

New Jersey Law Journal

VOL. CLXXIII – NO. 2 – INDEX 92

JULY 14, 2003

ESTABLISHED 1878

Which Comes First: the Chicken or the Egg?

Sometimes you lead with your point, and sometimes you lead up to it

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Rules of thumb for persuasive writing can conflict. For example, instructors often say, “Begin with your point,” which is solid advice. But that rule may be superseded where you need to concede a point to establish credibility.

Suppose you represent a second-low bidder challenging a municipality’s waiver of a material defect in the low bid. The municipality contends that it can waive the irregularity because the procurement was conducted under the bidding statute’s new “competitive contracting” procedures, which permit public entities to consider factors other than price in selecting a winning bidder.

You contend that material irregularities in bids can never be waived, even under the new, more flexible law.

Looking to comply with the rule of thumb that you should lead with your point, you begin a brief in support of your challenge to the low bid by stating that the new bidding statute does not give the municipality the flexibility it claims. You present that idea first, and then you acknowledge that competitive contracting procedures increase the flexibility of the bidding statute:

The competitive contracting

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process does not, as defendant suggests, give a municipality carte blanche to ignore material defects in bids. Competitive contracting was intended to give municipalities more flexibility than under the traditional lowest responsible bidder test, that is, to allow them to use criteria other than price to evaluate proposals.

**MAKING
YOUR
POINT**



A Guide to Persuasive Writing

Your point is that even though competitive contracting was intended to give municipalities more flexibility in choosing among bidders, it does not give municipalities “carte blanche” to relax one of the bedrock principles of public bidding — that material irregularities in bids cannot be waived.

But you wrote the sentences out of order. After making a restrictive statement — that the competitive contracting process does not give municipalities carte blanche — you followed with a permissive statement — that competitive contracting was intended to give

municipalities more flexibility. The sequence is ineffective because the concept of permission in the second sentence undermines the concept of restriction in the first.

The reader finishing these two sentences should be thinking restrictively, not permissively. Therefore, the second sentence — the one that makes the concession — has to come first:

Competitive contracting was intended to give municipalities more flexibility than under the traditional lowest responsible bidder test, that is, to allow them to use criteria other than price to evaluate proposals. But the competitive contracting process does not, as defendant suggests, give a municipality carte blanche to ignore material defects in bids.

Instead of making your point and then backing away from it, begin by conceding that the new law gives municipalities greater flexibility. Then carve off a portion of that flexibility with the qualification, “but not carte blanche to ignore material defects in bids.”

You gain credibility by acknowledging the greater flexibility in the law. By not fighting that fact, you ensure that when the reader sees the point you wish to make — that the greater flexibility given to municipalities in bidding matters does not rise to the level of carte blanche — the reader is not thinking, “I’m not so sure,” or “Prove it to me.”

It is easy to see why someone would present the material backwards. The mantra of writing instructors is to make the point early, and advocates are eager to come out punching. The writer thinks, “My point is that the competitive contracting process doesn’t relax all the rules of public bidding, so I’ll

state that idea first.”

The thought would be fine as a subheading:

(1) The Competitive Contracting Process Does Not, as Plaintiff Suggests, Give a Municipality Carte Blanche To Ignore Material Defects in Bids.

Then you could begin the paragraph as discussed above:

Competitive contracting was intended to give municipalities more flexibility than under the traditional lowest responsible bidder test, that is, to allow them to use criteria other than price to evaluate proposals. But ...

Subheadings and first sentences serve different purposes. The subheading is your point. The first sentence may be your point, or it may lead to your point.

As a subheading, the “carte

blanche” sentence works well. Your point is that the flexibility of the com-

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petitive contracting process has limits — the process doesn’t give municipalities “carte blanche.” The reader accepts

this as a subheading because a subheading doesn’t purport to tell the whole story. It is understood to constitute just the point.

Puzzler

How would you tighten and sharpen the following sentence?

Once the recommendation is presented for consideration, it is the Board that makes the final decision on whether to accept the recommendation or not by majority vote.

The entire opening clause is implicit and can be dropped because the Board cannot vote unless a recommendation is presented. You can reduce “it is the Board that” to “The Board” and “makes the final decision on whether to accept” to “decides” (“final” being implicit), and you can drop “or not” as unnecessary.

The new version:

The Board decides recommendations by majority vote. ■