

SENATE BILL NO. 468

BY SENATOR ADLEY AND REPRESENTATIVES BROWN, FRANKLIN, GISCLAIR,  
GUINN, HILL, HONORE, HOWARD, MACK, NORTON AND ST.  
GERMAIN

1 AN ACT

2 To amend and reenact R.S. 38:2211(A)(1), (2), (3), (4), (5), (6), (7), (8), and (9), 2212,  
3 2212.5, 2212.10(C)(1) and (G), 2215, 2225, and 2241.1, relative to contracts for  
4 public works; to provide for definitions; to provide for advertisement and letting of  
5 bids; to provide for prequalification of bidders; to provide for verification of  
6 employees involved in contracts for public works; to provide relative to the time  
7 period to hold bids and to commence work; to provide relative to preferences; to  
8 provide for acceptance of work; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 38:2211(A)(1), (2), (3), (4), (5), (6), (7), (8), and (9), 2212, 2212.5,  
11 2212.10(C)(1) and (G), 2215, 2225, and 2241.1 are hereby amended and reenacted to read  
12 as follows:

13 §2211. Definitions

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

16 (1) **"Alternate" means an item on the bid form that may either increase**  
17 **or decrease the quantity of work or change the type of work within the scope of**  
18 **the project, material, or equipment specified in the bidding documents, or both.**

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

1                   (2) ~~(3)~~(a) "Change order" means **any contract modification that includes**  
 2 an alteration, deviation, addition, or omission as to a preexisting public work  
 3 contract, **which authorizes an adjustment in the contract price, contract time, or**  
 4 **an addition, deletion, or revision of work.**

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

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

11                   (5) ~~(4)~~ "Contractor" means any person or other legal entity who enters into a  
 12 public contract.

13                   (6) ~~(5)~~(a) "Emergency" means an unforeseen mischance bringing with it  
 14 destruction or injury of life or property or the imminent threat of such destruction or  
 15 injury or as the result of an order from any judicial body to take any immediate  
 16 action which requires construction or repairs absent compliance with the formalities  
 17 of this Part, where the mischance or court order will not admit of the delay incident  
 18 to advertising as provided in this Part. In regard to a municipally owned public  
 19 utility, an emergency shall be deemed to exist and the public entity may negotiate as  
 20 provided by ~~R.S. 38:2212(D)~~ **R.S. 38:2212(P)** for the purchase of fuel for the  
 21 generation of its electric power where the public entity has first advertised for bids  
 22 as provided by this Part but has failed to receive more than one bid.

23                   (b) An "extreme public emergency" means a catastrophic event which causes  
 24 the loss of ability to obtain a quorum of the members necessary to certify the  
 25 emergency prior to making the expenditure to acquire materials or supplies or to  
 26 make repairs necessary for the protection of life, property, or continued function of  
 27 the public entity.

28                   (7) ~~(6)~~ "Licensed design professional" means the architect, landscape  
 29 architect, or engineer who shall have the primary responsibility for the total design  
 30 services performed in connection with a public works project. Such professional

1 shall be licensed as appropriate and shall be registered under the laws of the state of  
2 Louisiana.

3 ~~(8)~~(7)(a) "Louisiana resident contractor", for the purposes of this ~~Section~~  
4 **Part**, includes any person, partnership, association, corporation, or other legal entity  
5 and is defined as one that either:

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

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

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

13 (b) For the purposes of Item ~~(7)~~(7)(a)(ii) **of this Paragraph**, ownership  
14 percentages shall be determined on the basis of:

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

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

21 ~~(9)~~(8) "Negotiate" means the process of making purchases and entering into  
22 contracts without formal advertising and public bidding with the intention of  
23 obtaining the best price and terms possible under the circumstances.

24 **(9) "Probable construction costs" means the estimate for the cost of the**  
25 **project as designed that is determined by the public entity or the designer.**

26 \* \* \*

27 §2212. Advertisement and letting to lowest responsible **and responsive** bidder;  
28 public work; electronic bidding; participation in mentor-protégé  
29 program; exemptions

30 A.(1)~~(a)~~ All public work exceeding the contract limit as defined in this

1 Section, including labor and materials, to be done by a public entity shall be  
 2 advertised and let by contract to the lowest responsible **and responsive** bidder who  
 3 had bid according to the ~~contract, plans, and specifications~~ **bidding documents** as  
 4 advertised, and no such public work shall be done except as provided in this Part.

5 **(2) The term "bidding documents" is defined in R.S. 38:2211(A).**

6 ~~(b)(i) B.(1)~~ The provisions and requirement of this Section; **and** those stated  
 7 in the advertisement for bids, ~~and those required on the bid form~~ **bidding documents**  
 8 shall not be waived by any entity.

9 ~~(ii)(aa)(2)~~ The **Any public entity advertising for public work shall use**  
 10 **only the Louisiana Uniform Bid Form as promulgated in accordance with the**  
 11 **Administrative Procedure Act by the** division of administration, office of facility  
 12 planning and control, ~~shall develop and prescribe through the promulgation of rules~~  
 13 ~~and regulations in accordance with the Administrative Procedure Act the bid form~~  
 14 ~~necessary to obtain the information and to implement the sections of the bid form~~  
 15 ~~provided for in this Item to be utilized for the public bid of public works projects.~~  
 16 The ~~bid form developed~~ **bidding documents** shall require only the **following**  
 17 information ~~necessary to determine the lowest bidder and the following sections and~~  
 18 ~~information~~ **and documentation to be submitted by a bidder at the time**  
 19 **designated in the advertisement for bid opening:** Bid Security or Bid Bond,  
 20 Acknowledgment of Addenda, Base Bid, Alternates, Signature of Bidder, Name,  
 21 Title, and Address of Bidder, Name of Firm or Joint Venture, Corporate Resolution  
 22 **or written evidence of the authority of the person signing the bid,** and Louisiana  
 23 Contractors License Number, and on public works projects where unit prices are  
 24 utilized, a section on the bid form where the unit price utilized in the bid shall be set  
 25 forth **including a description for each unit;** however, unit prices shall not be  
 26 utilized for the construction of building projects, unless the unit ~~price is~~ **prices and**  
 27 **their extensions are** incorporated into the base bid **or alternates.**

28 **(3)(a)** ~~(bb)~~ Other documentation and information required including but not  
 29 limited to the low bidder's attestation pursuant to R.S. 38:2212.10 and 2227 shall be  
 30 furnished by the low bidder within ten days after the bid opening **The bidding**

