

NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI
Department of Finance & Administration
Public Procurement Review Board

Aug 24, 2006 EM

MISSISSIPPI
SECRETARY OF STATE

Public Procurement Review Board
Delores Douglas
501 North West Street
Suite 1401 B
Jackson, Mississippi 39201
601-359-6343
dougld@dfa.state.ms.us

Specific Legal Authority Authorizing the promulgation of
Rule: Public Procurement Review Board

Reference to Rules repealed, amended or suspended by the
Proposed Rule : Any construction contract which is not
handled by the Bureau of Building which exceeds \$1,000,000
(27-104-7)

Date Rule Proposed: 7/05/06

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule: {Insert here Moves PPRB regulation for certain construction requests from the Office of Purchasing and Travel to the DFA Executive Director, or his/her designee, excluding construction contracts under the management and control of the Institutions of Higher Learning.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

An oral proceeding was held on this rule:

Date: {Insert Date}
Time: {Insert Time}
Place: {Insert Place}

X An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

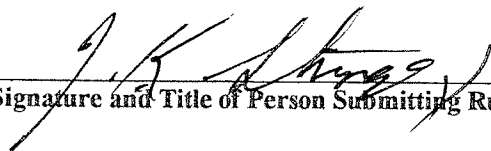
X This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

The rule as adopted differs from the proposed rule. The differences however are:
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: 8/7/06


Signature and Title of Person Submitting Rule for Filing

FILED
JUL 11 2006
MISSISSIPPI
SECRETARY OF STATE

NOTICE OF PROPOSED RULE ADOPTION

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Public Procurement Review Board
Department of Finance and Administration**

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Specific Legal Authority authorizing the promulgation of Rule: Public Procurement Review Board

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Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule: Moves PPRB regulation for certain construction requests from the Office of Purchasing and Travel to the DFA Executive Director, or his/her designee, excluding construction contracts under the management and control of the Institutions of Higher Learning.

This rule is proposed as a Final Rule, and/or a Temporary Rule (Check one or both boxers as applicable.)

Persons may present their views on the proposed rule by addressing written comments to the agency at the above address. Persons making comments should include their name and address, as well as other contact information, and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

Oral Proceeding: Check one box below:

An oral proceeding is scheduled on this rule on Date: {Insert Date} Time: {Insert Time}
Place: {Insert Place}

If you wish to be heard and present evidence at the oral proceeding you must make a written request to the agency at the above address at least ____ day(s) prior to the proceeding to be placed on the agenda. The request should include your name, address, telephone number as well as other contact information; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

An oral proceeding is not scheduled on this rule. Where an oral proceeding is not scheduled, an oral proceeding will be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address and telephone number of the person(s) making the request; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

Economic Impact Statement: Check one box below:

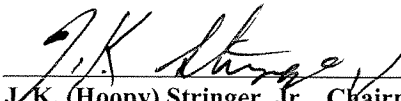
The agency has determined that an economic impact statement is not required for this rule, or

The concise summary of the economic impact statement required is attached.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Date Rule Proposed: 7/5/06

Proposed Effective Date of Rule: 8/7/06



J.K. (Hoopy) Stringer, Jr., Chairman

PPRB Procedures

This memorandum provides the administrative procedures for submitting required documentation to implement requests for procurement to be approved or acknowledged by the Public Procurement Review Board (APPRB@). These provisions shall supersede all conflicting policies and procedures.

Pursuant to Mississippi Code Annotated ' 27-104-7, the PPRB Ashall have the following powers and responsibilities:@ (*See statute for entire text*)

- (a) Approve all purchasing regulations governing the purchase or lease by any agency, as defined in Section 31-7-1, of commodities and equipment, except computer equipment acquired pursuant to Sections 25-53-1 through 25-53-29;
- (b) Adopt regulations governing the approval of contracts let for the construction and maintenance of state buildings and other facilities;
- (c) Adopt regulations governing any lease or rental agreement by any state agency or department, including any state agency financed entirely by federal funds, for space outside the buildings under the jurisdiction of the Department of Finance and Administration; and
- (d) Adopt, in its discretion, regulations to set aside at least five percent (5%) of anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the department and shall be subject to all bid requirements. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder; however, if no minority bid is available or if the minority bid is more than two percent (2%) higher than the lowest bid, then bids shall be accepted and awarded to the lowest and best bidder. Provided, however, that the provisions herein shall not be construed to prohibit the rejection of a bid when only one (1) bid is received. Such rejection shall be placed in the minutes.

