

PUBLIC PROCUREMENT REVIEW BOARD

SPECIAL MEETING

WEDNESDAY, JUNE 08, 2016

A special meeting of the Public Procurement Review Board (PPRB) was held at 3:30 p.m. in the 13th floor Conference Room of the Woolfolk State Office Building located in Jackson, Mississippi.

PRESENT

Mr. Kevin J. Upchurch, Chairman
Mr. Freddie M. "Flip" Phillips, Vice Chairman
Mr. Charles R. Snowden, Member

OTHERS

Mr. Kent Adams, Director of Real Property Management, DFA
Mr. Glenn Kornbrek, Director of the Bureau of Building, Grounds and Real Property Management, DFA
Ms. Aubrey Leigh Goodwin, Director of the Office of Purchasing, Travel and Fleet Management, DFA
Mr. Mike Cook, Director of the Office of Purchasing and Travel, DFA
Ms. Regina Irvin, Staff Officer for the Office of Purchasing, Travel and Fleet Management, DFA
Mr. Edward Wiggins, Special Assistant Attorney General, DFA
Ms. Melody Coulson, PPRB Recorder, DFA

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

OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT (OPTFM)

Ms. Irvin presented the following:

1. Mississippi Department of Health (MSDH) – Award to Supervalu Holdings, Inc., in the amount of \$33,651,246.00 for One (1) year with an option to renew for an additional 12 months (07/01/2016 - 06/30/2017) for Women, Infants, and Children (WIC) Special Supplemental Nutrition Program and Double Strength Kraft Bags. Mr. Phillips made a motion to approve this item contingent upon the issuance of a purchase order or an award letter by the agency. Mr. Snowden seconded and the motion carried.
2. Mississippi State University (MSU) – Award to Core Laboratories LP, in the amount of \$549,000.00 for One (1) year (06/08/2016 - 05/31/2017) for Gas Permeameter and accessories. Mr. Phillips made a motion to approve this item contingent upon the issuance of a purchase order or an award letter by the agency. Mr. Snowden seconded and the motion carried.
3. Mississippi Department of Transportation (MDOT) – Award to Lehman-Roberts Company, Inc., in the amount of \$1,900,000.00 for Six (6) Months (01/01/2016 – 06/30/2016) for Hot/Cold Mix Asphalt. Mr. Phillips made a motion to approve this item contingent upon the issuance of a purchase order or an award letter by the agency. Mr. Snowden seconded and the motion carried.
4. Mississippi Department of Transportation (MDOT) – Award to Asplundh Tree Expert Company, dba VM Distribution Partners, Helena Chemical Company-Dallas, Red River Specialties, Inc., and Crop Production Services, in the amount of \$1,000,000.00, \$468,750.00, \$75,000.00 and \$500,000.00 (a total of \$2,043,750.00) for Two (2) Years (06/01/2015 – 06/30/2017) for Herbicides Dry/Liquid. Mr. Phillips made a motion to approve this item contingent upon the issuance of a purchase order or an award letter by the agency. Mr. Snowden seconded and the motion carried.
5. University of Mississippi Medical Center (UMMC) - One (1) year (07/01/2016 - 06/30/2017) - Exemption to Chapter 8, "Disposal of Personal Property," Section 8.101.01.2 of the Procurement Manual. UMMC submitted a request for a Special PPRB meeting because the current Group Purchasing Organization (GPO) Trade-In Letter expires on June 30, 2016. UMMC requested an exemption for trade-in of commodities to the requirements of the regulations of Chapter 8 "Disposal of Personal Property", Section 8.101.01.2, as it relates to personal property that will be traded-in as part of a purchases(s) facilitated through a GPO. Mr. Phillips made a motion to approve this item contingent upon the issuance of a purchase order or an award letter by the agency. Mr. Snowden seconded and the motion carried.

PUBLIC PROCUREMENT REVIEW BOARD

Special Meeting

Wednesday, June 08, 2016

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BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT (BOB)

Leases

Mr. Adams presented the following:

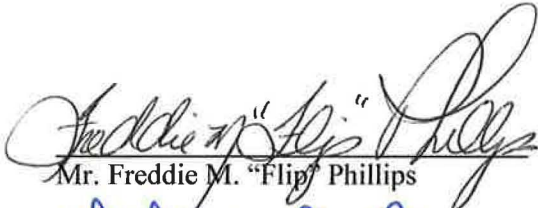
The Board reviewed (a) Leases With No Increase in Cost or Space. Mr. Phillips made the motion to approve (a) as recommended by the Division of Real Property Management, contingent upon fully executed leases. Mr. Snowden seconded, and the motion carried.

Construction

Mr. Kornbrek presented the following:

Revision to the Bureau of Building Policy and Procedure Manual for the board's approval. Mr. Snowden made a motion to approve. Mr. Phillips seconded and the motion carried.

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


Mr. Freddie M. "Flip" Phillips


Mr. Charles R. Snowden


Mr. Kevin J. Upchurch



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 Wednesday, June 08, 2016, 3:30 p.m. in the
13th floor Conference Room
Woolfolk State Office Building

Agenda: Approval of OPT Contract and Miscellaneous

AGENDA

PUBLIC PROCUREMENT REVIEW BOARD

Special Meeting

3:30 p.m.

WEDNESDAY, JUNE 8, 2016

I. OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT (OPTFM)

Ms. Regina Irvin, Staff Officer for the Office of Purchasing, Travel and Fleet Management, presents the following:

- 1 contract for the Mississippi Department of Health (MSDH)
- 1 contract for Mississippi State University (MSU)
- 2 contract for the Mississippi Department of Transportation (MDOT)
- 1 contract for the University of Mississippi Medical Center (UMMC)

II. BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT (BOB)

Mr. Kent Adams, Director of the Real Property Management presents the following:

- Leases With No Increase In Cost Or Space (a)

Mr. Glenn Kornbrek, Director of the Bureau of Building, Grounds and Real Property Management presents the following:

- Revision to the Bureau of Building Policy and Procedure Manual.

