

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 CA 1024

L.L. & G. CONSTRUCTION, INC.

VERSUS

GREATER LAFOURCHE PORT COMMISSION  
AND CHET CHIASSON IN HIS OFFICIAL CAPACITY AS  
EXECUTIVE DIRECTOR OF THE GREATER LAFOURCHE  
PORT COMMISSION

*JML*  
Judgment Rendered: MAY 03 2012

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Appealed from the  
17th Judicial District Court  
In and for the Parish of Lafourche  
State of Louisiana  
Case No. 117,163

The Honorable F. Hugh Larose, Judge Presiding

\*\*\*\*\*

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BEFORE: GAIDRY, McDONALD, AND HUGHES, JJ.

*EOB Gaidry, J - dissents with reasons  
Hughes, J - concurs with reasons.*

**McDONALD, J.**

An unsuccessful bidder for a public works project appeals a judgment dismissing its petition for injunctive relief and mandamus, challenging the public entity's award of the contract to another bidder. For the following reasons, we affirm the trial court's judgment.

**FACTS AND PROCEDURAL HISTORY**

The Greater Lafourche Port Commission is a political subdivision of the state.<sup>1</sup> On December 28, 2010, the Port Commission published an advertisement soliciting bids for a bulkhead repair project. The deadline for submission of bids and the bid opening were set for 10:00 a.m. on January 27, 2011. The Port Commission's advertisement for bids included "Information for Bidders" (IFB), which required that each bidder's completed bid form be accompanied by a bid bond in favor of the Port Commission and the power of attorney of any attorney-in-fact or agent signing on behalf of the bond surety. The IFB also contained the following provision:

ADDITIONAL SUBMITTALS:

No paperwork other than the Bid Form and Bid Bond are required to be turned in by the bid opening deadline. However, as stated on the Bid Form, if someone other than a corporate officer signs for the Bidder/Contractor, a copy of a corporate resolution or other signature authorization shall be required for submission of bid. *In addition, within 48 hours of the bid opening, all Bidders shall submit an attestation clause as included in these Specifications attesting to any possible past criminal convictions.* (Emphasis added.)

To allow bidders to comply with the above italicized requirement, the Port Commission's specifications included a one-page form entitled "Attestation Clause Required By La. R.S. 38:2227 (Past Criminal Convictions of Bidders)." Seven bids were submitted. Six bidders

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<sup>1</sup> See La. R.S. 34:1651, *et seq.*

submitted the criminal record attestation form with their bid documents, while one, LL&G Construction, Inc., initially submitted its attestation form by e-mail at 4:14 p.m. on January 31, 2011, after the expiration of 48 hours from the bid opening.<sup>2</sup>

LL&G's bid was the lowest monetary bid. The Port Commission rejected its bid because its criminal record attestation was submitted late, beyond the IFB's 48-hour deadline. The second lowest monetary bid was rejected because the bidder failed to include a certified copy of the power of attorney for the agent signing its bid bond on behalf of the surety. On February 9, 2011, the Port Commission awarded the contract to the bidder with the third lowest monetary bid.

On February 24, 2011, LL&G filed the instant suit seeking injunctive relief and issuance of a mandamus, naming the Port Commission and its executive director as defendants. LL&G alleged that it was the lowest responsible bidder for the project, that its criminal record attestation was submitted timely according to the IFB's terms, that no other bidder complied with the requirements of La. R.S. 38:2227, and that the Port Commission violated the Louisiana Public Bid Law by awarding the contract to the third lowest bidder, rather than to LL&G. In the alternative, in the event that LL&G's attestation was determined to be untimely, it alleged that all bids should have been rejected, based upon all bidders' noncompliance with La. R.S. 38:2227. The trial court set the hearing on LL&G's request for a preliminary injunction and mandamus for March 17, 2011.