1 documents shall not require any bidder, other than the apparent low bidder, to  
 2 furnish any other information or documentation, including the Attestation  
 3 Affidavit and the E-Verification Form, any sooner than ten days after the date  
 4 bids are opened; however, the apparent low bidder may submit such  
 5 information or documentation at any time prior to the expiration of the ten-day  
 6 period. If the apparent low bidder does not submit the proper information or  
 7 documentation as required by the bidding documents within the ten-day period,  
 8 such bidder shall be declared non-responsive, and the public entity may award  
 9 the bid to the next lowest bidder, and afford the next lowest bidder not less than  
 10 ten days from the date the apparent low bidder is declared non-responsive, to  
 11 submit the proper information and documentation as required by the bidding  
 12 documents, and may continue such process until the public entity either  
 13 determines the low bidder or rejects all bids. The ten-day period shall not be  
 14 altered or waived by any public entity except the governing authority of any publicly  
 15 owned commercial aviation airport, the Sewerage and Water Board of New Orleans,  
 16 the Regional Transit Authority, and all agencies of the City of New Orleans,  
 17 including but not limited to the ~~Regional Transit Authority and the New Orleans~~  
 18 Aviation Board, who shall require that the other documentation and information  
 19 referred to in this Subitem Subparagraph be furnished by the two lowest apparent  
 20 low bidders no sooner than three days after the bid opening. The two apparent low  
 21 bidders may submit such information or documentation at any time prior to the  
 22 expiration of the three day period. If the two apparent low bidders do not  
 23 submit the proper information or documentation as required by the bidding  
 24 documents within the three day period, such bidders shall be declared non-  
 25 responsive, and from that date, award may be made to the next lowest bidder,  
 26 and afford that bidder not less than three days to submit the required  
 27 information or documentation, and the process may continue until either a low  
 28 bidder is determined or all bids are rejected.

29 (cc) ~~(b)~~ Notwithstanding any other provision of law to the contrary the  
 30 provisions of this Paragraph, all bidders bidding on public works for East Baton

1 Rouge Parish shall submit all bid forms required by statute or by the Louisiana  
 2 Administrative Code to the governing authority of East Baton Rouge Parish prior to  
 3 the opening of all bids relative to a contract for public works.

4 ~~(iii) The provisions of this Subparagraph shall not apply to bid forms of the~~  
 5 ~~Department of Transportation and Development pursuant to Title 48 of the Louisiana~~  
 6 ~~Revised Statutes of 1950.~~

7 (4) Notwithstanding any other provision of law to the contrary and in  
 8 addition to any other requirements provided by this Subsection, the  
 9 Acknowledgment of Addenda to the bid form provided for in this Section for  
 10 the public bid of public works conducted by the New Orleans Sewerage and  
 11 Water Board shall also include attachment of the addenda if pricing  
 12 information is contained therein and the addenda requires attachment.

13 ~~(c)(i)~~ (5) Evidence Written evidence of agency, corporate, or partnership the  
 14 authority of the person signing the bid for public works shall be required for  
 15 ~~submission of a bid to the division of administration or the state of Louisiana~~  
 16 submitted at the time of bidding. The authority of the signature of the person  
 17 submitting the bid shall be deemed sufficient and acceptable if any of the following  
 18 conditions are met:

19 ~~(aa)~~ (a) The signature on the bid is that of any corporate officer listed on the  
 20 most current annual report on file with the secretary of state, or the signature on the  
 21 bid is that of any member of a partnership ~~or partnership in commendam,~~ limited  
 22 liability company, limited liability partnership, or other legal entity listed in the  
 23 most current ~~partnership~~ business records on file with the secretary of state.

24 ~~(bb)~~ (b) The signature on the bid is that of an authorized representative ~~of the~~  
 25 ~~corporation, partnership, or other legal entity and the bid is accompanied by a~~  
 26 ~~corporate resolution, certification as to the corporate principal, or other documents~~  
 27 ~~indicating authority which are acceptable to the public entity~~ as documented by the  
 28 legal entity certifying the authority of the person.

29 ~~(cc)~~ (c) The corporation, partnership, or other legal entity has filed in the  
 30 appropriate records of the secretary of state of this state ~~in which the public entity~~

1 is located, an affidavit, resolution, or other acknowledged or authentic document  
 2 indicating the names of all parties authorized to submit bids for public contracts.  
 3 Such document on file with the secretary of state shall remain in effect and shall be  
 4 binding upon the principal until specifically rescinded and canceled from the records  
 5 of the office.

6 (ii) ~~(6)(a) Except as provided in Subparagraph (f) of this Paragraph, each~~  
 7 **Each** bid shall be either hand delivered by the bidder or his agent in which instance  
 8 the deliverer shall be handed a written receipt, or such bid shall be sent by registered  
 9 or certified mail with a return receipt requested, **or shall be submitted**  
 10 **electronically as provided in Subsection E of this Section.** However, the  
 11 requirement that all bids be sent by registered or certified mail shall not apply to bids  
 12 received by municipal and parochial governing authorities. No public entity shall  
 13 accept or take any bids, including receiving any hand delivered bids, on days which  
 14 are recognized as holidays by the United States Postal Service. The Department of  
 15 Transportation and Development and facility planning and control section under the  
 16 division of administration shall keep on file a list of all states which have passed a  
 17 bid preference law.

18 **(b) Only for the purpose of interpretation of the base bid total and**  
 19 **alternate bids, when applicable, written words shall govern if a conflict exists**  
 20 **between words and numerals.**

21 **(c) If the public works requires unit price bids and there is a discrepancy**  
 22 **between the base bid total and the sum of the extended unit prices, the unit**  
 23 **price bid shall govern.**

24 **(7) The provisions of this Subsection shall not apply to the Department**  
 25 **of Transportation and Development.**

26 ~~(d) C.(1) The~~ **Except as provided in Paragraphs (2) and (3) of this**  
 27 **Subsection, the** term "contract limit" as used herein shall be equal to the sum of one  
 28 hundred fifty thousand dollars per project, including labor, materials, and equipment  
 29 as per the rates in the latest edition of the Associated Equipment Dealers Rental Rate  
 30 Book and administrative overhead not to exceed fifteen percent; ~~however,~~ **provided**

1 that beginning February 1, 2015, and annually on February first of each  
 2 subsequent year, the office of facility planning and control within the division  
 3 of administration shall adjust the "contract limit" by an amount not to exceed  
 4 the annual percentage increase in the Consumer Price Index in the preceding  
 5 year. The office of facility planning and control within the division of  
 6 administration shall publish the new contract limit for public works contracts  
 7 in the Louisiana Register in January of each year.

