

PROCUREMENT FREQUENTLY ASKED QUESTIONS

Q. Advertised Bids must be published in a newspaper once a week for two (2) consecutive weeks. What constitutes “consecutive”?

A. The Attorney General has opined that consecutive means the publication should be done on any day in each of the two (2) successive weeks (i.e. Monday/Monday, Tuesday/Tuesday, Wednesday/Wednesday, Thursday/Thursday, Friday/Friday). There should be at least seven (7) days between each advertisement.

Q. If we decide to reject a bid and re-advertise, can we use the same bid number or should we assign a new bid number?

A. There is no statutory requirement for what bid number is used. We would suggest for tracking purposes, you use a different number.

Q. Emergency Purchases: Prior to an emergency how soon can you declare the emergency?

A. An emergency procurement is limited to those supplies, services, or construction items necessary to meet the emergency. The emergency declaration must meet the emergency definition in statute. Reference: Section 3.206.02, Procurement Manual.
<http://www.dfa.state.ms.us/Purchasing/ProcurementManual/chapter3.pdf>

Q. Can a state agency reimburse mileage for privately owned vehicles at less than the state rate?

A. The statute states that state agency employees “shall” be reimbursed at the rate of the federal government if using a privately owned vehicle. If a state agency approves a person taking their personal vehicle on a state business trip, they must reimburse at the state approved federal rate. Reference: Section 25-3-41, Mississippi Code of 1972, Annotated.
<http://michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=>

Q. Does a vendor have to be on a bidders list with the Office of Purchasing and Travel to do business with other state entities?

A. No.

Q. How do vendors get their commodity on state contract?

A. The Office of Purchasing, Travel and Fleet Management attempts to determine the common-use items and the items that can most efficiently and economically be purchased using the contract system. For a new commodity to be put on state contract, we normally rely on the various state agencies to notify us of a need. If enough agencies request that we put a commodity on contract, then we will begin the process of developing specifications and soliciting bids.

- Q. How can vendors find information about doing business with other states?
- A. Contact the National Association of State Purchasing Officials (NASPO) at 606-231-1877 or visit their website at: <http://www.naspo.org>
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- Q. Does a vendor have to have a state contract number to do business with a state entity?
- A. No. (Please stop telling vendors this!)
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- Q. Does being on the Office of Purchasing, Travel and Fleet Management's bidders list mean that vendors will receive notice of bids from all of the state agencies?
- A. No. The State of Mississippi does not have centralized purchasing. Being on the Office of Purchasing, Travel and Fleet Management's Bidders List will only mean that you will receive Invitations to Bid on statewide contracts and on a few items put out for bid by the Office. To receive Invitations to Bid from all of the agencies and governing authorities, you will need to contact each individual purchasing office for their correct procedures.
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- Q. How do vendors get on the Qualified Bidders List for the Office of Purchasing, Travel and Fleet Management?
- A. To get on the Qualified Bidders List for the Office of Purchasing, Travel and Fleet Management, vendors must first submit a letter requesting to be placed on the list. Vendors will then be sent the proper forms to complete and return. Vendors will not be placed on the list until all forms have been completed correctly and returned.
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- Q. What is required to deem an item a "sole" source?
- A. Each state agency and governing authority wishing to purchase such an item must submit a certification of the conditions and circumstances requiring the purchase. The questions to answer for OPTFM are:
- (1) Do other companies make similar commodities that will do the same job or meet the same goals?
 - (2) How is this item unique from the others that can't?
 - (3) What can this item do that the others can't?
 - (4) Is the item available from other distributors?

For state agencies, this certification must be submitted to the Office of Purchasing and Travel. Governing authorities must submit the certification to the board of their governing authority who may authorize the purchase, which authority shall be noted in the minutes of the body at the next regular meeting.

- Q. What if no single item costs more than \$5000, do you still have to get two quotes?
- A. Yes, the law defines "purchase" as the total amount of money encumbered by a single purchase order. The law also stipulates that it is unlawful to split purchases so as to appear to be authorized as purchases which do not require competitive bids.

- Open-Market Purchase. Commodities that are not covered by any state contract may be purchased on the open market provided the agency follows the regulations set forth in Section 31-7-13, Mississippi Code of 1972, Annotated. A brief summary follows:
 - Purchases not in excess of \$5000. An agency may purchase without receiving any written quotes; however, it is suggested that the agency contact at least two vendors to get verbal quotes.
 - Purchases of more than \$5000 and not more than \$50,000. The agency is required to solicit and obtain at least two competitive written quotes.
 - Purchases over \$50,000. The agency is required to advertise for two weeks and should solicit written competitive sealed bids.
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Q. What agency do you call when you want to know about computers, software, telephones, fax machines, radios and cell phones?