At the beginning of the hearing, the parties stipulated to the authenticity and admissibility of all exhibits attached to their memoranda and to the fact that LL&G's attestation was not submitted within 48 hours of

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<sup>2</sup> The Port Commission physically received LL&G's executed attestation form on February 1, 2011.

the opening of bids. The parties further agreed that the hearing would resolve all legal issues relating to LL&G's request for both preliminary and permanent injunctive relief. Following argument of counsel, the trial court ruled in favor of the Port Commission, dismissing LL&G's petition with prejudice.

LL&G appeals, limiting the relief sought to a determination of whether injunctive relief and mandamus should have been granted, ordering the Port Commission to reject all bids as nonresponsive and thereby requiring re-advertisement for bids and submission of new bids for the project at issue.

### **ASSIGNMENTS OF ERROR**

LL&G contends the trial court erred in the following respects:

1. The trial court erred in failing to apply the plain language of La. R.S. 38:2212(A)(1)(b) and 38:2227;
2. The trial court erred in holding that bidders are not required to comply with the Louisiana Public Bid Law's statutory requirements;
3. The trial court erred in failing to apply the Louisiana Public Bid Law's statutory requirements to the IFB;
4. The trial court erred in its interpretation and application of La. R.S. 38:2212 and 2227.

### **DISCUSSION**

The Public Bid Law, set forth in La. R.S. 38:2211-2227, mandates that public work exceeding the sum of \$150,000.00 per project, including labor, materials, and equipment, must be contracted through a public bid process to the lowest responsible bidder. La. R.S. 38:2212(A)(1)(a), (d), and (B). The provisions and requirements of La. R.S. 38:2212, those stated in the advertisement for bids, and those required on the bid form shall not be waived by any entity. La. R.S. 38:2212(A)(1)(b)(i).

At all times applicable to this action, La. R.S. 38:2212(A)(1)(b)(ii)(aa) directed the state division of administration to develop a uniform bid form for the public bid of public works projects that required “only the information necessary to determine the lowest bidder and the following sections and information: Bid Security or Bid Bond, Acknowledgment of Addenda, Base Bid, Alternates, Bid Total, Signature of Bidder, Name, Title and Address of Bidder, Name of Firm or Joint Venture, Corporate Resolution and Louisiana Contractors License Number . . . .” Subsection (A)(1)(b)(ii)(bb) provided that “[o]ther documentation and information required shall be furnished by all bidders at a later date and time, in accordance with the Bidding Documents.” (Emphasis added.)<sup>3</sup>

Thus, under the relevant version of La. R.S. 38:2212, an entity soliciting bids for a public works project could only require bidders to provide specific documentation with its bid. If the entity required “other documentation and information,” the entity’s Bidding Documents had to specify a later date and time by which all bidders were required to furnish such “other documentation and information.”

In 2010, the Louisiana legislature amended Louisiana’s Public Bid Law by enacting La. R.S. 38:2227, which requires that bidders on public works projects submit a criminal record attestation, in addition to the

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<sup>3</sup> Similarly, at all times at issue here, La. R.S. 38:2212(A)(3)(c)(ii) provided as follows, in pertinent part:

The bid form shall contain Bid Security or Bid Bond, Acknowledgment of Addenda, Base Bid, Alternates, Bid Total, Signature of Bidder, Name, Title and Address of Bidder, Name of Firm or Joint Venture[,] Corporate Resolution and Louisiana Contractors License Number . . . . *Other documentation required shall be furnished by all bidders at a later date and time, in accordance with the Bidding Documents. . . .*  
(Emphasis added.)