8 (i) ~~(2)~~ When the Department of Public Safety and Corrections intends to use  
 9 inmates as labor in connection with projects which occur on the grounds or to the  
 10 buildings, structures, or facilities located on the grounds of prisons or correctional  
 11 institutions, the term contract limit shall be ~~fifty~~ **seventy-five** thousand dollars per  
 12 project, ~~for the calendar year 1982 and for each succeeding calendar year, shall be~~  
 13 ~~increased by a factor equal to three percent per year for each of the next ten calendar~~  
 14 ~~years.~~

15 (ii) ~~Repealed by Acts 2011, 1<sup>st</sup> Ex. Sess., No. 5, §2, eff. June 12, 2011.~~

16 (iii) ~~Beginning September 1, 2005, when the Bossier Parish Police Jury~~  
 17 ~~intends to undertake a public works project with its own employees, the term~~  
 18 ~~"contract limit" shall be equal to the sum of one hundred thirty thousand dollars.~~  
 19 ~~Additionally, the police jury may adjust the contract limit provided for in this Item~~  
 20 ~~each year by an amount not to exceed the annual percentage increase in the~~  
 21 ~~Consumer Price Index in the preceding year. If the contract limit is increased, the~~  
 22 ~~Bossier Parish Police Jury shall publish the new contract limit for public works~~  
 23 ~~contracts in its official journal in February of each year.~~

24 (iv) ~~Repealed by Acts 2007, No. 336, §2, eff. July 31, 2008.~~

25 (v) ~~(aa)~~ **(3)(a)** The annual limit by a public entity for any work to restore or  
 26 rehabilitate a levee that is not maintained with federal funds, including mitigation on  
 27 public lands owned by the state or a political subdivision, shall not exceed the sum  
 28 of one million dollars, including labor, materials, and equipment, which is not  
 29 publicly bid, as per the rates in the latest edition of the Associated Equipment  
 30 Distributors Rental Rate Book, and administrative overhead not to exceed fifteen

1 percent; provided that the work is undertaken by the public entity with its own  
 2 resources and employees, or with the resources and employees of another public  
 3 entity through a cooperative endeavor or other agreement with such entity.

4 ~~(bb)~~ **(b)** The provisions of this ~~Item~~ **Paragraph** shall remain effective until  
 5 December 31, 2018.

6 ~~(e)(i)~~ **D.** Each public entity advertising and letting for bid a public works  
 7 contract under the provisions of this Section shall furnish all prime bidders who  
 8 request ~~bid~~ **bidding** documents and who are properly licensed by the Louisiana State  
 9 Licensing Board for Contractors with at least one set of complete ~~bid~~ **bidding**  
 10 documents. The public entity may require a deposit on the ~~bid~~ **bidding** documents;  
 11 however, the total cost of the deposit, including handling fees and other costs shall  
 12 not exceed twice the actual cost of reproduction. Deposits on the first set of  
 13 documents furnished ~~bona fide~~ prime bidders ~~will~~ **shall** be fully refunded upon return  
 14 of the documents no later than ten days after receipt of bids. On other sets of  
 15 documents furnished to bidders, the deposit less ~~the~~ actual cost of reproduction, ~~will~~  
 16 **shall** be refunded upon return of the documents no later than ten days after receipt  
 17 of bids. Where the public entity, itself, prepares and distributes the ~~contract~~ **bidding**  
 18 documents, the public entity may, in lieu of a deposit, charge a fee for the  
 19 documents, which **fee** shall not exceed the actual cost of reproduction. **Prime**  
 20 **bidders shall obtain an original set of electronic or paper bidding documents**  
 21 **either from the public entity or the design professional who prepared such**  
 22 **documents. Either the public entity or the design professional may choose the**  
 23 **method and service of plan distribution. When the public entity utilizes an**  
 24 **electronic bid submittal system, bidding documents shall be distributed in the**  
 25 **manner chosen by the public entity. At its sole discretion, the public entity may**  
 26 **authorize its design professional of record to choose an electronic bid submittal**  
 27 **system. The public entity or its design professional of record shall maintain a**  
 28 **list of all prime bidders for the purpose of addenda distribution.**

29 ~~(ii) Where the Sewerage and Water Board of New Orleans, itself, prepares~~  
 30 ~~and distributes electronic contract documents, the Sewerage and Water Board of~~

1 New Orleans may, in lieu of a deposit, charge a fee for each paper document, which  
2 shall not exceed the actual cost of reproduction.

3 (f)(i) E. (1) Contractors shall be provided the option to submit bids for public  
4 contracts through Public entities shall provide, as an additional bidding option,  
5 a uniform and secure electronic interactive system for the submittal of bids for  
6 public works requiring competitive bidding. Political subdivisions Any public  
7 entity providing such system shall follow the standards for the receipt of electronic  
8 bids adopted by the office of the governor, division of administration, and the office  
9 of information technology as provided for in LAC 4:XV.701, ~~and shall make the~~  
10 ~~appropriate provisions necessary for the acceptance of electronic bids for all~~  
11 ~~purchases requiring competitive bidding as required by this Section.~~ Any special  
12 condition or requirement for the submission shall be specified in the advertisement  
13 for bids required by this Section.

14 (ii) (2) Public entities that are currently without available high-speed high-  
15 speed Internet access ~~will~~ shall be exempt from this requirement until such time that  
16 high-speed high-speed Internet access becomes available.

17 (iii) (3) Any parish with a police jury form of government and a population  
18 of less than twenty thousand shall be exempt from the provisions of this  
19 Subparagraph Subsection.

20 (iv) (4) Any city or municipality with a population of less than ten thousand  
21 shall be exempt from the provisions of this Subparagraph Subsection.

22 (v) (5) Any ~~special service district created by a police jury form of~~  
23 ~~government and~~ other public entity which is unable to comply with R.S.  
24 38:2212(A)(1)(f)(i) the electronic bidding provisions of this Subsection without  
25 securing and expending additional funding shall be exempt from its requirements.  
26 ~~The special service district shall be exempted from any expenditures for high speed~~  
27 ~~Internet access, software, personnel costs, training, or other office equipment directly~~  
28 ~~relating to the receipt of bids via high speed Internet access.~~

29 (vi) (6) Public entities shall have the option to require that all bids be  
30 submitted electronically for any competitive bid let out for public bid.

