



# CITY OF KENNER

## PRESS RELEASE

**MICHAEL S. YENNI**  
MAYOR

*May 1, 2013*  
*For Immediate Release*

### **STATE ATTORNEY GENERAL AGREES WITH KENNER MAYOR'S DECISION TO VETO**

The state Attorney General's Office has agreed with the decision Kenner Mayor Michael Yenni made last week in vetoing a contract for PVC pipe from a company that was low bidder, but did not follow the state's bid law.

"Here, because the presumptive low bidder failed to comply with a bid requirement, the City of Kenner must reject the non-responsive bid," was the conclusion of a legal opinion issued Wednesday by Attorney General James "Buddy" Caldwell.

The contract for PVC pipe attracted three bids, including one from CIMSCO Inc. of Metairie. While CIMSCO offered the cheapest prices, the company also included a so-called "escalation clause" that would allow it to raise the bid prices. The bid specifications specifically required bidders to hold their price for the entire length of the contract. The other two bidders did not make the same mistake as CIMSCO. Because CIMSCO did not comply with the bid requirements, the administration recommended that the next lowest bidder be given the contract. Despite that recommendation, and after two deferrals, the Council voted April 18 to award the contract to CIMSCO. Based on the recommendation of City Attorney Keith Conley, the contract was vetoed by Yenni, who also asked the Attorney General's Office for a legal opinion on the issue.

Assistant Attorney General Michael J. Vallan, who wrote the opinion, offered this explanation:

"... The bid documents required that the bidders agree that all terms, conditions, and prices were to remain unchanged during the length of the contract. The presumptive low bidder's addition of a disclaimer indicating that its price was subject to a 3.5 percent escalation per year fails to comply with this requirement. Accordingly, its bid should be rejected as being non-responsive."

Although the PVC contract has a ceiling of \$100,000; in practice, the amount of pipe purchased recently has averaged only about \$6,000 a year. However, Yenni said the size of the contract is not the issue. "There is no contract too small to circumvent the public bid law," Yenni said. "Companies that bid on contracts need to know we will make the proper and legal decision in every situation."

###