By Acts 2011, No. 281, §1, effective August 15, 2011, the emphasized language in both subsections (A)(1)(b)(ii)(bb) and (A)(3)(c)(ii) was changed to require that the other information or documentation generally “shall be furnished by the low bidder within ten days after the bid opening.”

information required by La. 38:2212. Section A of La. R.S. 38:2227 provides:

*Each public entity advertising and letting for bid a public works contract shall require each bidder, in addition to the provisions of R.S. 38:2212(A)(3)(c)(ii), after the opening of bids, if a sole proprietor, to attest that he has not been convicted of, or has not entered a plea of guilty or nolo contendere to any of the crimes or equivalent federal crimes listed in Subsection B of this Section. Each bidding entity shall submit an attestation that no individual partner, incorporator, director, manager, officer, organizer, or member, who has a minimum of a ten percent ownership in the bidding entity, has been convicted of, or has entered a plea of guilty or nolo contendere to any of the crimes or equivalent federal crimes listed in Subsection B of this Section. (Emphasis added.)*<sup>4</sup>

The primary issue in this appeal is the proper interpretation and effect of the time period set forth in La. R.S. 38:2227(A) for submission of the criminal record attestation. The statute does not set forth a definite time period for submission of the attestation, other than the general requirement that the public entity require each bidder, “after the opening of bids ... to attest ... .” In this case, the Port Commission’s IFB required all bidders to submit their criminal record attestation “within 48 hours of the bid opening.”

The starting point in the interpretation of any statute is the language of the statute itself. When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and

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<sup>4</sup> Notably, the wording of La. R.S. 38:2227(A) is less than artfully drafted. For example, it might be argued that the inclusion of the phrase, “after the opening of bids,” only in the sentence mentioning “a sole proprietor” serves to exempt other bidders from that requirement. Reading the statute as a whole, however, its overall intent is clear: *Each bidder*, whether a sole proprietor, or any other type of bidding entity (e.g., corporation, partnership, limited liability company, or unincorporated association) must submit a criminal record attestation attesting that neither the bidder (if a sole proprietor), nor any principal having a proprietary interest of 10% or more, has been convicted of or pleaded guilty to any of the crimes listed in Subsection B. The second sentence of La. R.S. 38:2227(A), stating that “[e]ach bidding entity shall submit an attestation,” obviously refers to the same type of attestation required of the “sole proprietor” in the first sentence. In short, it is clear that each bidder must submit the same form of attestation, relating to each principal with ownership of 10% interest or more, subject to the same time requirement. This interpretation is implicitly corroborated by the format of the “Attestation Clause” form supplied by the Port Commission to bidders, which contains no special directive requiring only sole proprietors to submit their attestations after the opening of bids.

no further interpretation may be made in search of the intent of the legislature. **In re Clegg**, 10-0323 (La. 7/6/10), 41 So.3d 1141, 1154. The meaning and intent of a law is determined by considering the law in its entirety, and all other laws on the same subject matter, and by placing a construction on the law that is consistent with the express terms of the law and with the obvious intent of the legislature in enacting the law. **Id.** Questions of law, such as the proper interpretation of a statute, are reviewed by this court under a *de novo* standard of review. **Saizan v. Pointe Coupee Parish School Board**, 2010-0757 (La. App. 1 Cir. 10/29/10), 49 So.3d 559, 564, writ denied, 2010-2599 (La. 1/14/11), 52 So.3d 905.

In its reasons for judgment, the trial court noted that La. R.S. 38:2212 limited public works bid packages to specific documentation. The court concluded the legislature's purpose in requiring that bidders furnish the La. R.S. 38:2227 attestation "after the opening of the bids" was to ensure that this newly enacted requirement remain in compliance with La. R.S. 38:2212's mandate that public works bid packages be limited to specific documentation only, and that all "other documentation" required from bidders by the public entity (in this case, the criminal record attestation) be furnished at a later date and time. The court went on to conclude that, although the Port Commission could not by law require bidders to submit the attestation forms contemporaneously with their bids, La. R.S. 38:2227's temporal requirement likewise did not prohibit the bidders from doing so. The court also found that the Port Commission's 48-hour period for providing the attestation forms had "no commencement point" in time, or point where submission would be legally premature, but only a termination point or deadline of 48 hours after the opening of bids.

