



STATE OF MISSISSIPPI  
DEPARTMENT OF FINANCE AND ADMINISTRATION

EDWARD L. RANCK  
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Public Institutions, Agencies, Boards, Commissions, Cities, Municipalities and Counties

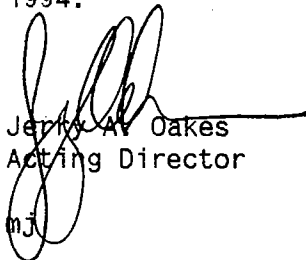
FROM: Department of Finance and Administration and Bureau of Building, Grounds and Real Property Management

RE: Procedures for review and preapproval of architectural and engineering contracts.

DATE: June 27, 1994

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The 1994 Legislature passed Senate Bill 2305 which amended Section 31-11-3<sup>(7)</sup> of the Mississippi Code. Specifically, it requires the Bureau of Building to review and preapprove architectural and engineering contracts. Copies of the procedures for carrying out the requirements of this Act are attached. Please note this procedure begins and only applies to contracts executed from and after July 1, 1994.

  
Jerry A. Oakes  
Acting Director

Attachments

**§ 31-11-3. Powers and duties [Paragraph (2)(q) repealed effective July 1, 2014].**

(1) The Department of Finance and Administration, for the purposes of carrying out the provisions of this chapter, in addition to all other rights and powers granted by law, shall have full power and authority to employ and compensate architects or other employees necessary for the purpose of making inspections, preparing plans and specifications, supervising the erection of any buildings, and making any repairs or additions as may be determined by the Department of Finance and Administration to be necessary, pursuant to the rules and regulations of the State Personnel Board. The department shall have entire control and supervision of, and determine what, if any, buildings, additions, repairs, demolitions or improvements are to be made under the provisions of this chapter, subject to the regulations adopted by the Public Procurement Review Board.

(2) The department shall have full power to erect buildings, make repairs, additions or improvements, demolitions, to grant or acquire easements or rights-of-way, and to buy materials, supplies and equipment for any of the institutions or departments of the state subject to the regulations adopted by the Public Procurement Review Board. In addition to other powers conferred, the department shall have full power and authority as directed by the Legislature, or when funds have been appropriated for its use for these purposes, to:

(a) Build a state office building;

(b) Build suitable plants or buildings for the use and housing of any state schools or institutions, including the building of plants or buildings for new state schools or institutions, as provided for by the Legislature;

(c) Provide state aid for the construction of school buildings;

(d) Promote and develop the training of returned veterans of the United States in all sorts of educational and vocational learning to be supplied by the proper educational institution of the State of Mississippi, and in so doing allocate monies appropriated to it for these purposes to the Governor for use by him in setting up, maintaining and operating an office and employing a state director of on-the-job training for veterans and the personnel necessary in carrying out Public Law No. 346 of the United States;

(e) Build and equip a hospital and administration building at the Mississippi State Penitentiary;

(f) Build and equip additional buildings and wards at the Boswell Retardation Center;

(g) Construct a sewage disposal and treatment plant at the state insane hospital, and in so doing acquire additional land as may be necessary, and to exercise the right of eminent domain in the acquisition of this land;

(h) Build and equip the Mississippi central market and purchase or acquire by eminent domain, if necessary, any lands needed for this purpose;

(i) Build and equip suitable facilities for a training and employing center for the blind;

(j) Build and equip a gymnasium at Columbia Training School;