III. NEXT MEETING DATE

Regular Meeting, Wednesday, July 06, 2016

**OFFICE OF PURCHASING AND TRAVEL
PUBLIC PROCUREMENT REVIEW BOARD
SPECIAL MEETING AGENDA
June 8, 2016**

- 1. REQUESTING AGENCY:** Mississippi Department of Health (MSDH)
SUPPLIER: Supervalu Holdings, Inc.
MAGIC NUMBER: 8200025805
AMOUNT OF CONTRACT: \$33,651,246.00
TERM OF CONTRACT: One (1) year with an option to renew for an additional 12 months (07/01/2016 - 06/30/2017)
SCOPE OF CONTRACT: Women, Infants, and Children (WIC) Special Supplemental Nutrition Program and Double Strength Kraft Bags
PURCHASE METHOD: Competitive Bid
COMMENTS: MSDH has submitted a request for a Special PPRB meeting to ensure that thousands of program participants have the food and nutritional items effective July 1, 2016 and to allow sufficient lead time for the awarded vendor to prepare for delivery of the items. MSDH solicited bids for the purchase of food and services for the WIC Supplemental Nutrition Program and Kraft Double strength bags with Handles. A separate P-1 (# 8200024753) was presented and approved by the Board at a Special meeting on April 15, 2016 for the Infant Formula in the amount of \$7,572,393.83. The successful bidder of the WIC Special Supplemental Nutrition Program, will be responsible for purchasing, receiving, storing, supplying and delivering the Infant Formula from the awarded vendor to the WIC Food Distribution Centers. Food items will be purchased by MSDH and delivered weekly by the successful bidder statewide to the WIC Food Distribution Centers for distribution to WIC program participants. Two (2) responses were received and no objections were received. MSDH awarded the contract to the vendor with the lowest bid and best bid that met the specifications. MSDH is requesting the Board's approval to award the contract to the vendor with the lowest and best bid.
COMPLIANCE WITH PROCEDURES (YES, NO): Yes
ADDITIONAL COMMENTS IF NEEDED: Based on the information submitted by the Agency, we ask for the Board's approval contingent upon the issuance of a purchase order or an award letter by the Agency.
- 2. REQUESTING AGENCY:** Mississippi State University (MSU)
SUPPLIER: Core Laboratories LP
MAGIC NUMBER: 8200025782
AMOUNT OF CONTRACT: \$549,000.00
TERM OF CONTRACT: One (1) Year (06/08/2016 - 05/31/2017)
SCOPE OF CONTRACT: Gas Permeameter and accessories
PURCHASE METHOD: Competitive Bid
COMMENTS: MSU has submitted a request for a Special PPRB Meeting for approval to issue a Purchase Order for a Steady State Permeameter for the Chemical Engineering Department that has a very long lead time. MSU solicited bids for a Steady State Gas Permeameter. This a dedicated apparatus for measurement of permeability of core samples to different gases (air, CO₂, methane...) under steady state conditions at various pressure and flow rates. Two (2) responses were received and no objections were received. MSU accepted the lowest bid that met specifications. MSU is requesting the Board's approval to award the contract to the vendor with the lowest and best bid that meets the specifications.
COMPLIANCE WITH PROCEDURES (YES, NO): Yes
ADDITIONAL COMMENTS IF NEEDED: Based on the information submitted by the Agency, we ask for the Board's approval contingent upon the issuance of a purchase order or an award letter by the Agency.

- 3. REQUESTING AGENCY:** Mississippi Department of Transportation (MDOT)
SUPPLIER: Lehman-Roberts Company, Inc.
MAGIC NUMBER: 8800022529
AMOUNT OF CONTRACT: \$1,900,000.00
TERM OF CONTRACT: Six (6) Months (01/01/2016 – 06/30/2016)
SCOPE OF CONTRACT: Hot/Cold Mix Asphalt
PURCHASE METHOD: Competitive Bid – (Agency contract)
COMMENTS: MDOT has submitted a request for a Special PPRB meeting, because the Agency is currently paying invoices on the Hot/Cold Mix Asphalt contracts. This P-1 was initially presented and approved by PPRB at a Special meeting on December 14, 2015, in the amount of \$400,000.00 as a part of a multi-award approval request. MDOT is requesting an increase in the award amount. This second request is for an increase (due to an underestimate for spend) of \$1,500,000.00 (from the previously approved amount of \$400,000.00 to a new total of \$1,900,000.00). MDOT made the initial award to all bidders that met specifications. If the product is to be picked up, purchases are made from the bidder providing the lowest cost to MDOT (taking into account the line item pricing and the cost of transporting the product). If the materials are to be delivered, purchases are made from the lowest bidder (line items pricing, plus haul/freight charge) able to deliver in a timely manner. State Agencies and Governing Authorities may purchase from these contracts. The initial projected spend for each vendor was based off the previous year's spend. MDOT is requesting the Board's approval to increase the amount of the award for this vendor.
COMPLIANCE WITH PROCEDURES (YES, NO): Yes
ADDITIONAL COMMENTS IF NEEDED: Based on the information submitted by the Agency, we ask for the Board's approval contingent upon the issuance of a purchase order or an award letter by the Agency.
- 4. REQUESTING AGENCY:** Mississippi Department of Transportation (MDOT)
SUPPLIER: Asplundh Tree Expert Company, dba VM Distribution Partners, Helena Chemical Company-Dallas, Red River Specialties, Inc., and Crop Production Services
MAGIC NUMBER: 8800004284, 8800004285, 8800004286 and 8800004288
AMOUNT OF CONTRACT: \$1,000,000.00, \$468,750.00, \$75,000.00 and \$500,000.00 (a total of \$2,043,750.00)
TERM OF CONTRACT: Two (2) Years (06/01/2015 – 06/30/2017)
SCOPE OF CONTRACT: Herbicides Dry/Liquid
PURCHASE METHOD: Competitive Bid - (Agency Contract)
COMMENTS: MDOT has submitted a request for a Special PPRB meeting, because the Agency is currently paying invoices on the herbicide contracts. MDOT is requesting an extension of the current contracts as they are due to expire on June 30, 2016. The P-1 for Asplundh Tree Expert Company was initially presented to and approved by PPRB on June 3, 2015 in the amount of \$665,000. The remaining three (3) P-1s were initially presented and approved by PPRB on July 1, 2015 in the amounts of \$468,750, \$75,000 and \$200,000 for a total of \$743,750 as a part of a multi-award approval request. MDOT is requesting a second increase in the award amount. This second request is for an increase (due to an underestimate for spend) of \$335,000.00 for Asplundh Tree Expert Company (from the previously approved amount of \$665,000.00 to a new total of \$1,000,000.00) and for an increase (due to an underestimate for spend) of \$300,000, for Corp Production Services (from the previously approved amount of \$200,000.00 to a new total of \$500,000.00). The total award amount is \$2,043,750.00. MDOT made the initial awards to all four bidders. MDOT awarded it to the lowest and best three bids per line item that met the specifications and bid requirements. State Agencies and Governing Authorities may purchase from these contracts. The initial projected spend for each vendor was based off the previous year's spend. MDOT is requesting the Board's approval to increase the amount of the award for this vendor.
COMPLIANCE WITH PROCEDURES (YES, NO): Yes

