



STATE OF MISSISSIPPI  
GOVERNOR PHIL BRYANT

DEPARTMENT OF FINANCE AND ADMINISTRATION  
LAURA D. JACKSON  
EXECUTIVE DIRECTOR

**M E M O R A N D U M**

**TO: Executive Directors and University Presidents**  
**FROM: Laura D. Jackson, Executive Director, PPRB Chairman**  
**DATE: August 18, 2017**  
**RE: House Bills 1106 & 1109**

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A handwritten signature in blue ink, appearing to be "L. Jackson", written over the "FROM:" line of the memorandum.

Please be advised that effective **January 1, 2018**, HB 1106 and HB 1109 revise Miss. Code Ann. Sections 25-9-120, 25-61-9, 27-104-107, and 31-7-13, and involve extensive changes to procurement and contracting practices. As Chairman of the current Public Procurement Review Board (PPRB), I wanted to bring a few of these changes to your attention so that your agency could make plans accordingly.

**PPRB & PSCRB Consolidation**

HB 1109 abolishes the Personal Service Contract Review Board (PSCRB) and moves its oversight functions to PPRB. At the same time, the legislation reconstitutes PPRB from a Board of three (3) Department of Finance and Administration (DFA) employees, into three (3) appointees by the Governor, two (2) appointees by the Lieutenant Governor, and the Executive Director of DFA as a nonvoting member.

Since the passage of the legislation, DFA and the State Personnel Board (SPB) have been working together to plan for a seamless integration of the PSCRB staff and resources into the new DFA Office of Personal Service Contract Review (OPSCR). In May, agency directors should have received correspondence from the PSCRB Chairman Kelly Hardwick regarding the Board's decision not to conduct any business at the December meeting in preparation for the transition from SPB to DFA. **Agencies must submit all requests for approval from PSCRB for contracts expiring this calendar year in time to make the November meeting agenda.**

## Reverse Auctions & Electronic Bidding<sup>1</sup>

HB 1106 requires agencies to provide a “secure electronic interactive system for the submittal of bids requiring competitive bidding that shall be an additional bidding option for those bidders who choose to submit their bids electronically.” Most agencies are currently accepting bids in MAGIC, but for those agencies who have heretofore been accepting bids only by paper, this will be a change. **Agencies must be certain that procurement personnel are proficient in the eProcurement functionalities of MAGIC prior to soliciting bids after January 1. Training materials are currently available and may be found at DFA’s website here: <http://www.dfa.ms.gov/dfa-offices/mmrs/mmrs-training-information/>**

HB 1109 requires agencies to utilize reverse auctions as the primary method of receiving bids. The DFA Office of Purchasing, Travel and Fleet Management (OPTFM) has been working with the MAGIC team to implement the reverse auction functionality within MAGIC, and create training materials as well as a Bidder’s Guide for vendors. DFA will offer training sessions for agency personnel beginning in November 2017. **Reverse auctions must be utilized unless an exemption is granted by PPRB.**

### RFPs & RFQs

Sections 1 through 12 of HB 1109 contain new language, not currently codified, which prescribes when agencies may issue Requests for Proposals (RFPs) and Requests for Qualifications (RFQs), and how they must be evaluated and awarded. These new provisions will apply to RFPs and RFQs done by agencies for “every procurement of commodities, supplies, equipment, construction, technology, personal and professional services other than those in Section 27-104-7(2)(f) and (8), state agency employee benefits, supplemental insurance, and cafeteria plans.” **Prior approval from the PPRB will now be required before an agency may issue an RFP or RFQ. As a reminder, reverse auctions will be the primary method for procuring commodities.**

### Protective Orders

Anyone seeking to protect a contract awarded by a state agency must post notice and the reasons for the protective order on the Mississippi Procurement Portal for a minimum of seven (7) days before filing the petition seeking the protective order in chancery court. Because vendors do not have access to the Procurement Portal, we are developing a new MAGIC process for agencies to follow to post the notice on the vendor’s behalf. **Agencies may bar vendors who seek a protective order in violation of this requirement from submitting bids, proposals or qualifications for a period not to exceed five (5) years.**

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<sup>1</sup> Reverse auctions and electronic bidding are only applicable to those procurements governed by Section 31-7-13 of the Code, i.e., commodities, printing, public construction, rentals, etc.

### How to Prepare

Because the new Board will not meet until the first week in January 2018, regulations will not be finalized until March at the earliest, and it will be incumbent upon agency personnel to follow the statutory changes. OPTFM and OPSCR staff will assist agencies in adhering to the new law in every way possible, but regulations will not be adopted right away.

**In order to prepare for these major changes, it is our recommendation that agency management and procurement staff spend time assessing the status of all current or future contracts which would require either PSCR or PPRB approval and plan well in advance, taking into consideration that prior approval is necessary to either issue an RFP or use a method other than reverse auctions, and that the newly formed PPRB will likely discontinue the current practice of holding Special PPRB meetings to accommodate agencies that have missed a submittal deadline.**

It is our goal to assist state agencies in implementing these changes as smoothly as possible. We will be reaching out to agency procurement staff and posting continuing updates on PPRB's webpage on the DFA website; however, we wanted to apprise each agency head of these important changes to business processes. As always, please feel free to contact us at any time.