- (k) Approve or disapprove the expenditure of any money appropriated by the Legislature when authorized by the bill making the appropriation;
- (l) Expend monies appropriated to it in paying the state's part of the cost of any street paving;
- (m) Sell and convey state lands when authorized by the Legislature, cause said lands to be properly surveyed and platted, execute all deeds or other legal instruments, and do any and all other things required to effectively carry out the purpose and intent of the Legislature. Any transaction which involves state lands under the provisions of this paragraph shall be done in a manner consistent with the provisions of Section 29-1-1;
- (n) Collect and receive from educational institutions of the State of Mississippi monies required to be paid by these institutions to the state in carrying out any veterans' educational programs;
- (o) Purchase lands for building sites, or as additions to building sites, for the erection of buildings and other facilities which the department is authorized to erect, and demolish and dispose of old buildings, when necessary for the proper construction of new buildings. Any transaction which involves state lands under the provisions of this paragraph shall be done in a manner consistent with the provisions of Section 29-1-1;
- (p) Obtain business property insurance with a deductible of not less than One Hundred Thousand Dollars (\$100,000.00) on state-owned buildings under the management and control of the department; and
- (q) In consultation with and approval by the Chairmen of the Public Property Committees of the Senate and the House of Representatives, enter into contracts for the purpose of providing parking spaces for state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building. The provisions of this paragraph (q) shall stand repealed on July 1, 2014.
- (3) The department shall survey state-owned and state-utilized buildings to establish an estimate of the costs of architectural alterations, pursuant to the Americans With Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The department shall establish priorities for making the identified architectural alterations and shall make known to the Legislative Budget Office and to the Legislature the required cost to effectuate such alterations. To meet the requirements of this section, the department shall use standards of accessibility that are at least as stringent as any applicable federal requirements and may consider:
- (a) Federal minimum guidelines and requirements issued by the United States Architectural and Transportation Barriers Compliance Board and standards issued by other federal agencies;
- (b) The criteria contained in the American Standard Specifications for Making Buildings Accessible and Usable by the Physically Handicapped and any amendments thereto as approved by the American Standards Association, Incorporated (ANSI Standards);
- (c) Design manuals;
- (d) Applicable federal guidelines;
- (e) Current literature in the field;
- (f) Applicable safety standards; and
- (g) Any applicable environmental impact statements.

- (4) The department shall observe the provisions of Section 31-5-23, in letting contracts and shall use Mississippi products, including paint, varnish and lacquer which contain as vehicles tung oil and either ester gum or modified resin (with rosin as the principal base of constituents), and turpentine shall be used as a solvent or thinner, where these products are available at a cost not to exceed the cost of products grown, produced, prepared, made or manufactured outside of the State of Mississippi.
- (5) The department shall have authority to accept grants, loans or donations from the United States government or from any other sources for the purpose of matching funds in carrying out the provisions of this chapter.
- (6) The department shall build a wheelchair ramp at the War Memorial Building which complies with all applicable federal laws, regulations and specifications regarding wheelchair ramps.
- (7) The department shall review and preapprove all architectural or engineering service contracts entered into by any state agency, institution, commission, board or authority regardless of the source of funding used to defray the costs of the construction or renovation project for which services are to be obtained. The provisions of this subsection (7) shall not apply to any architectural or engineering contract paid for by self-generated funds of any of the state institutions of higher learning, nor shall they apply to community college projects that are funded from local funds or other nonstate sources which are outside the Department of Finance and Administration's appropriations or as directed by the Legislature. The provisions of this subsection (7) shall not apply to any construction or design projects of the State Military Department that are funded from federal funds or other nonstate sources.
- (8) The department shall have the authority to obtain annually from the state institutions of higher learning information on all building, construction and renovation projects including duties, responsibilities and costs of any architect or engineer hired by any such institutions.
- (9) As an alternative to other methods of awarding contracts as prescribed by law, the department may elect to use the method of contracting for construction projects set out in Sections 31-7-13.1 and 31-7-13.2; however, the dual-phase design-build method of construction contracting authorized under Section 31-7-13.1 may be used only when the Legislature has specifically required or authorized the use of this method in the legislation authorizing a project.

**Sources:** Codes, 1942, § 9023-02; Laws, 1944, ch. 328, §§ 2-4; Laws, 1946, ch. 386, §§ 1, 2; Laws, 1950, ch. 392, § 2; Laws, 1981, ch. 323, § 1; Laws, 1984, ch. 488, § 30; Laws, 1991, ch. 411, § 1; Laws, 1993, ch. 615, § 2; Laws, 1994, ch. 448, § 1; Laws, 1994 Ex Sess, ch. 26, § 24; Laws, 2004, 3rd Ex Sess, ch. 1, § 189; Laws, 2005, ch. 504, § 1; Laws, 2006, ch. 457, § 3; Laws, 2006, ch. 579, § 2; Laws, 2007, ch. 494, § 8; Laws, 2008, ch. 488, § 1; Laws, 2010, ch. 314, § 3, eff from and after July 1, 2010.