ADDITIONAL COMMENTS IF NEEDED: Based on the information submitted by the Agency, we ask for the Board's approval contingent upon the issuance of a purchase order or an award letter by the Agency.

5. **REQUESTING AGENCY:** University of Mississippi Medical Center (UMMC)
TERM OF CONTRACT: One (1) year (07/01/2016 - 06/30/2017)
SCOPE OF CONTRACT: Exemption to Chapter 8, "Disposal of Personal Property," Section 8.101.01.2 of the Procurement Manual
PURCHASE METHOD: (GPO)
COMMENTS: UMMC has submitted a request for a Special PPRB meeting because the current Group Purchasing Organization (GPO) Trade-In Letter expires on June 30, 2016. UMMC is requesting an exemption for trade-in of commodities to the requirements of the regulations of Chapter 8 "Disposal of Personal Property", Section 8.101.01.2, as it relates to personal property that will be traded-in as part of a purchases(s) facilitated through a GPO.

This chapter and section relates to personal property which becomes surplus to the agency or is obsolete or inoperable, but still has a residual value and the agency wants to trade the equipment in to receive a discount off the purchase price of new equipment. (Please see the attached request letter.)

Section 8.101.01.2 states: "when trading-in a commodity and applying the revenue towards a reduction in the purchase price, the agency must evaluate the value of the commodity being traded as well as the value of the item being procured to determine the proper methods of soliciting bids. If the estimated value of the items or items being traded is greater than \$1,000 but not more than \$5,000, two written quotes are required. If the estimated value of the "trade-in" commodity exceeds \$5000 then the transaction shall be advertised.

Per Section 31-7-13, Mississippi Code of 1972, Annotated, if the estimated value of the commodity to be purchased exceed, \$50,000, then the transaction shall be advertised. If the estimated value of the commodity to be purchased exceeds, \$5,000, then the transaction shall be entered into after obtaining at least two competitive bids.

Since UMMC has authority to purchase through a GPO and is exempt from bid requirements, they are asking to be exempt regarding the "disposal of person property requirements" as well. The Board initially approved this exemption in April 2013 and asked that the request be brought back before the Board each year. UMMC's current exemption approval expires June 30, 2016.
ADDITIONAL COMMENTS IF NEEDED: Based on the information submitted by the Agency, we ask for the Board's approval of this exemption.



June 1, 2016

Aubrey Leigh Goodwin
Office of Purchasing, Travel and Fleet Management
701 Woolfolk Building, Suite A
501 North West Street
Jackson, MS 39201

Re: Trade-ins as result of a purchase through a group purchasing organization

Dear Mrs. Goodwin:

Per Chapter 8 “Disposal of Personal Property” of the *Mississippi Procurement Manual*, personal property that has become surplus to a state agency’s needs may be traded-in or disposed of in other ways. However, pursuant to section 37-115-13 of the Mississippi Code of 1972, Annotated (MS Code), UMMC has authority to purchase through a group purchasing organization (GPO), exempting those purchases from the bid requirements of section 31-7-13 of the MS Code. As such, for a trade-in of one commodity as part of the purchase of another commodity available on GPO, it is unclear whether Chapter 8 “Disposal of Personal Property” would be practical for UMMC when purchasing through the GPO.

Therefore, UMMC respectfully requests an exemption to the requirements of Chapter 8 “Disposal of Personal Property” as it relates to personal property that will be traded-in as part a purchase facilitated through the GPO from July 1, 2016, through June 30, 2017.

Please let me know if you have any questions or would like to discuss further.

Best regards,

Stacy Baldwin
Agency Procurement Officer
Director Contracts Administration
University of Mississippi Medical Center

PUBLIC PROCUREMENT REVIEW BOARD

Special MEETING

June 8, 2016

LEASES

850-000

The Division of Real Property Management requests concurrence and approval of the following:

(a) LEASES WITH NO INCREASE IN COST OR SPACE:

<u>Agency</u>	<u>Location</u>	<u>Eff. Date</u>	<u>Type*</u>	<u>Previous Sq. Ft.</u>	<u>Proposed Sq. Ft.</u>	<u>Previous** \$/Sq. Ft.</u>	<u>Proposed** \$/Sq. Ft.</u>	<u>%Fed</u>		<u>\$/Year</u>	<u>Lease #</u>
MDPS	4040 Airport Rd Bolton	07/06/2016 07/05/2017	WH/H Hanger	12,000	12,000	\$3.75+UJ	\$3.75+UJ	N	0	\$45,000	670-254-17A 01231

