



STATE OF MISSISSIPPI  
GOVERNOR PHIL BRYANT

DEPARTMENT OF FINANCE AND ADMINISTRATION  
LAURA D. JACKSON  
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Claiborne County Port Commission  
Greenville Port Commission  
Hancock County Port Harbor Commission  
Jackson County Port Authority  
Lowndes County Port Authority  
Mississippi Association of School Business Officials  
Mississippi Association of School Superintendents  
Mississippi Association of Supervisors  
Mississippi Community College Board  
Mississippi Hospital Association  
Mississippi Library Association  
Mississippi Municipal League  
Mississippi Prosecutors Association  
Mississippi Public Utilities Staff  
Mississippi State Port Authority  
Port of Gulfport  
Port of Pascagoula  
Warren County Port Commission  
Yazoo County Port Commission  
Yellow Creek State Inland Port Authority

FROM: Laura D. Jackson, Executive Director 

DATE: July 13, 2017

RE: House Bills 1106 and 1109 (2017 Regular Session)

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Effective January 1, 2018, all governing authorities are required to comply with the provisions of House Bill 1106 and 1109, which amended Section 31-7-13 of the Miss. Code Ann. of 1972. Miss. Code. Ann. Section 31-7-1 defines "governing authority" as follows:

*(b) "Governing authority" means 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, Mississippi State Port Authority, 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. The term "governing authority" also shall not include the governing board of a charter school.*

While governing authorities are **not under the purview** of the Mississippi Department of Finance and Administration (DFA) or the Public Procurement Review Board (PPRB), the legislation has important ramifications for all procurement in Mississippi. Accordingly, DFA is providing this information to governing authorities in an effort to assist these entities in complying with the new laws.

### **I. Electronic Bidding**

House Bill 1106 revises Section 31-7-13(c)(v) and requires governing authorities 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." The only exceptions to this requirement are for governing authorities who are currently **without available high-speed internet access** and **counties** having a **population** of less than twenty thousand (20,000) and **municipalities** having a **population** of less than ten thousand (10,000).

### **II. Reverse Auctions**

House Bill 1109 revises Section 31-7-13(c)(i)(2) and requires that reverse auctions be the **primary method for receiving bids** during the bidding process. Purchasing entities may petition the PPRB for **relief** from utilizing a reverse auction on a particular procurement; however, they must seek approval of the resulting contract following the procurement by the alternative method. The Attorney General has recently opined that "purchasing entity" in this context includes "governing authorities". See MS AG Op., Nowak (June 9, 2017). It will be the recommendation of the DFA to the PPRB that regulations be adopted which **delegate this exemption approval authority** back to the governing board of the individual authorities.

In order to assist governing authorities in complying with these new requirements, DFA, in partnership with the Mississippi Department of Information Technology Services (ITS), will be issuing a solicitation for the provision of both electronic bidding and reverse auction services. We envision that a **multi-award contract** will result as a part of this process. These contracts are meant to serve as a quick reference for governing authorities to enable the selection of a **responsible vendor**. The contracts **will not be mandatory**, and governing authorities will still be free to contract with whomever they wish. Currently, representatives from DFA and ITS are meeting with vendors to learn more about the industry at large before we prepare the solicitation documents. The contracts will be in place **by January 1, 2018**, when the laws go into effect.

Please assist us by **sharing this memorandum** with all of your representative members. Additionally, DFA will be adding a new page on its **website** for the PPRB which will include updates on this and other processes associated with the new laws. As always, please feel free to contact us if we may be of any assistance. Inquiries may be directed to the Director of Purchasing, Travel and Fleet Management Ross Campbell - [Ross.Campbell@dfa.ms.gov](mailto:Ross.Campbell@dfa.ms.gov) or 601-359-3409 - or Deputy Executive Director Aubrey Leigh Goodwin - [AubreyLeigh.Goodwin@dfa.ms.gov](mailto:AubreyLeigh.Goodwin@dfa.ms.gov) or 601-359-6603.