A. The Office of Purchasing and Travel is responsible for contracting and supervision of all commodities, supplies and equipment with the exception of computer equipment, software, telecommunications equipment and two-way communication equipment. These items come under the jurisdiction of the Department of Information Technology Services (ITS). Their phone number is (601) 359-1395. Reference: <http://www.its.ms.gov/>

Q. What agency do you call for questions about construction or real property leases?

A. The Office of Building, Grounds and Real Property Management is responsible for much of the construction and renovation of state office buildings. Their phone number is (601) 359-3621. The projects which they do not handle are usually under the jurisdiction of the individual agency or department. Reference: <http://www.dfa.state.ms.us/Offices/BOB/BOB.htm>

Q. Does the State have any preference laws which would give an advantage to a small business, a local business, or a minority-owned business?

A. The State does not have any preference laws, except that if a vendor from a state which has a preference law is bidding in Mississippi, then that vendor shall be penalized by the amount his state would penalize a Mississippi vendor. There is also a preference for products made from recycled materials provided that the quality level is the same and that the product made from recycled material is not more than 10% higher than the low bid. There are also statutes that permit, but do not mandate minority preferences.

Q. Why do we recommend your freight terms to be FOB Destination?

A. FOB means "free on board." If the terms are FOB Destination, then the vendor is responsible for the product while it is in transit until it reaches the agency's dock. The agency will not be responsible for damage in shipping.

- Q. What is the amount of a purchase of commodities or equipment, for a state agency, before it has to be approved by the Public Procurement Review Board (PPRB)?
- A. \$500,000 (the exception is MDOC because statute requires their contracts over \$100,000 to go before the PPRB.)
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- Q. If a purchase is between \$5,000 and \$50,000, two (2) quotes are required. In a quoting situation, can a quote be rejected?
- A. No. Two (2) comparable quotes are required. If you are rejecting one of the quotes then it wasn't a comparable quote. Also, if you reject one quote, you are left with just one quote and two (2) are required.
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- Q. What is the amount you can spend for similar contract items without coming to the Office of Purchasing and Travel (OPT) for approval on a P1?
- A. Please see Chapter 2, Section 2.103.01 of the Procurement Manual. Reference: <http://www.dfa.state.ms.us/Purchasing/ProcurementManual/chapter2.pdf>
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- Q. When does an agency have the authority to waive a bidding irregularity?
- A. The Attorney General has opined that an agency may waive a bidding irregularity provided that:
- (1) mandatory statutory provisions are not violated
 - (2) the irregularity does not destroy the competitive nature of the bid
 - (3) the irregularity has no effect on the price of the bid
 - (4) the irregularity does not give one bidder an advantage over the others
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- Q. What are some contract term "no-no's" most often seen?
- A.
- (1) allowing indemnification clauses
 - (2) allowing other state's law to have jurisdiction
 - (3) agreeing to paying taxes, not having a funding out clause
 - (4) allowing hold-harmless clauses
 - (5) and also signing a vendor's rental contract and not using the State's standard rental Contract
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- Q. Can specifications be changed after a bid(s) has been received?
- A. Yes. You can change the specifications even if a bid(s) has been received. However, you must notify each prospective bidder of the change in the specifications, including the vendors that have already submitted their bids. The vendors that have already submitted their bids must be given a chance to resubmit their bid if they feel that a change in the specifications will require a change in their bid. Provided however, that if an amendment is done within two (2) working days of the bid opening day and time, the amendment must also amend the bid opening day no less than five (5) working days from the original bid opening day and time.
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Q: Should a governmental entity pay property taxes on rental equipment?

A: No. You are not required to pay property taxes if you use the State rental agreement and **not** the vendor's rental agreement. **Never sign a vendor's rental agreement.**

Q: Can you include the cost of the warranty on equipment in the total price when using master lease funding?

A: Yes. You can also include software that may come with equipment.

Q. Can state funds be used to buy promotional items for state agencies?

A. Yes, as long as it will further the legitimate government purposes of the buying entity. However, since each agency of the state has a different mission and purpose, it is very possible that an item could be purchased by one agency to meet a legitimate government purpose, but another agency could not purchase the same item because it would not further the mission or purpose of that agency.

Q. Can an agency purchase contract items from Mississippi Industries for the Blind and Mississippi Prison Industries?

A. Yes.