Escalations: U=Utilities J=Janitorial I=Insurance T=Taxes R=Rent

* O = Office WH = Warehouse C = Clinic WS = Workshop H = Housing L = Library S = Storage LB = Lab LD = Land T = Training

** inc = Utilities and Janitorial Services are included in this amount

+UJ = Utilities and Janitorial Services are not included in this amount

+U = Utilities are not included in this amount

+J = Janitorial Services are not included in this

400.6
THE POLICY

A. PROJECTS LESS THAN \$3,000,000

Projects containing an initial total project budget of up to and including \$3,000,000 may use the Request for Qualifications professional selection process if the Bureau deems it necessary; however, it is not mandatory. The selection process is normally as follows:

1. At the time of request for Project Initiation or thereafter After a Project is initiated, the Executive Director, Commissioner, President, Governing Board or their authorized designee for the Using Agency or Institution requesting the Project will designate an agency contact person for all future Bureau activities. This contact person will submit a list containing at least three (3) Professionals firms, for consideration in the order of preference, for the design of the Project. If no list is provided, or a list containing less than three (3) Professionals is provided, the Bureau will identify additional Professionals for which the Bureau has a current M54 Architect-Engineer and Related Services Questionnaire on file until a list of at least three (3) eligible is established.
2. The Bureau will solicit a letter of interest from each listed Professional, including the Professional's agreement to enter into a Bureau contract for the fee stipulated for this Project if selected and a current M54 Architect-Engineer and Related Services Questionnaire, and M55 Architect-Engineer Related Services for Specific Project Questionnaire form. Should one or more identified Professionals fail to furnish letter of interest, the Using Agency or Institution will be requested to identify additional potential Professionals or the Bureau will identify additional Professional(s) until a list of three (3) eligibles is re-established. For projects where the Bureau determines that scope of services make a fee based upon pre-defined percentage of construction cost impractical or inappropriate, following selection based upon qualifications only, the selected Professional will be requested to provide a detailed Proposal identifying proposed scope, deliverables, schedule, and cost. The Proposal shall be reviewed by the Bureau and evaluated to determine if services represent a fair and reasonable cost, and if not, the Bureau shall negotiate with the selected Professional until this is achieved. Should negotiations with the most qualified Professional fail to achieve a fair and reasonable cost, the Bureau may negotiate with the next most qualified Professional or restart the selection process. These names will be submitted to the Governing Board, or Department Head. The Governing Board, or Department Head, will review the recommendations and transmit its recommendation to the Bureau for consideration.
 - a. The Bureau may select one (1) of the professional firms submitted. Or, as the contracting agency, the Bureau reserves the right to substitute another firm. After the selection has been made, the Professional, the Governing Board, and the Using Agency will be informed.
3. Selection: A Selection Committee, composed of the following voting members, may choose to select the Professional directly from the list of eligibles without benefit of in-person interviews, or they may hold separate in-person interview with each Professional on the list of eligibles:
 - a. Director of the Bureau of Building, Grounds and Real Property Management
 - b. Assistant Director of the Bureau of Building, Grounds and Real Property Management

- c. Construction Manager of the Bureau of Building, Grounds and Real Property Management or one (1) other staff member of the Bureau.
 - d. One (1) from the Institution, Agency, Department or Governing Board.
4. Voting: A minimum of three (3) Selection Committee members constitute a quorum; and if for any reason a tie vote results, the Director of the Bureau of Building will decide between the two (2) Professionals receiving the most votes.
5. Omitting In-Person Interviews: If the in-person interview process is omitted, one or more of the following should take place prior to selection:
 - a. Each eligible Professional will be interviewed over the phone.
 - b. Each voting member of the Selection Committee will be consulted in person, or by phone, to ascertain their preference.
 - c. The Bureau Director will waive interviews based on the sufficiency of information submitted and previous performance of Professionals under consideration.
6. Motion to Reconsider: The Director of the Bureau may, at his discretion, rule that the Selection Committee's decision will be held on a *motion to reconsider* and reconvene the Selection Committee normally within five (5) working days after the Selection Committee's initial decision. At this reconvened meeting, the Committee may allow the first vote to *stand*, or the Committee may *throw it out* and take another vote.
7. Emergency Project: Where project is initiated to address emergency repairs, preceding process will not be followed, and selection of Professional will be made based upon recommendation of the Director of the Bureau.
8. Continuation Project: Where project is initiated as a continuation of a previous appointment for a directly related Bureau administered project, preceding process will not be followed, and selection of Professional will be made based upon recommendation of the Director of the Bureau.
9. Adoption Project: Where project is initiated as a continuation of a previous appointment for a project administered by an Institution, Agency or Department, preceding process may not be followed if initial selection process used by Institution, Agency or Department was done using a similar qualifications-based selection process.

The interviews, if held, are open to other representatives of the Institution, Agency or Department; however, they will not participate in the selection voting. The Bureau of Building, Grounds and Real Property Management is responsible for establishing any evaluation criteria when needed for each submission. This may change according to Project need.