1                   (vii) ~~(7)~~ Public entities ~~must~~ **shall** include all ~~bid~~ **bidding** documents as  
 2 defined in R.S. 38:2211(A)(1) ~~38:2211(A)(2)~~, on the electronic website accepting  
 3 the electronic bids.

4                   ~~(g) Repealed by Acts 1999, No. 768, §2.~~

5                   ~~(2)~~ **F.** The bid specification may contemplate a fixed escalation or de-  
 6 escalation in accordance with the United States Bureau of Labor Statistic's Consumer  
 7 Price Index ~~and/or Wholesale~~ **or the Producer** Price Index. Bids based on  
 8 specifications which are subject to a recognized escalation index shall be legal and  
 9 valid **for any item of a public work, at the discretion of the public entity.**

10                   ~~(3)(a)~~ **G. (1)** The advertisement required by this Section for any contract for  
 11 public works shall be published once a week for three different weeks in a newspaper  
 12 in the locality, and the first advertisement shall appear at least twenty-five days  
 13 before the opening of bids. In addition to the newspaper advertisement, a public  
 14 entity may also publish an advertisement by electronic media available to the general  
 15 public.

16                   ~~(b)~~ **(2)** The first publication of the advertisement shall not occur on a  
 17 Saturday, Sunday, or legal holiday. ~~Plans and specifications~~ **All bidding documents**  
 18 shall be available to bidders on the day of the first advertisement and shall be  
 19 available until twenty-four hours before the bid opening date.

20                   ~~(c)(i) If at the end of the contract document phase, it is determined that the~~  
 21 ~~designer's estimate is more than the funds budgeted by the public entity for the~~  
 22 ~~project, the project shall not be advertised for bid. The designer's estimate shall be~~  
 23 ~~read aloud upon opening bids.~~

24                   ~~(ii) The bid form shall contain Bid Security or Bid Bond, Acknowledgment~~  
 25 ~~of Addenda, Base Bid, Alternates, Signature of Bidder, Name, Title, and Address of~~  
 26 ~~Bidder, Name of Firm or Joint Venture Corporate Resolution, and Louisiana~~  
 27 ~~Contractors License Number, and on public works projects where unit prices are~~  
 28 ~~utilized, their inclusion in the bid form; however, unit prices shall not be utilized for~~  
 29 ~~the construction of building projects, unless the unit price is incorporated into the~~  
 30 ~~base bid. Other documentation required shall be furnished by the low bidder within~~

1           ~~ten days after the bid opening. The governing authority of any publicly owned~~  
 2           ~~commercial aviation airport, the Sewerage and Water Board of New Orleans, and all~~  
 3           ~~agencies of the City of New Orleans, including but not limited to the Regional~~  
 4           ~~Transit Authority and the New Orleans Aviation Board shall require that the other~~  
 5           ~~documentation referred to above shall be furnished by the two lowest bidders three~~  
 6           ~~days after the bid opening. The division of administration, office of facility planning~~  
 7           ~~and control, shall develop and prescribe the necessary bid form for public works~~  
 8           ~~projects for public bid purposes and implement the provisions of this Section of the~~  
 9           ~~bid form in accordance with the Administrative Procedure Act.~~

10                   (iii) ~~The provisions of this Subparagraph shall not apply to bid forms of the~~  
 11           ~~Department of Transportation and Development pursuant to Title 48 of the Louisiana~~  
 12           ~~Revised Statutes of 1950.~~

13                   **H. Every public entity intending to advertise a public work for bids shall**  
 14           **estimate the probable construction costs of such public work or obtain such**  
 15           **estimate from the project designer prior to advertising such public work for**  
 16           **bids. No public entity shall advertise a public work for bids unless funds that**  
 17           **meet or exceed the estimate of the probable construction costs have been**  
 18           **budgeted by the public entity for the project. The estimate of probable**  
 19           **construction costs for the project shall be made available at the time of bid**  
 20           **opening, either by posting such estimate electronically or announcing aloud**  
 21           **such estimate at the bid opening. Any and all bidders' information shall be**  
 22           **available upon request, either no sooner than fourteen days following the bid**  
 23           **opening or after the recommendation of award by the public entity or the design**  
 24           **professional, whichever occurs first, and the requester shall pay reasonable**  
 25           **reproduction costs. The provisions of this Subsection shall not apply to the**  
 26           **Department of Transportation and Development.**

27                   ~~(d)(i)~~ **I.** When a design professional or public entity mandates attendance by  
 28           **prospective** bidders at pre-bid conferences as a prerequisite to bid **on a public**  
 29           **works project**, the date, place, and time of the pre-bid conference shall be stated in  
 30           the first **each** advertisement notice.

1           (ii) All prospective bidders ~~in the orphan well plug and abandonment~~  
 2 ~~program within the Louisiana Department of Natural Resources~~ shall be present at  
 3 the beginning of the pre-bid conference and shall remain in attendance for the  
 4 duration of the conference. Any prospective bidder who fails to attend the conference  
 5 or remain for the duration shall be prohibited from submitting a bid for the project.

6           ~~(e)~~ **J.** Any proposal **Bidding documents** shall include no more than three  
 7 alternates. An alternate bid by any name is still an alternate. Alternates, if accepted,  
 8 shall be accepted in the order in which they are listed on the bid form. Determination  
 9 of the low bidder shall be on the basis of the sum of the base bid and any alternates  
 10 accepted. However, the public entity shall reserve the right to accept alternates in any  
 11 order which does not affect determination of the low bidder.

12           ~~(f)~~ **K.** Use of allowances in proposals **bidding documents** shall be restricted  
 13 to minor items and shall be limited to hardware, face brick, landscaping, electric  
 14 light fixtures, **miscellaneous steel, tile, wallpaper and other exterior finishes,**  
 15 **fixtures and furnishings,** and carpeting. Allowances may not be utilized by the  
 16 design professional or public entity to control the selection of a subcontractor or  
 17 supplier.

18           ~~(g)~~~~(i)~~ **L.(1)** No construction manager or any other third-party consultant  
 19 employed by a public entity may manage a construction project as a general  
 20 contractor or act in the role of the general contractor to oversee, direct, or coordinate  
 21 individual trade contractors on behalf of the public entity, or accept bids or itself bid  
 22 on the public work or components of the public work with respect to which the  
 23 manager or consultant is employed or contracted to manage or consult.