We agree with the trial court's interpretation and application of La. R.S. 38:2212 and 38:2227 in this case. After considering the Public Bid Law in its entirety, as well as the obvious intent of the legislature in enacting La. R.S. 38:2227, we likewise conclude that the Port Commission's award of the bid herein to a bidder who submitted its criminal record attestation with its bid documents, did not violate either the applicable statutory or bid document requirements.

The judgment of the trial court is affirmed. All costs of this appeal are assessed to LL&G Construction, Inc.

**AFFIRMED.**



STATE OF LOUISIANA

COURT OF APPEAL

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VERSUS

GREATER LAFOURCHE PORT COMMISSION  
AND CHET CHIASSON IN HIS OFFICIAL CAPACITY AS  
EXECUTIVE DIRECTOR OF THE GREATER LAFOURCHE  
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**GAIDRY, J., dissenting.**

I respectfully dissent. Proper application of the Public Bid Law requires the reversal of the trial court's judgment, given the underlying facts.

The primary issue in this appeal is the proper interpretation and effect of the time period set forth in La. R.S. 38:2227(A) for submission of the criminal record attestation required of bidders on public works projects. That statute, part of Louisiana's Public Bid Law, was enacted by Acts 2010, No. 945, § 1. Subsection A provides:

*Each public entity advertising and letting for bid a public works contract shall require each bidder, in addition to the provisions of R.S. 38:2212(A)(3)(c)(ii), after the opening of bids, if a sole proprietor, to attest that he has not been convicted of, or has not entered a plea of guilty or nolo contendere to any of the crimes or equivalent federal crimes listed in Subsection B of this Section. Each bidding entity shall submit an attestation that no individual partner, incorporator, director, manager, officer, organizer, or member, who has a minimum of a ten percent ownership in the bidding entity, has been convicted of, or has entered a plea of guilty or nolo contendere to any of the crimes or equivalent federal crimes listed in Subsection B of this Section. (Emphasis added.)*

The starting point in the interpretation of any statute is the language of the statute itself. When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature. *In re Clegg*, 10-0323, pp. 20-21 (La. 7/6/10), 41 So.3d 1141, 1154. The meaning and intent of a law is determined by considering the law in its entirety and all other laws on the same subject matter and by placing a construction on the law that is consistent with the express terms of the law and with the obvious intent of the legislature in enacting the law. *Id.*, 10-0323 at p. 21, 41 So.3d at 1154.

Louisiana's Public Works Act, La. R.S. 38:2181, *et seq.*, incorporates the Public Bid Law, set forth in La. R.S. 38:2211-2227. The Public Bid Law is a prohibitory law founded on public policy. *Hamp's Constr., L.L.C. v. City of New Orleans*, 05-0489, p. 4 (La. 2/22/06), 924 So.2d 104, 107, citing *Broadmoor, L.L.C. v. Ernest N. Morial New Orleans Exhibition Hall Auth.*, 04-0211, p. 6 (La. 3/18/04), 867 So.2d 651, 656. The Public Bid Law was enacted in the interest of the taxpaying citizens and has for its purpose their protection against contracts of public officials entered into because of favoritism and involving exorbitant and extortionate prices. *Id.* A political entity has no authority to take any action that is inconsistent with the Public Bid Law. *Id.*

The Public Bid Law mandates that public work exceeding the sum of \$150,000.00 per project, including labor and materials, must be contracted through a public bid process to the lowest responsible bidder. La. R.S. 38:2212(A)(1)(a) and (B). The provisions and requirements of La. R.S. 38:2212, those stated in the advertisement for bids, and those required on the bid form shall not be waived by any entity. La. R.S. 38:2212(A)(1)(b)(i).