B. PROJECTS MORE THAN \$3,000,000

Unless a project has been declared an emergency, projects with more than an initial project budget of \$3,000,000 must follow the professional selection process outlined below:

1. Project Initiation: After a Project has been initiated by the Bureau, the need for professional services for the Project will be made public. The method of announcement will be one, or more, of the following:

- a. Posting on the Bureau website Placing copies in the reception room of the Bureau's office
 - b. Mass e-mail to entities with a current M54 Architect-Engineer and Related Services Questionnaire on file Placing a copy on the 15th floor lobby bulletin board
 - c. Publication in a professional society publication or website
 - d. Direct mail-out to entities with a current M54 Architect-Engineer and Related Services Questionnaire on file
 - e. Advertisement in Daily newspaper
2. Response: Any individual, firm or corporation desiring to respond to the publication and provide Professional services for a Project must give the Bureau written notification of interest. This response must be received at the Bureau's office on, or before, the date established in the public notice. The response is to be as follows:
- a. Yearly: In order to be considered for any current project, individuals, firms and corporations should have on file a current Bureau of Building's *M54 Architect-Engineer and Related Services Questionnaire*. [See Appendix 400.] A brochure from the firm or corporation may be included, if desired. This file will be updated in March of each year.
 - b. Specific Project: Any individual, firm, or corporation desiring to provide professional services for a specific project must respond to the public notice by writing a letter indicating interest. A separate letter for each Project is required. General letters listing more than one (1) Project will not be considered. Any additional required submissions, other than the letter indicating project interest, will be listed in the public notice. In most cases, additional data will be required such as a M55 Architect-Engineer Related Services for Specific Project Questionnaire form [See Appendix 400] or the submission of the complete design team including structural, asbestos, mechanical and electrical consultants. Joint ventures of professionals are acceptable and the responsibilities of all parties involved should be stated in the letter of interest.
 - c. For projects where the Bureau determines that scope of services make a fee based upon pre-defined percentage of construction cost impractical or inappropriate, this will be clearly indicated in the announcement of need for professional services. Following selection based upon qualifications only, the selected Professional will be requested to provide a detailed Proposal identifying proposed scope, deliverables, schedule, and cost. The Proposal shall be reviewed by the Bureau and evaluated to determine if services represent a fair and reasonable cost, and if not, the Bureau shall negotiate with the selected Professional until this is achieved. Should negotiations with most qualified Professional fail to achieve a fair and reasonable cost, the Bureau may negotiate with the next most qualified Professional or restart selection process.
3. Short List: A Pre-selection Committee will review all letters of interest and related data or information submitted. The Committee selects from all the submissions a *short list* for consideration. The *short list* must have at least three (3) names, ~~but may have a maximum of five (5).~~ If unless less than three (3) are received, in which case all submissions will be considered. The Pre-selection Committee is composed of the following representatives:
- a. Two (2) from the Institution, Agency, ~~or~~ Department or Governing Board
 - b. Director of the Bureau of Building, Grounds and Real Property Management
One (1) from the Governing Board (if there is no Board, this member is omitted)

- c. Assistant Director of the Bureau of Building, Grounds and Real Property Management Deputy Director of the Department of Finance and Administration who is responsible for the Division of General Services
 - d. Construction Manager of the Bureau of Building, Grounds and Real Property Management or one (1) other staff member of the Bureau Director of the Bureau of Building, Grounds and Real Property Management
 - e. Assistant Director of the Bureau of Building, Grounds and Real Property Management
 - f. Maximum of two (2) staff members of the Bureau of Building, Grounds and Real Property Management
 - g. Two (2) staff members of the Department of Archives and History, if the facility is listed on the *National Register of Historical Places* or the *Mississippi Historical Landmarks*.
4. Attendance: A minimum of three (3) ~~four (4)~~ Pre-selection Committee members constitute a quorum must be present for the pre-selection process. The Deputy Director of the Department of Finance and Administration who is responsible for the Bureau of Building, Grounds and Real Property Management may elect to substitute for any voting member of the Pre-selection Committee previously noted in 3.c or 3.d. The Bureau of Building staff members are responsible for eliminating all submissions not meeting the project qualifications prior to the Pre-selection Committee's meeting. This pre-selection process may be handled by committee meeting, conference call, or a telephone poll.
5. Notification: After a *short list* has been established by the Pre-selection Committee, those selected for interviews will be notified by the Bureau.
6. Selection: The Selection Committee composed of the following voting members, may choose to select the Professional directly from the *short list* without benefit of in-person interviews, or they may hold separate in-person interview with each Professional on the *short list*:
- a. Two (2) from the Institution, Agency, Department or Governing Board
 - b. Director of the Bureau of Building, Grounds and Real Property Management Deputy Director of the Department of Finance and Administration who is responsible for the Division of General Services
 - c. Assistant Director of the Bureau of Building, Grounds and Real Property Management Director of the Bureau of Building, Grounds and Real Property Management and one (1) staff member; or two (2) staff members of the Bureau
 - d. Construction Manager of the Bureau of Building, Grounds and Real Property Management or one (1) other staff member of the Bureau.
7. Voting: A minimum of three (3) Selection Committee members must be present; and if for any reason a tie vote results, the Director of the Bureau of Building will decide between the two (2) Professionals receiving the most votes. The Deputy Director of the Department of Finance and Administration who is responsible for the Bureau of Building, Grounds and Real Property Management may elect to substitute for any voting member of the Pre-selection Committee previously noted in 6.c or 6.d.
8. Delegation of Vote: Any voting member of the Section Committee previously noted in 6.a, 6.b, or 6.c or 6d, may designate another party to cast their vote. This Designee may be a representative of a local or non-traditional public entity, or a party having a special expertise regarding the area in which the facility will serve. The Selection Committee Member will

request the records of the proceedings state their vote has been designated and indicate the Designee.

9. Omitting Interviews: If the in-person interview process is omitted, one or more of the following should take place prior to selection:
 - a. Each *short list* Professional will be interviewed over the phone.
 - b. Each voting member of the Selection Committee will be consulted in person, or by phone, to ascertain their preference
 - c. The Bureau Director will waive a selection interviews based on the sufficiency of information at hand submitted plus the and previous performance of the firms under consideration.
10. Motion to Reconsider: The Director of the Bureau may, at his discretion, rule that the Selection Committee's decision will be held on a *motion to reconsider* and reconvene the Selection Committee normally within five (5) working days after the Selection Committee's initial decision. At this reconvened meeting, the Committee may allow the first vote to *stand*, or the Committee may *throw it out* and take another vote.
11. Emergency Project: Where project is initiated to address emergency repairs, preceding process will not be followed, and selection of Professional will be by the Director of the Bureau.
12. Continuation Project: Where project is initiated as a continuation of a previous appointment for a directly related Bureau administered project, preceding process will not be followed, and selection of Professional will be made based upon recommendation of the Director of the Bureau.
13. Adoption Project: Where project is initiated as a continuation of a previous appointment for a project administered by an Institution, Agency or Department, preceding process may not be followed if initial selection process used by Institution, Agency or Department was done using a similar qualifications-based selection process.