24           ~~(ii)~~ **(2)** The provisions of ~~Item (i)~~ **Paragraph (1)** of this ~~Subparagraph~~  
 25 **Subsection** shall not apply to the initial construction of a hospital, medical facility,  
 26 or a combination of both, constructed by the Orleans Hospital Service District, but  
 27 shall apply to the construction of any additions or modifications of a hospital,  
 28 medical facility, or a combination of both, constructed by the Orleans Hospital  
 29 Service District following the completion of the initial construction. The provisions  
 30 of this ~~Item~~ **Paragraph** shall not relieve the Orleans Hospital Service District from

1 complying with all other applicable provisions of this Title.

2 ~~(iii) All construction contracts on public works shall be opened in a public~~  
 3 ~~meeting. All subcontractors bidding on the project shall be invited to the meeting and~~  
 4 ~~the general contractor shall list in the bid documents who the subcontractors will be~~  
 5 ~~on the project.~~

6 ~~(4)~~ **M. (1)** All public work contracts shall contain provisions authorizing the  
 7 issuance of change orders within the scope of the contract.

8 ~~(5)~~ **(2)** All change orders shall be in writing **or in electronic format if the**  
 9 **public entity has the capability to receive change orders electronically. All**  
 10 **change orders shall be signed by the contractor and the public entity or its**  
 11 **design representative.**

12 **(3) The public entity shall pay the contractor for work performed by**  
 13 **change order not later than sixty days after the date the public entity approves**  
 14 **the application for payment for completion of the work performed in the change**  
 15 **order.**

16 ~~(6)~~ **(4)** Any change order outside the scope of the contract in excess of the  
 17 contract limit as defined herein shall be let out for public bid as provided by this Part.

18 ~~(7)~~ **(5)** Any change order pertaining to public work, not required by this Part  
 19 to be ~~put~~ **let** out for public bid, shall either be negotiated in the best interest of the  
 20 public entity or let out for public bid as provided by this Part. Where the change  
 21 order is negotiated, the public entity shall require that ~~said~~ **such** change order be  
 22 fully documented and itemized as to costs, including material quantities, material  
 23 costs, taxes, insurance, employee benefits, other related costs, profit, and overhead.  
 24 Where certain unit prices are contained in the initial contract, no deviations shall be  
 25 allowed in computing negotiated change order costs.

26 ~~(8)(a) Notwithstanding any other law to the contrary and in addition to any~~  
 27 ~~other requirements provided for in this Subsection, the Acknowledgment of Addenda~~  
 28 ~~of the bid form provided for in R.S. 38:2212(A)(1)(b)(ii) for the public bid of public~~  
 29 ~~works projects conducted by the New Orleans Sewerage and Water Board shall also~~  
 30 ~~include attachment of the addenda if pricing information is contained therein and the~~

1           ~~addenda specifies attachment.~~

2                       ~~(b) Notwithstanding any other law to the contrary and in addition to any other~~  
 3           ~~requirements provided for in this Subsection, the Acknowledgment of Addenda of~~  
 4           ~~the bid form for public works projects conducted by the New Orleans Sewerage and~~  
 5           ~~Water Board shall also include attachment of the addenda if pricing information is~~  
 6           ~~contained therein and the addenda specifies attachment.~~

7                       ~~B. N.~~ Those contracts let by any public entity for public works estimated to  
 8           cost in excess of the contract limit shall be advertised and let by contract to the  
 9           lowest responsible **and responsive** bidder. Public works which are estimated to cost  
 10          less than the contract limit; may be undertaken by the public entity with its own  
 11          employees.

12                      ~~E. O.~~ (1) Except as provided by Paragraph (2) of this Subsection, the public  
 13          entity may, through the issuance of an addendum, extend the bid period for up to  
 14          thirty days, without the requirement of readvertising as provided by Subsection A of  
 15          this Section.

16                      (2)(a) If a public entity issues or causes to be issued on a public work  
 17          exceeding the contract limit any addendum modifying ~~plans and specifications~~ **the**  
 18          **bidding documents** within a period of seven days prior to the advertised time, or the  
 19          time extended as provided for in this Section, for the opening of bids, excluding  
 20          Saturdays, Sundays, and any other legal holidays, then the public entity shall  
 21          transmit a copy of the addendum to all prime bidders who have requested ~~bid~~  
 22          **bidding** documents pursuant to ~~Subparagraph (A)(1)(e)~~ **Subsection D of this**  
 23          **Section**. This shall be completed within twenty-four hours of the issuance of the  
 24          addendum and may be delivered by either facsimile transmission, e-mail, other  
 25          electronic means, ~~or~~ by hand, **or by overnight delivery using a nationally**  
 26          **recognized carrier** provided the prime bidder has supplied the facsimile  
 27          transmission number or e-mail address to the public entity. ~~In addition to the~~  
 28          ~~transmission required in this Paragraph, a copy of the addendum shall be sent by~~  
 29          ~~regular mail to all prime bidders who have requested bid documents pursuant to~~  
 30          ~~Subparagraph (A)(1)(e) of this Section.~~ If the addendum cannot be transmitted by

1 facsimile transmission, e-mail, ~~or~~ other electronic means, **overnight delivery using**  
2 **a nationally recognized carrier**, or otherwise effected by hand delivery, the public  
3 entity shall postpone the bid opening by at least seven days.

4 (b) No public entity shall issue or cause to be issued any addenda modifying  
5 ~~plans and specifications~~ **the bidding documents** within a period of seventy-two  
6 hours prior to the advertised time for the opening of bids, excluding Saturdays,  
7 Sundays, and any other legal holidays; however, if the necessity arises to issue an  
8 addendum modifying ~~plans and specifications~~ **the bidding documents** within the  
9 seventy-two-hour period prior to the advertised time for the opening of bids, then the  
10 opening of bids shall be extended for at least seven but not more than twenty-one  
11 working days, without the requirement of readvertising as provided by Subsection  
12 A of this Section. The addendum shall state the revised time and date for the opening  
13 of bids.

14 ~~D. P.~~ (1)(a) This Section shall not apply in cases of public emergency where  
15 such emergency has been certified to by the public entity and notice of such public  
16 emergency shall, within ten days thereof, be published in the official journal of the  
17 public entity proposing or declaring such public emergency.

18 (b)(i) This Section shall not apply in the event that an extreme public  
19 emergency occurs.

20 (ii) The president of the police jury, the president of the parish council, the  
21 mayor of the municipality, or a person designated to act on behalf of the governing  
22 authority of any other political subdivision, shall declare that an extreme emergency  
23 exists and shall cause such declaration to be published in the official journal within  
24 ten days or as soon as practicable thereafter.