Louisiana Revised Statutes 38:2227(A) does not set forth a definite time period for submission of the criminal record attestation, other than the general requirement that the public entity require each bidder “after the opening of bids, . . . to attest . . . .” At all times applicable to this action, La. R.S. 38:2212(A)(1)(b)(ii)(aa) directed the state division of administration to develop a uniform bid form, to “require only the information necessary to determine the lowest bidder and the following sections and information: Bid Security or Bid Bond, Acknowledgment of Addenda, Base Bid, Alternates, Bid Total, Signature of Bidder, Name, Title and Address of Bidder, Name of Firm or Joint Venture, Corporate Resolution and Louisiana Contractors License Number . . . .” Subsection (A)(1)(b)(ii)(bb) provided that “[o]ther documentation and information required shall be furnished by all bidders at a later date and time, in accordance with the Bidding Documents.” (Emphasis added.)<sup>1</sup> The “bidding documents” are defined by La. R.S. 38:2211(A)(2) as “the bid notice, plans and specifications, bidding form, bidding instructions, addenda, special provisions, and all other written instruments prepared by or on behalf of a public entity for use by prospective bidders on a public contract.” In this matter, the IFB contained the “bidding instructions” for prospective bidders.

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<sup>1</sup> Similarly, at all times at issue here, La. R.S. 38:2212(A)(3)(c)(ii) provided as follows, in pertinent part:

The bid form shall contain Bid Security or Bid Bond, Acknowledgment of Addenda, Base Bid, Alternates, Bid Total, Signature of Bidder, Name, Title and Address of Bidder, Name of Firm or Joint Venture[,] Corporate Resolution and Louisiana Contractors License Number . . . . *Other documentation required shall be furnished by all bidders at a later date and time, in accordance with the Bidding Documents. . . .*

(Emphasis added.) By Acts 2011, No. 281, § 1, effective August 15, 2011, the emphasized language in both subsections (A)(1)(b)(ii)(bb) and (A)(3)(c)(ii) was changed to require that the other information or documentation generally “shall be furnished by the low bidder within ten days after the bid opening.”

In *Hamp's Construction*, our supreme court extensively reviewed the prior jurisprudence and the legislative history of La. R.S. 38:2212(A)(1)(b), now La. R.S. 38:2212(A)(1)(b)(i). The court noted that prior to the statute's original enactment, the courts had held that the Public Bid Law forbade "the rejection of bids for matter of form and that a variation of substance must exist in the bid in order for the bid to be rejected. *Id.*, 05-0489 at p. 5, 924 So.2d at 108. The court further observed that in its earlier *Broadmoor* decision, *supra*, it recognized that the substance-form distinction previously applied by the courts was legislatively overruled by the addition of La. R.S. 38:2212(A)(1)(b) in 1984 and by subsequent amendments through 2001. *Hamp's Constr.*, 05-0489 at pp. 7-8, 924 So.2d at 109. In conclusion, the supreme court summarized the basic principle of its holding as follows:

In accordance with the express and unambiguous language of La. R.S. 38:2212A(1)(b), any requirements of the Public Bid Law, any requirements stated in the advertisement for bid, and any requirements required on the bid form shall not be waived by the public entity. The public entity does not have the discretion to determine, after bids have been submitted, whether a requirement is substantive or non-substantive, waivable or non-waivable. Once the public entity establishes a requirement, that requirement must be uniformly followed by all bidders.

*Hamp's Constr.*, 05-0489 at p. 10, 924 So.2d at 110-11 (footnotes omitted).

Thus, any deviation from bidding requirements must be determined by a purely objective analysis, and all such deviations found are by definition given substantive effect.

Citing La. C.C. art. 1780, the Port Commission argues that because the requirement of submission of the attestations after opening of bids was intended to benefit the bidders, the bidders (as opposed to the Port Commission) could validly waive that benefit, renounce the 48-hour term for compliance, and submit their attestations with their bids, prior to the opening

of bids.<sup>2</sup> I disagree with the legal basis of that proposition. As previously observed, the Public Bid Law forms part of the Public Works Act. The Public Works Act, including the Public Bid Law, is *sui generis*, preempting the general law of obligations and contracts, and provides exclusive remedies to parties engaged in public construction work. See *Martinolich v. Albert*, 143 So.2d 745, 755 (La. App. 1st Cir. 1962), and *Glencoe Educ. Found., Inc. v. Clerk of Court & Recorder of Mortgages for Parish of St. Mary*, 10-1872, p. 14 (La. App. 1st Cir. 5/6/11), 65 So.3d 225, 233. Such being the case, the general contractual principles of the Louisiana Civil Code do not apply here. See *Glencoe Educ. Found., supra*.