The interviews, if held, are open to other representatives of the Institution, Agency or Department; however, they will not participate in the selection voting. The Bureau of Building, Grounds and Real Property Management is responsible for establishing any evaluation criteria when needed for each submission. This may change according to Project need.

400.9

THE PROCEDURES

In 1994, the Legislature authorized the Department of Finance and Administration through the Bureau of Building, Grounds and Real Property Management to review and preapprove all architectural or engineering service contracts entered into by any state entity (agency, institution, commission, or board) ~~regardless of the funding~~ to defray the costs of construction or renovation projects for which services are to be obtained.

- B. Inclusions: If State funds support part, or all, of the Project ~~and one or more of the following conditions are met~~, the Project's Professional Contract shall be submitted to the Bureau for review and preapproval.

- a. ~~Architectural services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.~~
 - b. ~~Engineering services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.~~
 - e. ~~Landscape architectural services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.~~
 - d. ~~Interior design services will result in new construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.~~
 - e. ~~Special consulting services whose scope of work directly impacts on the construction, renovation, or repair of a building whose total construction contract is in excess of \$25,000.~~
- C. Exclusions: If one or more of the following conditions are met, the Project's Professional Contract shall not be submitted to the Bureau for review and preapproval:
- a. Institutions of Higher Learning projects supported entirely by ~~Self-generated, or local funds~~ or other non-state sources, support the entire Project.
 - b. City, municipality, school districts, or county projects supported entirely by local or self-generated funds.
 - c. Community and Junior College projects supported entirely by local funds or other non-state sources ~~self-generated funds~~.
 - d. All State of Mississippi Military Department projects funded fully or partially by federal funds or non-state sources funds; however, any Projects funded entirely by State appropriations will be submitted.
 - e. All Department of Transportation projects and State-Aid Road Projects; ~~however, any project involving a building facility will be submitted.~~
 - f. All Department of Environmental Quality projects, except building construction projects. Engineering contracts dealing with environmental quality aspects shall not be submitted.
 - g. All Projects resulting from Title 37, Chapter 47 of the Mississippi Code 1972, Annotated (State Aid for Construction of School Facilities).
- D. Submission Procedure: One (1) ~~photo~~ copy of the unsigned, proposed Professional Contract (no original), along with all source selection documentation, shall be submitted prior to signing by the Owner to the Bureau at the following address:

Attention: Professional Contract Review
 Bureau of Building, Grounds and Real Property Management
 501 North West Street, Suite 1401B
 Woolfolk Building
 Jackson, MS 39201
 Phone: 601/359-3621 Fax: 601/359-2470

Electronic submissions are acceptable. Faxes are acceptable if followed up by a mailed copy. Complete and submit with a copy of the Professional's Contract, the *Professional Contract Review Form*. [See Appendix 400.] This Form will expedite the process and also serve as the approval response from the Bureau. Allow at least ten (10) working days for processing. After execution of the Professional's Contract a signed copy should be uploaded to Transparency via MAGIC ~~mailed to the Bureau~~ for recording, auditing and reporting purposes.

- E. Contract Forms: Bureau standard forms of contract are required unless specifically waived by the Bureau. Contract forms should be filled out to the extent possible (less signatures) clearly indicating proposed scope, fee classification and schedule of performance. Where

form of Contract is to be Using Agency Special Professional Proposal Contract, also attach Professional's Proposal, justification for why a fee based upon pre-defined percentage of construction cost is impractical or inappropriate, and documentation of cost evaluation including any negotiations conducted to determine a fair and reasonable cost has been achieved. Bureau Staff and legal support are familiar with the Standard AIA Form of Agreement Between the Owner and the Professional and the Bureau's Standard Form of Agreement Between the Owner and the Professional [See Contracts section.] Should either of these forms be used, approval should be expeditious. If other forms are used, more than ten (10) working days will be involved for review and approval.

- F. Approval: If approved, the Bureau will return the Professional Contract Review Form to the Institution/Agency/Department and request an executed copy. The Institution/Agency Department should attach a copy of this form to Contract in MAGIC if applicable.
- G. Disapproval: It is not the intent of the Bureau to dictate all contractual conditions, but will disapprove submissions if any of the following are present:
- a. Unusual supplementary conditions which are not normally included in a Professional Contract.
 - b. Provisions which impose unfair conditions on either the Owner or the Professional.
 - c. Fees which are excessively high, or low, as related to the normal fees necessary to provide quality services for the particular type project.
 - d. Bureau Staff will examine additional services closely and may request additional information and justification for its inclusion. Fee charges for additional services will be of particular interest.
 - e. Contract forms which are not suitable for Project requirements.
 - f. Failure to comply with source selection requirement.
- H. Contract Changes: Any changes to the Contract terms and/or conditions after execution should be submitted in the same manner required for initial preapproval. Changes to Contract that are in accordance with initial terms and/or conditions of Contract (ie: Change Orders) do not require re-submittal for preapproval prior to execution.
- I. Effective Date: Any Professional Contract entered into from and after July 1, 1994 shall be submitted to the Bureau for approval.
- J. Source Selection: Source selection shall be competitive and qualifications-based, consistent with Section 400.6 PROFESSIONAL SELECTION POLICY used for projects administered by the Bureau of Building, Grounds and Real Property Management as modified:
- a. Projects Less Than \$3,000,000: Using Agency/Institution, not Bureau, would identify and form a Selection Committee to evaluate a list of three (3) eligible Professionals. Names and positions of the Selection Committee along with selection criteria, signed, dated ballots and tally documenting selection process must be submitted with Professional Contract Review Form.
 - b. Projects More Than \$3,000,000: Using Agency/Institution, not Bureau, would solicit Request for Qualifications for professional selection and form Pre-Selection and Selection Committees to establish short list and select Professional. Names and positions of the Pre-Selection and Selection Committees along with Request for Qualifications, selection criteria, signed, dated ballots and tally documenting selection process must be submitted with Professional Contract Review Form.