25 (c) This Section shall not apply with respect to repairs administered by the  
26 office of facility planning and control for addressing damage caused by Hurricanes  
27 Katrina and Rita. However, the office of facility planning and control shall not be  
28 allowed to negotiate such projects, but shall be required to publicly advertise such  
29 projects in the official journal of the locality of the project and in the state's official  
30 journal. Public bids may be taken in a minimum of ten days after advertisement of

1 such projects. However, if there are no bidders for such projects, the office of facility  
 2 planning and control may enter into competitive bidding negotiations with no fewer  
 3 than two contractors.

4 (2) Limitations. (a) Every contract negotiated by a public entity under the  
 5 authority of this Subsection shall be supported by a written determination and  
 6 findings by the public entity justifying use of the authority.

7 (b) When contract action under this authority is taken pursuant to telephone  
 8 or other oral offers, a written confirmation of the accepted offer shall be obtained and  
 9 made a part of the contract case file. In addition, whenever contract action is taken  
 10 as authorized by this Subsection, a record shall be established by the public entity  
 11 which shall contain, as a minimum, the following information with respect to each  
 12 offer: a description of the work to be performed, the name and address of each  
 13 offeror quoting, and the performance time and terms of each offer. If quotations  
 14 lower than the accepted quotation are received, the reasons for their rejection shall  
 15 be recorded and made a part of the contract case file. Such records shall be retained  
 16 for a minimum of six years following the purchase or completion of the public work.

17 ~~(3) Notwithstanding any other law to the contrary, for the project to enclose~~  
 18 ~~approximately five hundred feet of Corporation Canal that runs adjacent to the~~  
 19 ~~University Laboratory School on the Baton Rouge campus, which has been funded~~  
 20 ~~as an emergency through appropriation of funds by the Interim Emergency Board to~~  
 21 ~~Louisiana State University, East Baton Rouge Parish shall be authorized to assist in~~  
 22 ~~the project through use of its own employees to undertake such project.~~

23 E. Q. ~~(1)~~ A publicly owned utility, **as recognized by the Louisiana Public**  
 24 **Service Commission,** may undertake a public works project, other than construction  
 25 of a building, for the contract limit or less by either of the following methods:

26 ~~(a)~~ **(1)** Entry into contracts with or without public bid.

27 ~~(b)~~ **(2)** Use of the employees of the public entity owning the utility.

28 ~~R.~~~~(2)~~ Such ~~public~~ **Public** entities are herein prohibited from owning or  
 29 operating manufacturing **facilities or** plants ~~whereby such public entities that~~  
 30 **produce or** manufacture construction materials. ~~Any such facilities owned or~~

1           ~~operated prior to September 11, 1981, are excluded from these provisions.~~

2           S. (3) The provisions of this Section shall not prevent public entities from  
 3           using their regular maintenance employees for labor necessary in the maintenance,  
 4           construction, or extension of publicly owned and operated electric public utilities.  
 5           With respect to the construction or extension of all other public utilities, the  
 6           provisions of this Section shall not prevent public entities from using their regular  
 7           maintenance employees when the cost of the work per project does not exceed one  
 8           hundred **fifty** thousand dollars, including labor and materials. All purchases of  
 9           materials or supplies exceeding the ~~sum~~ **contract limit** provided for in ~~Subsection~~  
 10          ~~A~~ of this Section shall be let by public bid as provided in this Part.

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

17          (2) Wherever ~~in specifications~~ **a public entity specifies** the name of a certain  
 18          brand, make, manufacturer, or **uses a** definite specification ~~is utilized~~, the  
 19          ~~specifications~~ **bidding documents** shall state clearly that they are used only to  
 20          denote the quality standard of product desired and that they do not restrict bidders  
 21          to the specific brand, make, manufacturer, or specification named; that they are used  
 22          only to set forth and convey to prospective bidders the general style, type, character,  
 23          and quality of product desired; and that equivalent products ~~will~~ **may** be acceptable.  
 24          It shall be the responsibility of the professionally employed architect or engineer to  
 25          determine what is considered an equivalent product on any and all projects in which  
 26          he has been legally employed to perform his professional services.

27          U. G. ~~Notwithstanding the provisions of Subsection M of this Section relative~~  
 28          ~~to the financing of public works contracts by a contractor, public~~ **Public** entities are  
 29          ~~hereby authorized to~~ **may** enter into ~~professional~~ maintenance contracts for the repair  
 30          and maintenance of ~~water storage tanks~~ **public facilities** owned, controlled, or

1 operated by a public entity for a fixed annual fee. Such contracts shall extend for a  
 2 duration of not less than two years. Any such contract entered into by a public entity  
 3 shall include a nonappropriation clause and shall not be considered a debt of the  
 4 public entity. Such a ~~professional~~ maintenance contract shall not be considered a  
 5 public works contract.

6 ~~H.~~ V. Under no circumstances shall there be a division or separation of any  
 7 public work project into smaller projects which division or separation would have  
 8 the effect of avoiding the requirement that public work be advertised and let by  
 9 contract to the lowest responsible **and responsive** bidder as provided in this Section.

10 ~~F.~~ W. (1) This Section shall not apply to labor necessary for the maintenance  
 11 of public works built and completed.

12 (2) Volunteer citizen labor used for the construction of a project which is  
 13 funded by the Louisiana Community Development Block Grant Louisiana Small  
 14 Town Environment Program shall not be subject to the requirements of this Section.  
 15 However, the value of the donated volunteer service shall not be used as a  
 16 component of any bid if the public work has to be bid or to determine which is the  
 17 lowest responsible **and responsive** bid.

18 ~~J.~~ X.(1) If the public entity letting the contract proposes to disqualify any  
 19 bidder, **either as a potential bidder or as the low bidder**, on grounds that such  
 20 bidder is not a "responsible bidder" such public entity shall **do all of the following**:

21 ~~(1)~~ (a) Give written notice of the proposed ~~disqualification~~ **action** to such  
 22 bidder and include in the written notice all reasons for the proposed ~~disqualification~~  
 23 **action**; ~~and~~ .

24 ~~(2)~~ (b) Give ~~such bidder~~, **the bidder** who is proposed to be disqualified the  
 25 opportunity to be heard at an informal hearing at which such bidder is afforded the  
 26 opportunity to refute the reasons for the ~~disqualification~~ **proposed action**.

27 **(2) The informal hearing shall be conducted prior to award of the public**  
 28 **work.**

29 **(3) The informal hearing shall be a condition precedent to any action by**  
 30 **the bidder adverse to the public entity, its representatives, employees, and**

1 designers.