It must be conceded that the wording of La. R.S. 38:2227(A) is less than artfully drafted. For example, it might be argued that the inclusion of the phrase, “after the opening of bids,” only in the sentence mentioning “a sole proprietor” serves to exempt other types of bidding entities from that requirement. Reading the statute as a whole, however, its overall intent is clear: *Each* bidder, whether a sole proprietor, corporation, partnership, limited liability company, or unincorporated association, must submit a criminal record attestation *after the opening of bids*, attesting that neither the bidder (if a sole proprietor) nor any principal having a proprietary interest of 10% or more has been convicted or pleaded guilty to any of the crimes listed in Subsection B. The second sentence of La. R.S. 38:2227(A), stating that “[e]ach bidding entity shall submit an attestation,” obviously refers to the same type of attestation required of the “sole proprietor” in the first sentence. In short, it is clear that each bidder must submit the same form of attestation, relating to each principal with ownership of 10% interest or more, subject to the same time requirement. This interpretation is implicitly

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<sup>2</sup> Louisiana Civil Code article 1780 provides that “[t]he party for whose exclusive benefit a term [for performance of an obligation] has been established may renounce it.”

corroborated by the format of the “Attestation Clause” form supplied by the Port Commission to bidders, which contains no special directive requiring only sole proprietors to submit their attestations after the opening of bids.<sup>3</sup>

Significantly, the statute directs the public entity to “require *each bidder, . . . after the opening of bids, to attest*” that the bidder or its principals have not been convicted or pleaded guilty to the listed crimes. (Emphasis added.) A plain reading of this requirement suggests that not only must the attestation document be submitted after the opening of bids, but also that the act of attestation must in fact be made or executed after the opening of bids. The language further suggests that the public entity cannot require, or even permit, the submission of the attestations prior to the bid opening.

The Port Commission’s IFB in fact required the submission, “within 48 hours *of* the bid opening,” of the attestations “*attesting* to any possible past criminal activities.” (Emphasis added.) The prepositional phrase, “within 48 hours of the bid opening,” sets a temporal limit for the submission of the attestations. The time period for submission is obviously closed by the expiration of 48 hours measured from the time of the fixed event, the bid opening. The most common usage and most reasonable interpretation of such a prepositional phrase is one in which the word “of” is equivalent to “after.” See La. R.S. 38:2214(C); see also, e.g., La. R.S. 17:15(E) and 33:1564(B). Additionally, the use of the present verb tense “attesting” in conjunction with the 48-hour deadline seems to comport with a

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<sup>3</sup> The Port Commission’s “Attestation Clause” form contains no instructions relating to the time for its submission and by its terms is equally applicable to sole proprietors and other business entities. It simply provides for the “Appearer, as a Bidder on the above-entitled Public Works Project,” to attest that “[n]o sole proprietor or individual partner, incorporator, director, manager, officer, organizer, or member who has a minimum of a [10%] ownership in the bidding entity” has been convicted or pleaded guilty or *nolo contendere* to any of the crimes listed in La. R.S. 38:2227(B).

statutory requirement of execution of the attestation after the opening of bids.