600.25
PROJECT MANUAL

The Project Manual will be prepared based on the ~~16 Divisions of the Construction Specification Institute~~ **format.**

Division **00 and 01** of the CSI entitled **Procurement and Contracting Requirements and General Requirements** **respectively, are furnished by the Bureau for Bureau administered projects and are** ~~has been modified and reduced in type size by the Bureau and is to be reproduced *as is* into the Project Manual. Any modifications~~ **additions** made by the Professional will be included in the section entitled **Division One Supplement** ~~Professional's Supplemental Conditions.~~ **Any modifications other than these made by the Professional, shall be subject to approval of the Bureau, and will be included in the Division One Supplement or by Addendum only. For projects not administered by the Bureau, use of Bureau Division 00 and 01 template documents is strongly encouraged, but not required. All other sections of the specifications shall be as provided by the Professional and shall be written so as not to exclude comparable equipment of domestic manufacture. Products shall generally be specified in one of five methods:**

1. Specification by reference standards or technical performance requirements only. Contractor shall have the option to select any product meeting product standards by any Manufacturer. Professional shall identify critical performance and/or technical details necessary to meet project requirements, but shall not do so in a hyper-technical manner so as to place unnecessary or inconsequential restrictions on providers of otherwise comparable equipment. Further, when utilizing specifications of this nature, Professionals are expected to be certain that such specifications can reasonably be met by more than one product.

2. Specification by naming a minimum of two (2) or three (3) products or Manufacturers or equal. Contractor shall have the option to select any product and Manufacturer named. Additionally, Contractor may always submit any product and Manufacturer meeting all product standards as an equal.

3. Specification by "basis of design". Contractor may select any equivalent product meeting specified reference standards or technical performance requirements as represented by the named products and/or Manufacturers. Professional shall identify critical performance and/or technical details necessary to meet project requirements, but shall not do so in a hyper-technical manner so as to place unnecessary or inconsequential restrictions on providers of otherwise comparable equipment. Further, when utilizing specifications of this nature, Professionals are expected to be certain that such specifications can reasonably be met by more than one product.

4. Specification as "brand specific". Contractor may only utilize specified product. Prior approval by the Director of the Bureau of Building, Grounds and Real Property Management is required. Professional may only utilize this method when justified due to the nature of specific project requirements. Professional shall furnish written justification for review and approval including the following:

- a. Description of the product for which approval is being sought**
 - b. Explanation of why the product is the only one that can meet project requirements**
 - c. Estimate of cost for such product**
 - d. Estimate of cost for overall procurement**
 - e. Availability of the product to bidders and/or subcontractors**
-

5. Specification as “sole source”. Contractor may only utilize specified product, which is available from only one source. Professional may only utilize this method when justified due to the nature of specific project requirements. Such specification may only be utilized in sole-source procurements and shall not be embedded within request for quotation, allowance, request for bid, or request for proposal solicitations. Professional shall furnish written justification for review and approval including the following:

- a. Description of the product for which approval is being sought
- b. Explanation of why the product is the only one that can meet project requirements
- c. Explanation of why the source is the only person or entity that can provide the required product
- d. Explanation of why the amount to be expended for the product is reasonable
- e. The efforts went through to obtain the best possible price for the product

6. Products proposed to be procured via sole source shall be advertised in the same manner provided in Section 31-7-13(e), Mississippi Code, Annotated. Such advertisement shall direct vendors to the procurement portal website where Bureau shall publish for a minimum of fourteen (14) days the terms of the proposed sole source procurement including the above items as well as procedures for any person or entity that objects and proposes that the product published on the procurement portal is not sole source and can be provided by another person or entity. If no objection is received, Bureau will obtain approval from the Public Procurement Review Board and document compliance with process via General Standard Approval Form.

7. Where sole source procurement is objected to, the Bureau will follow the following steps:

- a. If the Bureau determines after review that the product in the proposed sole source request can be provided by another person or entity, the sole source request will be terminated and such product procured in a competitive procurement process.
- b. If the Bureau determines after review that there is only one (1) source for the required product, then the Bureau may appeal to the Public Procurement Review Board. The Bureau shall have the burden of proving that the product is only provided by one (1) source. If appeal is successful, Bureau will proceed with procurement and document compliance with process via General Standard Approval Form.
- c. If the Public Procurement Review Board has any reasonable doubt as to whether the product can only be provided by one (1) source, then the Bureau will procure the product in a competitive procurement process.

8. Prior approval of brand specific specifications for projects not administered by the Bureau shall be the same as hereinbefore stated with the exception of such prior approval may be granted by the board of a governing authority and where such justification is placed on the minutes of the governing authority.

9. Procedure for use of sole source specifications for projects not administered by the Bureau shall be the same as hereinbefore stated with the exception of such approval may be granted by the board of a governing authority in lieu of the Public Procurement Review Board and where such authorization is placed on the minutes of the body at the next regular meeting thereafter. Following such purchase, the executive head of the state agency, or his designees, shall file with the Department of Finance and Administration, documentation of the purchase as noted in 5a thru 5e above.