# LEGISLATION

Senate Bill 2305, Laws of 1994 reads, in part, as follows:

AN ACT TO AMEND SECTION 31-11-3, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO REVIEW AND PREAPPROVE ALL ARCHITECTURAL OR ENGINEERING SERVICE CONTRACTS ENTERED INTO BY ANY STATE ENTITY; AND FOR RELATED PURPOSES.

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(7) The Department shall review and preapprove all architectural or engineering service contracts entered into by any state agency, institution, commission, board or authority regardless of the source of funding used to defray the costs of the construction or renovation project for which services are to be obtained. The provisions of this subsection (7) shall not apply to any architectural or engineering contract paid for by self-generated funds of any of the state institutions of higher learning, nor shall they apply to community college projects that are funded from local funds or other nonstate sources which are outside the Department of Finance and Administration's appropriations or as directed by the Legislature. The provisions of this subsection (7) shall not apply to any construction or design projects of the State Military Department that are funded from federal funds or other nonstate sources.

(8) The department shall have the authority to obtain annually from the state institutions of higher learning information on all building, construction and renovation projects including duties, responsibilities and costs of any architect or engineer hired by any such institutions.

SECTION 2. This act shall take effect and be in force from and after July 1, 1994.

# PROCEDURES

The following procedures have been developed by the Department of Finance and Administration's Bureau of Building, Grounds and Real Property Management who will be responsible in administering this law. The guidelines are as follows:

1. **GENERAL:** Section 31-11-3 of the **Mississippi Code** was amended in the 1994 Legislature by Senate Bill 2305. The result is a requirement for review and preapproval of professional architectural and engineering service contracts by the Department of Finance and Administration [DFA] acting through the Bureau of Building, Grounds and Real Property Management [BOB]. The following procedures are hereby established for the administration of this newly enacted code change.
2. **DEFINITIONS:**
  - a. **DFA:** Department of Finance and Administration as defined by **Mississippi Code**, Chapter 27-104.
  - b. **BOB:** Bureau of Building, Grounds and Real Property Management, a Bureau of DFA whose specific duties are defined in **Mississippi Code**, Section 31-11-3.
  - c. **UA:** Using Agency is any agency, department, institution or commission authorized and defined in the **Mississippi Code**.
  - d. **CONTRACTS:** Contracts entered into by a UA for architectural and/or engineering services which provide professional design and construction administration.
  - e. **STATE FUNDS:** Any monies appropriated and authorized by the Mississippi Legislature; such as, general funds, grants, gifts, fees, federal, or bonds.
  - f. **SELF-GENERATED FUNDS** - Any monies received by a UA whose amount, authorization and/or origin are not enumerated by legislative action.
  - g. **LOCAL FUNDS:** Any monies resulting from the action of cities, counties or districts; such as, general funds, grants, gifts, fees, federal, or bonds.
3. **INCLUSIONS:** If item (a) and one (1) or more of the following conditions are met, the project's professional contract shall be submitted to BOB for review and preapproval:
  - a. State funds support part, or all, of the project.
  - b. Architectural services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.
  - c. Engineering services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.
  - d. Landscape architectural services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.
  - e. Interior design services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.
  - f. Special consulting services whose scope of work directly impacts on the construction, renovation, or repair of a building whose total contract costs is in excess of \$25,000.
4. **EXCLUSIONS:** If one or more of the following conditions are met, the project's professional contract shall not be submitted to BOB for review and preapproval:
  - a. Self-generated, or local funds, support the entire project.
  - b. City, municipality, school districts, or county projects supported entirely by local or self-generated funds.
  - c. Community and Junior College projects supported by local or self-generated funds.
  - d. All State of Mississippi Military Department projects funded by federal funds or non-state funds; however, any projects funded by State appropriations will be submitted.
  - e. All Department of Transportation projects and State-Aid Road Projects; however, any project involving a building facility will be submitted.
  - f. All Department of Environmental Quality projects except building construction projects. Engineering contracts dealing with environmental quality aspects shall not be submitted.
  - g. All projects resulting from Title 37, Chapter 47 of the **Mississippi Code** (State Aid for Construction of School Facilities).