In the present context, however, it is not necessary to decide the issue of whether the attestation must be made or executed after the bid opening. It is undisputed that no bidder either executed or submitted an attestation within 48 hours “after the opening of bids”; accordingly, no bidder was compliant with the requirement of La. R.S. 38:2227(A) and with the parallel requirement of the IFB. Those requirements cannot be waived or disregarded under any circumstances, regardless of whether they could be considered as informalities or interpreted as not expressly prohibiting submission of the attestation with the bid. *See Hamp’s Constr.*, 05-0489 at p. 9, 924 So.2d at 110. Thus, all bids should have been rejected. As this court has previously stated:

The statutory requirements, advertisement requirements, and bid form requirements, including those included by reference to other documents, must be completely and accurately observed. The Public Bid Law could not be more clear in stating that a bidder’s failure to comply with every detail can invalidate the bid. The consequences of such defects should be on the bidder who prepares the bid. . . . There could never be any certainty for the public entity during the bid opening procedure if a court could simply second-guess the process and state that a particular kind of defect should have been waived.

*Barriere Constr. Co., L.L.C. v. Terrebonne Parish Consol. Gov’t*, 98-2910, pp. 8-9 (La. App. 1st Cir. 2/18/00), 754 So.2d 1123, 1127-28, *writ denied*, 00-0801 (La. 5/5/00), 761 So.2d 546.

Because La. R.S. 38:2227(A) requires the submission of the criminal record attestations *after* the opening of bids, the Port Commission could not waive that statutory requirement and accept attestations contemporaneously with the sealed bids, *prior* to the opening of bids. The attestations therefore constitute a mandatory category of documents that “*shall* be furnished by all

bidders at a later date and time, in accordance with the Bidding Documents.”  
*See* La. R.S. 38:2212(A)(1)(b)(ii)(bb) & (A)(3)(c)(ii). (Emphasis added.)  
Thus, the public entity’s bidding documents may not include them as either a mandatory or permissive part of the bid documents submitted contemporaneously with the bids.<sup>4</sup> The scope of this analysis should, by virtue of the foregoing, be limited to the attestations required by La. R.S. 38:2227, and should not extend to other categories of additional “documentation and information required.” *See* La. R.S. 38:2212(A)(1)(b)(ii)(bb) & (A)(3)(c)(ii).

The trial court couched its oral reasons for judgment in terms of a “logical” analysis, basing its decision on the conclusion that the other bidders gained no advantage by the technical prematurity of their attestation submissions. That conclusion may be true; however, the Public Bid Law has evolved through legislative change and interpretive jurisprudence to now require rigid adherence to its requirements, regardless of whether such formality might seem illogical or any deviation might reasonably be considered minor, insubstantial, or inconsequential for practical purposes. We should strictly follow the Public Bid Law’s clear directives to promote the important public policy embodied therein.

In summary, I dissent on the grounds that the judgment of the trial court should be reversed, and judgment rendered in favor of the plaintiff-appellant, L.L. & G. Construction, Inc., and against the defendants-appellees, enjoining them from proceeding with the public works project at

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<sup>4</sup> *Cf. Concrete Busters of La., Inc. v. Bd. of Comm’rs of the Port of New Orleans*, 10-1172, pp. 9-10 (La. App. 4th Cir. 2/2/11), 69 So.3d 484, 489, holding that addenda and acknowledgments of receipt of addenda were “bidding documents” under La. R.S. 38:2211(A)(2), and because the addenda required that the acknowledgment forms be returned with the bid, that requirement could not be waived and the forms could not be furnished “at a later date and time, in accordance with the Bidding Documents,” pursuant to La. R.S. 38:2212(A)(1)(b)(ii)(bb).



issue, and ordering the defendant-appellee, Chett Chiasson, in his official capacity, to reject all bids for the project.

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**L.L. & G. CONSTRUCTION, INC.**

**VERSUS**

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CHIASSON IN HIS OFFICIAL CAPACITY AS EXECUTIVE  
DIRECTOR OF THE GREATER LAFOURCHE PORT  
COMMISSION**



**HUGHES, J.**, concurring.

I respectfully concur in the result. The supreme court has mandated that the statute be strictly construed. There is no statutory prohibition against an entity, other than a sole proprietor, from submitting its attestation with its bid.