2 (4) The informal hearing shall be conducted by the public entity not later  
 3 than five business days after the date of the notice of disqualification of such  
 4 bidder. The public entity shall issue a ruling in writing and deliver it to the  
 5 affected bidder not later than five business days after the date of the informal  
 6 hearing.

7 (5) No award of the contract for the public work shall be made by the  
 8 public entity prior to the expiration of at least five working days following the  
 9 date of issuance of the decision by the hearing official.

10 (6) The provisions of this Subsection shall not apply to such actions of the  
 11 Department of Transportation and Development.

12 ~~K. Repealed by Acts 1999, No. 768, §2.~~

13 ~~L. Repealed by Acts 1999, No. 768, §2.~~

14 ~~M~~ Y. No public entity shall enter into a contract for the purpose of public  
 15 works with a contractor who then finances the project. Under no circumstances shall  
 16 the agreement of a contractor to finance a public works project be used in any way  
 17 to avoid the requirement that public work be advertised and let by contract to the  
 18 lowest responsible **and responsive** bidder as provided in this Section.

19 ~~N. Repealed by Acts 1999, No. 768, §2.~~

20 ~~Ø. Whenever evidence of agency, corporate, or partnership authority is~~  
 21 ~~required for submission of a bid to a public entity, such fact shall be contained in the~~  
 22 ~~bid documents and such proof shall be provided in accordance with the provisions~~  
 23 ~~of this Section. The authority of the signature of the person submitting the bid shall~~  
 24 ~~be deemed sufficient and acceptable if any of the following conditions are met:~~

25 ~~(1) The signature on the bid is that of any corporate officer listed on the most~~  
 26 ~~current annual report on file with the secretary of state, or the signature on the bid~~  
 27 ~~is that of any member of a partnership or partnership in commendam listed in the~~  
 28 ~~most current partnership records on file with the secretary of state.~~

29 ~~(2) The signature on the bid is that of an authorized representative of the~~  
 30 ~~corporation, partnership, or other legal entity and the bid is accompanied by a~~

1 corporate resolution, certification as to the corporate principal, or other documents  
2 indicating authority which are acceptable to the public entity.

3 (3) ~~The corporation, partnership, or other legal entity has filed in the~~  
4 ~~appropriate records of the secretary of state or the clerk of court of the parish in~~  
5 ~~which the public entity is located, an affidavit, resolution, or other acknowledged or~~  
6 ~~authentic document indicating the names of all parties authorized to submit bids for~~  
7 ~~public contracts. Such document on file with the secretary of state or the clerk of~~  
8 ~~court shall remain in effect and shall be binding upon the principal until specifically~~  
9 ~~rescinded and canceled from the records of the respective offices.~~

10 P. ~~Repealed by Acts 1999, No. 768, §2.~~

11 Q. ~~Repealed by Acts 1999, No. 768, §2.~~

12 R.(1) ~~In the bid selection process for any contract for a public work or for all~~  
13 ~~purchases of materials and supplies exceeding the sum of fifteen thousand dollars to~~  
14 ~~be paid out of public funds under the provisions of this Chapter, any public entity~~  
15 ~~may include bid selection provisions in bid documents relative to participation in a~~  
16 ~~mentor-protégé program as provided by R.S. 51:1753.1.~~

17 (2) ~~In determination of compensation, the agency may provide for additional~~  
18 ~~incentives for mentor-protégé participants for any contract which provides incentives~~  
19 ~~for work performed or deliveries completed ahead of schedule. Incentives for~~  
20 ~~mentor-protégé participants shall be not less than five percent greater than incentives~~  
21 ~~awarded to persons who are not participants in the program.~~

22 (3) ~~Advertisements for bids must specify bid selection and incentive~~  
23 ~~provisions for mentor-protégé participation.~~

24 (4) ~~Political subdivisions may participate in the mentor-protégé program as~~  
25 ~~provided by R.S. 51:1753.1 or may adopt a program to provide for incentives in the~~  
26 ~~bid selection process or incentives for participation.~~

27 S. **Z.** The provisions of this Section shall not apply to purchases of materials  
28 and supplies by contractors awarded public works contracts by a public entity; or to  
29 subcontractors of ~~said~~ **such** contractors, who have been appointed or designated  
30 agents for the purchase of materials and supplies to be incorporated into a public

1 work pursuant to a contract properly bid in accordance with this Chapter when acting  
2 pursuant to said appointment or designation.

3 \* \* \*

4 §2212.5. Prequalified bidders

5 Except for construction or repair of roads and bridges and those contractors  
6 providing materials and supplies for construction or repair of roads and bridges, the  
7 division of administration may prequalify bidders for historic restoration projects  
8 funded by the state. The division of administration shall promulgate rules and  
9 regulations setting forth procedures for such prequalification. Historic restoration  
10 projects as used herein means repairs, renovations, or reconstruction of state-owned  
11 structures which are listed on the National Register of Historic Places or state-owned  
12 structures which are eligible for inclusion on the National Register ~~and shall also~~  
13 ~~include the renovation of the Louisiana State University Student Union on the Baton~~  
14 ~~Rouge campus, which has been acknowledged as a Nationally Recognized~~  
15 ~~Architectural Building that is recognized by the American Institute of Architects as~~  
16 ~~having received an Honor Award from the Gulf States Region.~~ After the division of  
17 administration has prequalified such bidders, only prequalified bidders may submit  
18 bids on those designed projects, and the contracts on those designated projects shall  
19 be awarded to the prequalified bidder submitting the lowest responsible **and**  
20 **responsive** bid; ~~which bid for the renovation project of the Louisiana State~~  
21 ~~University Student Union on the Baton Rouge campus only may be for overhead and~~  
22 ~~profit or lump sum. Prior to the execution of the contract for the renovation project~~  
23 ~~of the Louisiana State University Student Union on the Baton Rouge campus, it shall~~  
24 ~~be submitted to the Joint Legislative Committee on the Budget for review and~~  
25 ~~approval.~~

26 \* \* \*

27 §2212.10. Verification of employees involved in contracts for public works

28 \* \* \*

29 C. A private employer shall not bid on or otherwise contract with a public  
30 entity for the physical performance of services within the state of Louisiana unless

1 the private employer verifies in a sworn affidavit attesting to both of the following:

2 (1) The private employer is registered and participates in a status verification  
3 system to verify that all new employees in the state of Louisiana are legal citizens  
4 of the United States or are legal aliens.

5 \* \* \*

6 G. In the event the status verification system expires and extensions are not  
7 approved by the federal government, the provisions of this Section shall no longer  
8 apply. The executive director of the Louisiana Workforce Commission shall  
9 provide written notification to the Louisiana State Law Institute if the status  
10 verification system expires and extensions are not approved by the federal  
11 government.