5. SUBMISSION PROCEDURE: One (1) photo copy of the proposed contract (no original) shall be submitted prior to signing by the Owner to BOB at the following address:

Attention: Professional Contract Review  
Bureau of Building, Grounds and Real Property Management  
1501 Walter Sillers Building  
Jackson, MS 39201  
Phone: 601/359-3621  
Fax #: 601/359-2470

Faxes are acceptable if followed by a mailed copy. Complete and submit with the contract copy the standard contract approval form of which a copy is included with these procedures. This form will expedite the process and also serve as the approval response form from the BOB. Allow ten (10) working days for processing. After execution of the professional's contract an ORIGINAL signed copy should be mailed to BOB for recording and auditing purposes.

6. CONTRACT FORMS: BOB staff and legal support are familiar with the standard AIA Form of Agreement Between Owner and Professional and BOB's Form of Agreement Between Owner and Professional. Should either of these forms be used, approval should be expeditious. If other forms are used, more than ten (10) working days is involved for review and approval. A copy of BOB's standard form is included with this procedure.
7. DISAPPROVAL: It is not the intent of BOB to dictate contract conditions, but will disapprove submission if any of the following are present:
  - a. Unusual conditions which are not normally included in a professional contract.
  - b. Provisions which impose unfair conditions on either Owner or Professional.
  - c. Fees which are excessively high, or low, as related to the normal fees necessary to provide quality services for the particular type project.
  - d. BOB will examine additional services closely and may request additional information and justification for its inclusion. Fee charges for additional services will be of particular interest.
  - e. Contract forms which are not suitable for project requirements.
8. CONTRACT CHANGES: Any changes to the contract after execution should be submitted in the same manner for approval.
9. EFFECTIVE DATE: Any contract entered into from and after July 1, 1994 shall be submitted.

# PROFESSIONAL CONTRACT REVIEW FORM

OWNER: \_\_\_\_\_

(Name)

(Address)

(Telephone Number/Fax Number)

(Contact Person, Title)

PROFESSIONAL: \_\_\_\_\_

(Name)

(Address)

(Telephone Number/Fax Number)

(Contact Person, Title)

PROJECT: \_\_\_\_\_

(Project Title)

(Address and/or Location)

TYPE SERVICE: \_\_\_\_\_

\_\_\_\_\_ Architect    \_\_\_\_\_ Engineer    \_\_\_\_\_ Other    \_\_\_\_\_ Furniture & Equipment

CONTRACT FORM: \_\_\_\_\_

\_\_\_\_\_ AIA    \_\_\_\_\_ BOB    \_\_\_\_\_ Other

FEE BASIS: \_\_\_\_\_

\_\_\_\_\_ Lump Sum    (Amount: \$ \_\_\_\_\_)

\_\_\_\_\_ Percentage of Construction    (Percentage % \_\_\_\_\_)

\_\_\_\_\_ Hourly    (Amount: \$ \_\_\_\_\_)

ADDITIONAL SERVICES: \_\_\_\_\_

Type: \_\_\_\_\_

Fee: \$ \_\_\_\_\_

Type: \_\_\_\_\_

Fee: \$ \_\_\_\_\_

ESTIMATED PROJECT BUDGET:

ESTIMATED CONSTRUCTION	\$	
ESTIMATED FEE	\$	
ESTIMATED F&E	\$	
ESTIMATED OTHER	\$	
ESTIMATED CONTINGENCY	\$	
ESTIMATED PROJECT BUDGET TOTAL	\$	

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\* Bureau of Building, Grounds and Real Property Management \*\*\*\*\*

Approved without change	Approved By:	Date:
Approved with conditions as noted	Approved By:	Date:
Resubmit	Disapproved By:	Date:

COMMENTS: \_\_\_\_\_

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