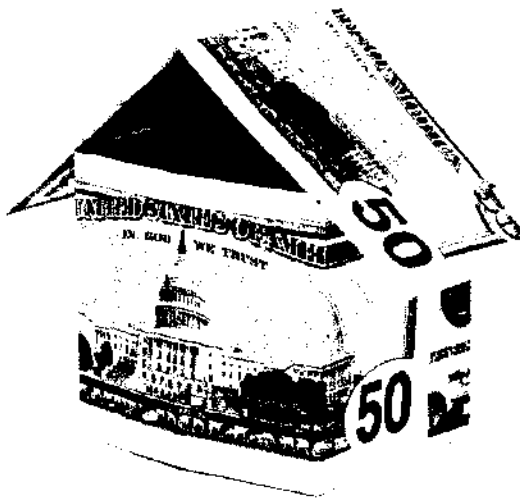
Under \$20,000: Three Written Quotes  
Over \$20,000: Advertised Sealed Bid

### SERVICES:

Under \$100,000: Proposals from three Providers from Professional Service List  
Over \$100,000: Advertised Request for Proposals

### GOODS AND SERVICES- Public Works & Non-Public Works:

Under \$100,000: Three Written Quotes  
Over \$100,000: Advertised Sealed Bid



### Contracts are required for:

GOODS over \$20,000  
SERVICES over \$10,000  
GOODS AND SERVICES- Public Works over \$5,000  
GOODS AND SERVICES- Non-Public Works over \$100,000

### Davis Bacon & Related Acts:

Must be addressed in ALL contracts for construction (where labor is to be provided) **over \$2,000.**