SUBSTITUTIONS AND PRODUCT OPTIONS

SECTION 01630

- 1.01 DESCRIPTION
- A. Scope: To set forth the procedure and conditions for substitutions and to give the product options available to the Contractor.
- 1.02 PRODUCTS LIST
- A. Within thirty (30) days after the Contract has been signed, the Contractor will submit to the Professional five (5) copies of a complete list of all products proposed for installation.
- B. Tabulate the list by Specification sections.
- C. For products specified under reference standards, include with listing of each product:
1. Name and address of Manufacturer.
 2. Trade name.
 3. Model, or catalog designation.
 4. Manufacturer's data.
 5. Performance and test data.
 6. Reference standards.
- 1.03 CONTRACTOR'S OPTIONS
- A. For products specified only by reference standards **or technical performance requirements**, select any product meeting product standards by any Manufacturer.
- B. For products specified by naming a minimum of three (3) products or Manufacturers, select any product and Manufacturer named. **Equivalent products will always be accepted if equal in all consequential respects.**
- C. For product specified by naming one (1) or more products **and/or Manufacturers**, but indicating the option of selecting equivalent products by stating "or equal" after specified product **and/or Manufacturer, select any product meeting specified reference standards or technical performance requirements as represented by the named products and/or Manufacturers.** ~~Contractor must submit request, as required for substitution, for any product not specifically named.~~
- D. For products specified by naming only one (1) product and/or Manufacturer **as a "basis of design"**, an equivalent product will always be accepted if it is equal in all **consequential respects.** ~~The Contractor must submit a request for substitution as set forth in this Section.~~
- E. For products specified by naming only one (1) product and Manufacturer and stating no substitutions will be accepted, there is no option and no substitutions will be allowed. This option must have written approval by the Owner before bidding.
- 1.04 SUBSTITUTIONS
- A. **A product or construction method that varies from a product or construction method specified in one or more consequential characteristics, reference standards, or technical performance requirements shall be considered a substitution.**
- B. Professional will not consider requests for substitutions during bidding.
- C. Within thirty (30) days after the Contact has been signed, the Professional will consider formal requests from the Contractor for substitution of products in place of those specified. Submit five (5) copies of the request for substitutions. Include in the request:
1. **Narrative summarizing characteristics, reference standards, or technical performance requirements that product varies from and how the proposed product**

or construction method will meet or exceed project requirements Complete data substantiating compliance of proposed substitutions with Contract Documents.

2. For products:
 - a. Product identification including Manufacturer's name and address.
 - b. Manufacturer's literature: Product description, performance and test data and reference standards.
 - c. Samples.
 - d. Name and address of similar products **projects** on which product was used and date of installation.
 3. For construction methods:
 - a. Detailed description of proposed method.
 - b. Drawings illustrating methods.
 4. **Agreement to pay for any additional professional costs if acceptance of substitution will require substantial revision of Contract Documents** Itemized comparison of proposed substitutions with product or method specified.
 5. Data relating to changes in **any delays to the** construction schedule **if any will result from proposed substitution.**
 6. Accurate cost data on proposed substitution in comparison with product or method specified **if any cost savings are being offered for proposed substitution.**
- D. In making request for substitution, Contractor represents:
1. Proposed product, or method, has been investigated and determined that it is equal or superior in all respects to that specified.
 2. The same **or better** guarantee **and/or warranty** will be provided for substitutions for product or method specified.
 3. Installation of accepted substitutions will be coordinated into the Work, making such changes required of work to be complete in all respects **at no additional cost to the Owner.**
 4. All claims for additional costs related to substitution, **including any delays to the construction schedule,** which consequently become apparent will be waived.
 5. **Unless specifically identified in substitution submittal and such delay is specifically agreed to by Change Order to the Contract, substitution will not cause any delay to the construction schedule.** Cost data is complete and includes all related costs under the Contract.
 6. **Proposed product, or method, will not result in any additional costs to the Owner.**
- E. Substitutions will not be considered if:
1. Indicated, or implied, on shop drawings or product data submittals without formal request submitted in accordance with this Section.
 2. Acceptance will require substantial revision of Contract Documents **unless compensation for such additional professional costs are paid by Contractor at no additional cost to the Owner.**
 3. In the Professional's judgment, the product, or material, is not equal.

600.38

EXAMINATION & DISTRIBUTION OF DOCUMENTS

In addition to newspaper advertisement, the Professional will furnish Contract Documents without charge to appropriate trade organizations, plan rooms and web-based distribution networks upon request for the use of material suppliers, subcontractors and others interested in the Project. In order for a trade organization, plan room and/or web-based distribution network to receive all such documents by default and not upon request per project, such entity shall submit written correspondence to the Bureau indicating such request, along with justification of benefit to the State for such default distribution. Any entity that is not approved for default distribution shall still be eligible for distribution without charge upon request per project at the discretion of the project Professional. All contractors properly licensed to do business in Mississippi who desire to bid will be furnished Contract Documents and all other pertinent information to permit them to make adequate estimates in ample time for bidding purpose upon request to Professional.

The Professional will submit to the Bureau one (1) set of Construction Documents as the record copy of the Construction Documents issued to Bidders along with one (1) copy of any addenda issued during the bidding period.

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RETURNING BID DOCUMENTS

The deposit amount, if any, shall be established as the estimated actual cost of copying and reproduction plus shipping via USPS standard Ground Transportation, is ~~shall be~~ indicated in the Advertisement for Bids. Bidders may request shipping via express carrier or expedited delivery at their own additional cost. Upon returning the documents to the Professional within ten (10) working days of the bid date and in good condition, all document holders will be refunded ~~one-half (1/2) of the full~~ deposit amount. Further, any document holder who is awarded the contract, related subcontracts and/or vendor agreements may elect to retain their documents and request refund of the full deposit amount upon execution of the construction contract and approval of general contractor, however; such documents shall be counted toward the total number of copies furnished free of charge to the general contractor. ~~general contractor submitting a bid and all mechanical and/or electrical Subcontractors will be refunded one hundred percent (100%) of the deposit on one (1) set and fifty percent (50%) for each additional set. No partial sets of documents will be issued. Selected~~ trade organizations, plan rooms and web-based distribution networks will be issued one (1) set of documents without charge.