

## Chapter 1

### General Provisions

#### 1.101 Purpose of the Mississippi Procurement Manual

The purpose of the Mississippi Procurement Manual is to set forth all laws and regulations, along with any other pertinent information, that shall be in effect with the implementation of [Title 31, Chapter 7, Mississippi Code of 1972, Annotated](#). The policies and procedures set forth herein apply to the procurement of commodities and equipment either bought, leased or rented with any funds, regardless of source, by those agencies which are required by the statute to be under the authority of the Department of Finance and Administration Public Procurement Review Board (PPRB). This Manual is intended to be a thorough representation of procedures relative to purchasing by all state entities. Further, it shall serve as a source of information for vendors instructing them as to the proper procedures that must be followed in doing business with the State. For the purpose of this document, all definitions found in [Section 31-7-1, Mississippi Code of 1972, Annotated](#), shall apply.

#### 1.101.01 Interpretation, Purposes and Policies

(1) Interpretation

These regulations shall be construed and applied to promote their underlying purposes and policies.

(2) Purposes and Policies

The underlying purposes and policies of these regulations are:

- (a) To simplify, clarify, and modernize the regulations governing procurement by agencies of the State of Mississippi;
- (b) To permit the continued development of procurement policies and practices;
- (c) To provide for increased public confidence in the procedures followed in public procurement;
- (d) To ensure the fair and equitable treatment of all persons who deal with the procurement system of this State;
- (e) To provide increased economy in the State of Mississippi procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the State;
- (f) To foster effective broad-based competition with the free enterprise system; and
- (g) To provide safeguards for the maintenance of a procurement system of quality and integrity.

**1.101.02 Purpose and Implementation of these Regulations**

These regulations, issued by the Mississippi Public Procurement Review Board (PPRB), hereafter referred to as the Board, establishing policies, procedures, and guidelines related to the procurement, management, control, and disposal of commodities and equipment, as applicable, under the authority of these regulations. These regulations are designed to achieve maximum practicable uniformity throughout the State. Therefore, implementation by and within Mississippi agencies shall be consistent with these regulations.

**1.102 Purchasing Laws and Regulations**

Laws relative to the Office of Purchasing, Travel and Fleet Management and the procurement process in general may be found in [Title 31, Chapter 7, Mississippi Code of 1972, Annotated](#), beginning with [Section 31-7-13](#). These laws and regulations cover the entire procurement process and contain definitions and provisions that both the buying agency and the vendor will find useful in understanding the State's purchasing system.

**1.102.01 Supplementary General Principles of Law Applicable**

Unless displaced by the particular provisions of these regulations, the principles of law and equity, including the Uniform Commercial Code of this State, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of these regulations.

**1.103 Requirement of Good Faith**

These regulations require all parties involved in the negotiation, performance or administration of Mississippi contracts to act in good faith.

**1.104 Application of the Regulations****(1) General Application**

These regulations apply only to contracts solicited or entered into after the effective date of these regulations unless the parties agree to its application to a contract solicited or entered into prior to the effective date.

**(2) Application to Mississippi Procurement**

These regulations shall apply to every expenditure of public funds irrespective of their source, when such expenditures are made in compliance with or are designated by [Section 31-7-1, Mississippi Code of 1972, Annotated](#). However, in the event of a conflict, the guidelines of the grant, gift, or self-generated funds shall prevail; and in any case, violation of these regulations shall carry such penalties as may be applicable under state laws.

**(3) Application to Service and Construction Contracts**

These regulations are to serve as guidance and for voluntary application when contracting for services. Agencies which are under the authority of the Personal Services Contract Review Board (PSCRB) shall follow the guidelines set forth in the State of

Mississippi Personal Services Contract Procurement Regulations. The regulations herein shall apply to contracts for construction unless they conflict with regulations and procedures established by the Bureau of Buildings, Grounds and Real Property Management. When such conflict arises, the provisions set forth by the Bureau of Building, Grounds, and Real Property Management shall take precedent.