12 \* \* \*

13 §2215. Time period for holding bids; issuance of work orders to commence work;  
14 exceptions

15 A. ~~The state or any state agency upon receipt of bids for the undertaking of~~  
16 ~~any public works contract~~ A public entity shall act within thirty not later than  
17 forty-five calendar days of such receipt after the date of opening bids to award said  
18 such public works contract to the lowest responsible and responsive bidder or to  
19 reject all bids. ~~A political subdivision upon receipt of bids for the undertaking of any~~  
20 ~~public works contract shall act within forty-five calendar days of such receipt to~~  
21 ~~award said contract to the lowest responsible bidder or reject all bids.~~ However, the  
22 public entity and the lowest responsible and responsive bidder, by mutually written  
23 consent, may agree to extend the deadline for award by one or more extensions of  
24 thirty calendar days.

25 B. If the lowest responsible and responsive bidder has timely provided  
26 all documents required by R.S. 38:2212, and no injunction or temporary  
27 restraining order is in effect, the lowest responsible and responsive bidder and  
28 the public entity shall execute the contract not later than sixty calendar days  
29 after the date of the public entity's award of the contract to the lowest  
30 responsible and responsive bidder.

1                    **C. The public entity shall issue to the contractor a notice to proceed with**  
 2                    **the project or work order not later than thirty calendar days following the date**  
 3                    **of execution of the contract by both parties, whichever execution date is later.**  
 4                    **However, the public entity and the contractor, upon mutual written consent of**  
 5                    **both parties, may agree to extend the deadline to issue the notice to proceed.**

6                    **D.** The provisions of this Section shall not be applicable when the contract  
 7                    is to be financed by bonds which are required to be sold after ~~receipt~~ **opening** of bids  
 8                    on the contract, or when the contract is to be financed in whole or in part by federal  
 9                    or other funds which will not be readily available at the time bids are ~~received~~  
 10                   **opened**, or on contracts which require a poll of the legislature **Legislature** of  
 11                   Louisiana before funds are available to fund the contract. ~~In the event the~~ **If any** time  
 12                   limit stipulated ~~herein~~ **in this Section** is not applicable because of one of the  
 13                   exceptions outlined ~~above~~ **in this Subsection**, this fact shall be mentioned in the  
 14                   specifications **bidding documents** for the project and in the official advertisement  
 15                   for bids required in accordance with R.S. 38:2212.

16                   ~~C. If the contractor has provided all necessary documents to the public entity~~  
 17                   ~~within ten days of the opening of bids and no bid challenge has been submitted to the~~  
 18                   ~~public entity, the contractor and public entity shall execute the contract not later than~~  
 19                   ~~forty-five days from the public entity's acceptance of the lowest responsible bid.~~

20                   ~~D. Upon the execution of the contract, the public entity, within thirty days~~  
 21                   ~~thereafter, shall issue to the contractor a notice to proceed with the project. However,~~  
 22                   ~~upon mutual consent by both parties, the notice to proceed may be extended.~~

23                   E. These provisions shall not be subject to waiver.

24                   \*           \*           \*

25                   §2225. Preference in letting contracts for public work

26                   A. ~~Repealed by Acts 1984, No. 894, §3, eff. July 1, 1987.~~

27                   ~~B.~~ If a nonresident contractor bidding on public work in the state of Louisiana  
 28                   is domiciled in a state that provides a percentage preference in favor of contractors  
 29                   domiciled in that state over Louisiana resident contractors for the same type of work,  
 30                   then every Louisiana resident contractor shall be granted the same preference over

1 contractors domiciled in the other state favoring contractors domiciled therein  
2 whenever the nonresident contractor bids on public work in Louisiana.

3 ~~C.~~ **B.** Any local law, either by legislative act or otherwise, ordinance, or  
4 executive order enacted prior to the effective date of this Act, or enacted hereinafter  
5 in conflict with this Section, or granting any local contractor or subcontractor  
6 preference over other Louisiana resident contractors shall be contrary to the  
7 provision of this Section.

8 **C. The Department of Transportation and Development and the office**  
9 **of facility planning and control within the division of administration shall keep**  
10 **on file a list of all states with a bid preference.**

11 D. The provisions and requirements of this Section shall not be waived by  
12 any public entity.

13 \* \* \*

14 §2241.1. Acceptance of governing authority

15 ~~A. Whenever the~~ **When any** public entity enters into a **written** contract for  
16 the construction, alteration, or repair of any public works, in accordance with the  
17 provisions of R.S. 38:2241, the official representative of the public entity shall have  
18 recorded in the office of the recorder of mortgages, in the parish where the work has  
19 been done, an acceptance of ~~said~~ **such** work or of any specified area ~~thereof~~ **of such**  
20 **work, upon not later than thirty calendar days after the date of completion or**  
21 ~~substantial completion of the~~ **such** work. ~~Those public entities which do not file said~~  
22 ~~recordation, shall require the contractor to have recorded in the office of the recorder~~  
23 ~~of mortgages, in the parish where the work has been done, an acceptance of said~~  
24 ~~work or of any specified area thereof upon substantial completion of the work. This~~  
25 ~~acceptance shall not be executed except upon the recommendation of the architect~~  
26 ~~or engineer of the public entity whose recommendation may be made upon~~  
27 ~~completion or substantial completion of said public works within thirty days of~~  
28 ~~completion of the project.~~

29 **B.** "Substantial completion" is defined for the purpose of this Chapter, as the  
30 finishing of construction, in accordance with the contract documents as modified by

1 any change orders agreed to by the parties, to the extent that the public entity can use  
2 or occupy the public works or use or occupy the specified area of the public works  
3 for the use for which it was intended. The recordation of an acceptance in accordance  
4 with the provisions of this Section upon substantial completion shall be effective as  
5 an acceptance for all purposes under this Chapter.

6 **C. Any public entity that does not file for recordation an acceptance of**  
7 **public work, shall require the contractor to have recorded in the office of the**  
8 **recorder of mortgages, in the parish where the work has been done, an**  
9 **acceptance of such work or of any specified area of such work, not later than**  
10 **forty-five calendar days after the date of completion or substantial completion**  
11 **of the work. This acceptance shall not be executed except upon the**  
12 **recommendation of the design professional hired by the public entity whose**  
13 **recommendation may be made not later than thirty calendar days after the date**  
14 **of completion or substantial completion of such public work.**

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_