

PUBLIC PROCUREMENT REVIEW BOARD

SPECIAL MEETING

TUESDAY, JUNE 30, 2015

A special meeting of the Public Procurement Review Board was held at 3:00 p.m. in the 13th floor Conference Room of the Mike Woolfolk State Office Building located in Jackson, Mississippi.

PRESENT

Mr. Kevin J. Upchurch, Chairman
Mr. Charles R. Snowden, Member

OTHERS

Ms. Monica Ritchie, Director of the Office of Purchasing, Travel and Fleet Management, DFA
Mr. Michael Cook, Director of the Office of Purchasing and Travel, DFA
Mr. Bennie Nutt, Deputy Executive Director, DFA
Ms. Aubrey Leigh Goodwin, Special Assistant Attorney General, DFA
Ms. Melody Coulson, PPRB Recorder, DFA

ABSENT


Mr. Freddie M. "Flip" Phillips, Vice Chairman

The Chairman called the meeting to order and commenced the meeting with prayer.


OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT

Ms. Ritchie presented the proposed revisions to the Procurement Manual for approval. Mr. Snowden made a motion to approve the revisions. Mr. Upchurch seconded and the motion carried.

There being no further business to bring before the Board, the meeting was adjourned.



Mr. Charles R. Snowden



Mr. Kevin J. Upchurch



PUBLIC PROCUREMENT REVIEW BOARD

Special Meeting

Tuesday
3:00 p.m.

June 30, 2015

ATTENDANCE SHEET

NAME AND TITLE

AGENCY/COMPANY

(Please Print)

Monica Ritchie	DFA / OPTFM
Michael D. Cook	DFA / OPTFM
Demi Pitt	DFA
Aubrey Leigh Goodwin	AG / DFA
Kevin Upchurch	DFA
RICK SNOWDEN	DFA
Melody Coulson	DFA



STATE OF MISSISSIPPI
GOVERNOR PHIL BRYANT

DEPARTMENT OF FINANCE AND ADMINISTRATION

KEVIN J. UPCHURCH
EXECUTIVE DIRECTOR

NOTICE

A Special Meeting of the

PUBLIC PROCUREMENT REVIEW BOARD

will be held Tuesday, June 30, 2015, 3:00 p.m. in the
13th floor Conference Room
Woolfolk State Office Building

Agenda: Request for Approval of Proposed Revisions to the Procurement Manual and Miscellaneous

AGENDA

PUBLIC PROCUREMENT REVIEW BOARD

Special Meeting

3:00 p.m.

WEDNESDAY, JUNE 30, 2015

I. OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT

Ms. Monica Ritchie, Director of the Office of Purchasing, Travel and Fleet Management, will present the following:

- Request for Approval of Proposed Revisions to the Procurement Manual

II. NEXT MEETING DATE

Regular Meeting, Wednesday, July 01, 2015

OFFICE OF PURCHASING AND TRAVEL
PUBLIC PROCUREMENT REVIEW BOARD
SPECIAL MEETING AGENDA
JUNE 30, 2015

1. OPTFM is submitting the following proposed revisions to the procurement manual:

The change to section 2.102.04 will clarify the types of procurements that PPRB wants to come before the board. The previous wording stated "one time purchases which exceed \$500,000." The Board clarified on February 2015 that they wanted to see multiple purchases or awards that exceeded \$500,000.

2.102.04 Public Procurement Review Board (PPRB) Approval

- (1) Any request for **any purchase authority (to include multiple purchases or a "not to exceed" amount), award, or awards (when such awards are the result of one competitive procurement)** which exceeds \$500,000 of commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state, but not commodities purchased for resale or raw materials converted into products for resale as provided by [Section 31-7-1\(e\), Mississippi Code of 1972, Annotated](#);

2. 3.101.03 Exemptions Requiring Approval

Unless otherwise ordered by regulation of the Public Procurement Review Board (PPRB), the following listed items are exempt from the competitive bid process **provided they follow 3.109.02**; however, these purchases do require **P-1** approval of the [Office of Purchasing, Travel and Fleet Management](#).

- (1) Non-competitive items that are available from only one source;
- (2) Items purchased for research that are available from only one source

3. The changes address the new proposed regulations for sole source procurements:

3.109.02 Conditions for Use of Sole-Source / Research Procurement(s)

Sole-source procurement (including any item purchased for research that is available from only one source) is not permissible unless a requirement is available from only a single supplier. A requirement for a particular proprietary item does not justify sole-source procurement if there is more than one potential bidder or offerer for that item. The following are examples of circumstances which could necessitate sole-source procurement:

- (1) Where the compatibility of equipment, accessories, or replacement parts is the paramount consideration (and manufacturer is sole supplier).
- (2) Where a sole supplier's item is needed for trial use or testing.
- (3) Where a sole supplier's item is to be required when no other item will serve the need of the user entity.

