

Guidance for Public Works Bids During COVID-19 Emergency

On April 2, 2020 the Governor extended the dates of the declared emergency which addressed Public Works Bids under Title 38 of the Revised Statutes. Executive Counsel for the Division of Administration, the State's department that oversees State Public Works projects also forwarded a memo to LMA Executive Counsel, Karen White, clarifying the meaning of "suspension of deadlines" as that those suspensions relate to Public Works bids. His interpretation allows local government to proceed with Public Works bids.

The relative quote is as follows:

There has been some question regarding the intent of the Proclamation as to the continuation of Title 38 public works projects during the State of Emergency for COVID-19 and how the suspension would apply to public works projects that are not directly addressing the COVID – 19 pandemic or response thereto.

The intent of Proclamation Numbers JBE 2020 – 30 and 41 was to ensure for the continued procurement of essential public works projects across the state for the protection of the state's critical infrastructure during the COVID – 19 outbreak. To the extent that direct and indirect impacts of COVID – 19 prevent the strict compliance with the statutory deadlines of the Public Bid Law or its corresponding rules and regulations, then such deadlines are suspended and strict procedural or logistical compliance therewith is not necessary.

Suspending certain provisions in the Public Bid Law gives flexibility to public officials so that they may continue business operations and move projects forward. The provisions include, but are not limited to the following activities: (1) extending deadlines to receive bids; (2) using alternative methods of conducting conferences, submitting, opening and awarding bids due to state offices being closed to the public; (3) extending post-bid opening requirements including submission of additional information, award and extension of contracts, and notices to proceed etc.

(Richard McGimsey, Executive Counsel, DOA April 6, 2020)

Based on Mr. McGimsey's interpretation of the Executive Order, the LMA and LaMATS defer to his interpretation. Our membership and those who rely on our advice and technical assistance should proceed with public works bids in accordance with the enclosed interpretation. We are very grateful to Mr. McGimsey and the DOA for providing municipalities with this important clarification.

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