#### **1.105 Severability**

If any provision of these regulations or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

#### **1.106 Duration**

These regulations, when approved by the Public Procurement Review Board (PPRB) as authorized by [Section 31-7-9, Mississippi Code of 1972, Annotated](#), shall be in effect as written until amended or repealed by the Board.

#### **1.107 Definitions**

The words defined in this section shall have the meanings set forth below whenever they appear in the regulations, unless:

- (1) The context in which they are used clearly requires a different meaning; or
  - (2) A different definition is prescribed for a particular chapter or provision.
    - (a) Agency – as defined in [Section 31-7-1, Mississippi Code of 1972, Annotated](#).
    - (b) Agency Procurement Officer – any person duly authorized to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority.
    - (c) Board – the Public Procurement Review Board (PPRB).
    - (d) Business – any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
    - (e) Certified Purchasing Office – any purchasing office in which 50% or more of the purchasing agents hold a certification from the Universal Public Purchasing Certification Council or other nationally recognized purchasing certification, and in which, in the case of a state agency purchasing office, in addition to the national certification, one hundred percent (100%) of the purchasing officials hold a certification from the State of Mississippi's Basic or Advanced Purchasing Certification Program.
    - (f) Change Order – a written order signed by the Agency Procurement Officer directing the contractor to make changes. The changes clause of the contract authorizes the Agency Procurement Officer to order change without the consent
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- of the contractor.
- (g) Chief Procurement Officer – the person holding the position as the Director of the Office of Purchasing, Travel and Fleet Management.
  - (h) Construction – the process of building, altering, improving, renovating or demolishing a public structure, public building, or other public real property. It does not include routine operation, routine repair or regularly scheduled maintenance of existing public structures, public buildings, or other public real property.
  - (i) Contract – all types of Mississippi agreements, regardless of what they may be called, for the procurement or disposal of commodities, equipment, services, or construction.
  - (j) Contract Modification – any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
  - (k) Contractor – any person having a contract with a governmental body.
  - (l) Data – recorded information, regardless of form or characteristic.
  - (m) Designee – a duly authorized representative of a person holding a superior position.
  - (n) Employee – an individual drawing a salary from a governmental body, whether elected or not, and any non-compensated individual performing personal services for any governmental body.
  - (o) Governing Authority – boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, commissioners and boards of trustees of any public hospitals, boards of trustees of public library systems, district attorneys, school attendance officers and any political subdivision of the state supported wholly or in part by public funds of the state or political subdivisions thereof, including commissions, boards and agencies created or operated under the authority of any county or municipality of this state. The term "governing authority" shall not include economic development authorities supported in part by private funds, or commissions appointed to hold title to and oversee the development and management of lands and buildings which are donated by private individuals to the public for the use and benefit of the community and which are supported in part by private funds as defined in [Section 31-7-1, Mississippi Code of 1972, Annotated](#).
  - (p) May – denotes the permissive.
  - (q) Must – to be required or compelled to
  - (r) Person – any business, individual, union, committee, club, other organization, or
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group of individuals.

- (s) Procurement – buying, purchasing, renting, leasing, or otherwise acquiring any commodities, equipment, services, or construction. It also includes all functions that pertain to the obtaining of any commodities, equipment, services, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.
- (t) Purchase – buying, renting, leasing or otherwise acquiring.
- (u) Purchasing Agency – any governmental body other than the Office of Purchasing, Travel and Fleet Management which is authorized by regulations, or by way of delegation from the Chief Procurement Officer, to enter into contracts.
- (v) Regulation – a governmental body's statement, having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describing organization, procedure, or practice requirements, which has been promulgated in accordance with [Section 31-7-9, Mississippi Code of 1972, Annotated](#).
- (w) Services – the furnishing of labor, time, or effort by a vendor or supplier, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- (x) Shall – denotes the imperative.

#### **1.108 Public Access to Procurement Information**

Procurement information shall be public record to the extent provided in [Section 25-61-1, Mississippi Code of 1972, Annotated](#), in accordance with each state entity's policies and procedures.