Any agency seeking sole source procurement authority for commodities shall advertise in the same manner provided in Section 31-7-13(c), Mississippi Code of 1972, Annotated. Such advertisement shall direct vendors to the procurement portal website established by Sections 25-53-151 and 27-104-165, where the agency shall publish for a minimum of fourteen (14) days the terms of the proposed sole source procurement. The portal publication shall include, but is not limited to, the following information:

1. A description of the commodity that the agency is seeking to procure;
2. An explanation of why the commodity is the only one that can meet the needs of the agency;
3. An explanation of why the source is the only person or entity that can provide the required commodity;
4. An explanation of why the amount to be expended for the commodity is reasonable;
5. The efforts that the agency went through to obtain the best possible price for the commodity; and
6. Procedures for any person or entity that objects and proposes that the commodity published on the procurement portal is not sole source and can be provided by another person or entity. These procedures shall direct the objecting person or entity to notify the agency that published the proposed sole source procurement request with a detailed explanation of why the commodity is not a sole source procurement. If such an objection has been raised, the agency shall follow the following steps:
 - a. If the agency determines after review that the commodity in the proposed sole source request can be provided by another person or entity, then the agency must withdraw the sole source request publication from the procurement portal website and submit the procurement of the commodity to an advertised competitive bid or selection process.
 - b. If the agency determines after review that there is only one (1) source for the required commodity, then the agency may appeal to the Public Procurement Review Board. The agency has the burden of proving that the commodity is only provided by one (1) source.
 - c. If the Public Procurement Review Board has any reasonable doubt as to whether the commodity can only be provided by one (1) source, then the agency must submit the procurement of the commodity to an advertised competitive bid or selection process.

Once the procedures listed above have been followed, and an item has been certified as a single source item, the item may be purchased without complying with provisions for competitive bidding. Authority must be granted by the Office of Purchasing, Travel and Fleet Management prior to acquisition of the item by using the electronic P-1 process. A letter must be accompanied as an attachment to the P1 request outlining the results of the procedures that have been detailed above.

Following the approved purchase, per 31-7-13 (m) (viii) the executive head of the state agency, or his designees, shall file with the Department of Finance and Administration, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the source from whom it was purchased when submitting the applicable payment request as more particularly prescribed in the DFA MAAPP Manual. In the case of Institutions of Higher Learning, this can be done by adding an attachment to the university's previously approved P1 request.

3.109.03 Negotiation in Sole-Source Procurement

Once an item has been certified as sole source, the head of the purchasing agency or his/her designee shall conduct negotiations, as appropriate, as to price, delivery, and terms.

4. The changes listed below are the proposed changes regarding emergency procurements to comply with HB 825 and SB 2400

3.110 Emergency Procurements

Notwithstanding any other provisions of this regulation, the Chief Procurement Officer, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements under emergency conditions as defined in [Section 31-7-1\(f\), Mississippi Code of 1972, Annotated](#); provided, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. Such purchases shall be made in compliance with [Section 31-7-13\(j\), Mississippi Code of 1972, Annotated](#). Agencies shall notify or seek approval from, where required, the [Office of Purchasing, Travel and Fleet Management](#) by using the electronic P-1 process.

(1) Emergencies threatening health and safety or property

If such emergency threatens the health or safety of any person, or the preservation or protection of property, then the provisions of competitive bidding shall not apply and any officer or agent of the agency having general or specific authority for making the purchase or repair contract shall approve the bill presented for payment and provide justification and certification in writing detailing from whom the purchase was made or with whom the repair contract was made to the Office of Purchasing, Travel and Fleet Management using the electronic P-1 process.

The justification should be written in sufficient detail so that a person not familiar with the situation could be expected to understand the need to forego the normal purchasing procedure. As per [Section 31-7-13\(j\), Mississippi Code of 1972, Annotated](#), the certification for an emergency purchase must be submitted on letterhead and signed by the executive head or his/her designee(s) of the requesting agency. Agencies shall address the following when preparing the justification:

- (a) Does it fall under the definition of an emergency set forth in [Sections 31-7-1\(f\), Mississippi Code of 1972, Annotated](#)?

- (b) What happened to cause the emergency?
- (c) What would be the negative consequences of following normal purchasing procedures?
- (d) Does it threaten the health or safety of any person, or the preservation or protection of property?
- (e) The total purchases made shall only be for the purpose of meeting the needs created by the emergency situation.

Following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be filed with the Department of Finance and Administration when submitting the applicable payment request as more particularly prescribed in the DFA MAAPP Manual. In the case of Institutions of Higher Learning, this can be done by adding an attachment to the university's P1 request.

(2) Emergencies Requiring Approval Prior to Purchase

If the governing board or the executive head, or his designees, of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the head of such agency, or his designees, shall seek approval of the Office of Purchasing, Travel and Fleet Management using the electronic P-1 process.