ADMINISTRATIVE PROCEDURES

Items requiring approval/acknowledgment of the PPRB include:

Office of Purchasing and Travel

- a) Policies and procedures which relate to the purchasing of commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state, but not commodities purchased for resale or raw materials converted into products for resale as provided by Mississippi Code Annotated ' 31-7-1(e)(' 31-7-9);

- b) Any request for a one-time purchase which exceeds \$500,000 of commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state, but not commodities purchased for resale or raw materials converted into products for resale as provided by Mississippi Code Annotated ' 31-7-1(e);
- c) Rules and regulations regarding the sale or disposal of property (' 29-9-9);
- d) Proposed equipment acquisition schedules for Master Lease Purchase Program (' 31-7-10);
- e) Correctional System contracts which exceed \$100,000 (' 47-5-105); and
- f) Cancellation of Correctional System contracts on minutes (' 47-5-107);

Bureau of Building, Grounds and Real Property Management

- a) Professional service contracts related to construction which exceed \$250,000 (' 31-11-3);
- b) Planning information contracts which exceed \$250,000 (' 31-11-3);
- c) Construction contracts under the management and control of the Bureau of Building which exceed \$5,000,000 (including Change Orders) and cumulative Change Orders over 25% of the initial contract amount or any Change Order in the amount of \$1,000,000, whichever is less and other agency construction contracts which exceed \$5,000,000 , excluding construction contracts under the management and control of the Institutions of Higher Learning(' 31-11-3) ;
- d) Furniture & Equipment contracts which exceed \$2,000,000 (excluding all items under state contract and all CP-1's) (' 31-11-3);
- e) Concurrence of DFA=s approval of leasing/renting of space outside the buildings under the jurisdiction of DFA (' 29-5-2(c));
- f) Leasing of Penitentiary land for agricultural purposes (' 47-5-64);
- g) Payment for leased Penitentiary lands, other than cash in advance (' 47-5-66);
- h) Lease of Wildlife Conservation lands;
- i) Sell and convey state lands when authorized by the Legislature;
- j) Acquire land or property necessary for development or expansion of state institutions or agencies;
- k) Acquisition of land or property by condemnation proceedings (' 31-11-25);
- l) Leasing of Seat of Government lands (' 29-1-201);
- m) Justification provided to/approval of contracts on lease, sublease or lease-purchase of real property by DFA (' 27-104-107);
- n) Approval of leases entered into by Mississippi Veterans Memorial Stadium Commission (' 55-23-8);

Any construction projects within the jurisdiction of the Bureau of Building shall be administered

in accordance with the Bureau of Building Procedure Manual.

Other items requiring PPRB approval/acknowledgement as provided by statute:

- a) Approval of consideration for conveyance for national headquarters of organization promoting scholarship and service (' 29-1-205);
- b) Approval of surplus property contracts (' 31-9-5);
- c) Justification provided to regarding lease purchase or similar arrangement of youth housing and facilities (' 43-27-35);
- d) Approval of State Fire Academy contracts regarding hiring of instructors and personnel, lease and purchase of training equipment and lease, purchase and construction of premises/quarters for conducting school and seminars (' 45-11-7);
- e) Approval of leases of department-owned land for funding or operations of the corporation (' 47-5-569)

Items not requiring specific board approval as outlined above, shall be approved/acknowledged by the Executive Director of the Department of Finance and Administration or his/her designee.

Time frame for submittal of items to be included on agenda. Requests shall be submitted to the PPRB Recorder no later than three (3) full working days prior to the board meeting date that precedes the proposed effective date of procurement to provide for sufficient time for board action. The requirement for emergency procurement shall be considered the only exception to the prior approval clause. Exceptions to this time frame shall only be granted and communicated to the Recorder by the Vice Chairman or designee of the PPRB. A copy of the agenda shall be provided to the PPRB members at least one (1) full working day prior to the respective meeting. CAVEAT: Agency authorization for procurement, other than emergency procurement, without prior approval of the PPRB may result in individual liability for payment of the unauthorized procurement.

Pursuant to MCA ' 25-41-13(2), the PPRB will hold a regularly scheduled meeting on the first Wednesday of every month at 2:00 p.m. in the 13th Floor Conference Room in the Woolfolk Building, Jackson, Mississippi, unless otherwise scheduled. Notice of regular meetings shall be posted one (1) full working day prior to the scheduled meeting. Notice of meetings, other than the regularly scheduled meetings, shall be posted within one (1) hour after such meeting is called.

All notices (regular, special and other) may be found on the basement floor and first floor of the Woolfolk building or by calling the DFA office.

Minutes of the PPRB meetings shall be recorded by the PPRB Recorder via notes and/or tape recording. If the meeting is tape recorded, the tape will not normally be transcribed, unless directed by the Chairman of the PPRB. Minutes of meetings shall be developed for review by

the PPRB no later than seven (7) working days and approved by PPRB no later than thirty (30) days subsequent to the respective meeting. Minutes of the PPRB meetings shall be filed on a monthly basis with the Legislative Budget Office pursuant to MCA '27-104-7(1).

Correspondence notifying all parties of a PPRB determination in the event of a protest proceeding shall be developed by the Recorder or designee and submitted to PPRB for review within two (2) working days of the protest proceeding.