



STATE OF MISSISSIPPI
GOVERNOR PHIL BRYANT

DEPARTMENT OF FINANCE AND ADMINISTRATION

LAURA D. JACKSON
EXECUTIVE DIRECTOR

MEMORANDUM

To: MAGPPA Members

From: Aubrey Leigh Goodwin, Deputy Executive Director *ALG*

Date: 10/24/17

Re: Reverse Auctions & Electronic Bidding

On behalf of the Mississippi Department of Finance and Administration (DFA), I would like to say thank you to all that attended our sessions at MAGPPA Annual Conference on implementing House Bills 1106 and 1109. Due to what we understand are some issues of interpretation regarding the legislation, we met again with Chairman Jerry Turner and Chairman John Polk, who authored the legislation. Based upon their guidance, we are changing some of our plans with respect to Reverse Auctions and we wanted to make you aware.

1. Electronic v. Paper Bidding – the Chairmen expressed that although the best practices from NASPO and NIGP dictate that reverse auctions are “online” auctions, they do not want any supplier to be unable to participate for technical reasons. Therefore, we will be including in the regulations a provision that “surrogate” bidding must be allowed **so that any supplier may walk in with a paper bid and participate**. The purchasing entity could provide access to technology for a bidder to utilize onsite, but they must also provide necessary technical support for such a bidder. For example: State Agencies utilizing MAGIC must have a public location available during the auction where a supplier can have access to a computer to participate and provide technical support or even surrogate bidding where the supplier may need assistance. Likewise, Governing Authorities utilizing a third party provider of reverse auction services must ensure that suppliers attending the auction with a paper bid must have technical assistance in submitting that bid and any subsequent bids in the auction.

2. Who Pays for the Reverse Auction? – The Chairmen understand and agree that third party providers of reverse auction services charge fees to suppliers participating in the auction.

They are aware of the Attorney General Opinions (MS AG Op., Mosely (January 1, 2014) and MS AG Op., Morgan (August 19, 2016)) which indicate that fees cannot be borne by suppliers participating in the auction. They are also aware that many of you have hired reverse auction companies who are compensated in this manner and some are under contract now to do so. **The Chairmen have asked DFA to communicate further with the Attorney General on this issue and provide guidance back to the MAGPPA membership.** As a reminder, DFA and ITS are establishing state contracts for optional use by governing authorities for both reverse auction and electronic bidding providers, thus alleviating any need for an RFP to be issued by the governing authority. **Instructions for using these contracts will be published on ITS and DFA's websites on December 15, 2017.**

3. Who is Exempt from Utilizing Reverse Auctions? – We informed the Chairmen of our intention to exempt by regulation those cities and counties falling under the population thresholds for electronic bidding based upon our intention to require all electronic bids be provided in reverse auctions. As stated earlier, the Chairmen oppose any requirement of the use of electronic bidding, and **therefore they do not wish us to limit the application of reverse auctions to certain entities.** As a result, all governing authorities, regardless of size or technological capabilities, must perform reverse auctions if not exempted by the PPRB.

We will continue to communicate with you as we get additional information. Please feel free to contact us in the meantime if we may be of assistance.