The justification should be written in sufficient detail so that a person not familiar with the situation could be expected to understand the need to forego the normal purchasing procedure. As per Section 31-7-13(j), Mississippi Code of 1972, Annotated, the certification for an emergency purchase must be submitted on letterhead and signed by the executive head or his/her designee(s) of the requesting agency. Agencies shall address the following when preparing the justification:

- (a) Does it fall under the definition of an emergency set forth in Sections 31-7-1(f), Mississippi Code of 1972, Annotated?
- (b) What happened to cause the emergency?
- (c) What would be the negative consequences of following normal purchasing procedures?
- (d) The total purchases made shall only be for the purpose of meeting the needs created by the emergency situation.

Upon receipt of the justification and any applicable board certification, the State Fiscal Officer or his designees, may authorize the purchase or repair without having to comply with competitive bidding requirements.

Following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be filed with the Department of Finance and Administration

when submitting the applicable payment request as more particularly prescribed in the DFA MAAPP Manual. In the case of Institutions of Higher Learning, this can be done by adding an attachment to the university's P1 request.

3.110.04 Authority to Make Emergency Procurements

Any state agency may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods, provided approval by the executive head of the agency shall be obtained prior to the procurement **and provided 3.110 is followed**. Governing authorities shall comply with [Section 31-7-13\(k\), Mississippi Code of 1972, Annotated](#).

5. Remove Section 3.124.03 (the form SC-1 that this section references, has not been used for several years).

3.124.03 Special Circumstances Required Information, SC-1

The information provided on the [SC-1](#) document must be followed when submitting an electronic [P-1](#). Information for [SC-1](#) can be found in the [Training Section of the OPTFM website](#).

- (1) Emergency purchase
- (2) Sole-Source purchase
- (3) Purchase for research
- (4) Exemption from state contract

SPECIAL CIRCUMSTANCES APPROVAL FORM

This form must be completed and submitted with a P-1 when requesting authority to purchase under any of the following special circumstances: Emergency Purchase, Sole-Source Purchase, Purchase for Research, Exemption from State Contract.

Agency Submitting Request: _____

Agency Number: _____ P-1 Request Number: _____ Date: _____

Type of Special Circumstance:

_____ Emergency Purchase
_____ Sole-Source Purchase

_____ Purchase for Research
_____ Exemption from State Contract

PLEASE NOTE THAT SOLE-SOURCE PURCHASES, PURCHASES FOR RESEARCH AND EXEMPTIONS FROM STATE CONTRACT PURCHASES REQUIRE PRIOR APPROVAL. REQUESTS FOR APPROVAL OF EMERGENCY PURCHASES MAY BE SUBMITTED AFTER THE PURCHASE HAS BEEN MADE.

JUSTIFICATION

Please submit a justification in sufficient detail so that a person not familiar with the situation could be expected to understand the need to forego the normal purchasing procedure. The justification should be typed on letterhead and signed by the principal investigator. The Procurement Director or his/her designee of the agency submitting the request shall sign the letter of justification indicating review and approval of the request. As per Section 31-7-13 (j), the certification for an emergency purchase must be submitted on letterhead and signed by the executive head or his/her designee of the requesting agency. The Office of Purchasing and Travel will not consider a sole source letter from the vendor as the primary justification but will use this letter as additional information when considering the request. Consider the following questions when preparing the justification:

- | | |
|-------------------------------|--|
| Emergency | Does it fall under the definition of an emergency set forth in Section 31-7-1 (f)?
What happened to cause the emergency?
What would be the negative consequences of following normal purchasing procedures? |
| Sole Source | Do other manufacturers make similar commodities that will do the same job or meet the same goals?
How is this item unique from all others?
What can this item do that the others can't?
Is this item available from other distributors? |
| Research | What does the item do?
How will this purchase or failure to make this purchase have an impact on the research? |
| Exemption from State Contract | What is the state contract price for a comparable item?
Is the quality level equal to or better than that on contract?
What are the transportation costs?
Have all applicable costs been included in the evaluation? |

CERTIFICATIONS

As per Section 31-7-13 (j), the certification for an emergency purchase must be signed by the executive head of the requesting agency. Other certifications should be signed by the individual responsible for the justification.

- a. **EMERGENCY PURCHASE.** "This is to certify that an extreme emergency existed to such an extent that delay incident to obtaining competitive quotations would have resulted in loss and/or harm to the agency."

Signed

- b. **SOLE-SOURCE PURCHASE.** "This is to certify that this purchase covers a commodity which is available from one source only and neither comparative nor competitive quotations can be obtained."

Signed

- c. **RESEARCH.** "This is to certify that the items requested herein are for research only and to use any item other than that which is specifically requested could have a detrimental effect on the project."

Signed