

GOVERNMENTAL PURCHASING FOR SCHOOL DISTRICTS

FEBRUARY 9, 2022

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PURCHASING AGENT

MADISON COUNTY SCHOOL DISTRICT



2 MAIN OBJECTIVES

- Identify the purchasing law from Miss Code of 1972 Annotated, §31-7-13
- Explain the relevance of §31-7-13
- Resource Information

3 MS CODE §31-7-13

The Secretary of State's searchable Unannotated Mississippi Code is a link to information provided by LexisNexis Publishing, the official publisher of the Mississippi Code.

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[Mississippi Law | Michael Watson Secretary of state \(ms.gov\)](#)

Title 31 : Public Business, Bonds & Obligations

Chapter 7: Public Purchases

1: Definitions

13: Bid requirements and exceptions; public auctions

4 GENERAL PROVISIONS OF PURCHASING LAW

MS Code section 31-7-13 Establishes bid requirements and exceptions

Governing authorities shall purchase their

- commodities and printing;
- contract for garbage collection or disposal;
- contract for solid waste collection or disposal;
- contract for sewage collection or disposal;
- contract for public construction;
- and contract for rentals as herein provided.

5 MS CODE §31-7-1 DEFINITIONS

- (b) "Governing authority" means governing boards of all school districts
- (e) "Commodities" means and includes the various commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state and governing authorities, **but not commodities purchased for resale or raw materials converted into products for resale.**
- (i) "Equipment" shall be construed to include: automobiles, trucks, tractors, office appliances and all other equipment of every kind and description.
- (ii) "Furniture" shall be construed to include: desks, chairs, tables, seats, filing cabinets, bookcases and all other items of a similar nature as well as dormitory furniture, appliances, carpets and all other items of personal property generally referred to as home, office or school furniture.

6 MS CODE §31-7-1 DEFINITIONS

(f) “Emergency” means any circumstances caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection or caused by any inherent defect due to defective construction, or when the immediate preservation of order or of public health is necessary by reason of unforeseen emergency, or when the immediate restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable, or in the case of a public utility when there is a failure of any machine or other thing used and useful in the generation, production or distribution of electricity, water or natural gas, or in the transportation or treatment of sewage; or when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens; or in the case of a public airport, when the delay incident to publishing an advertisement for competitive bids would endanger public safety in a specific (not general) manner, result in or perpetuate a specific breach of airport security, or prevent the airport from providing specific air transportation services.

7 MS CODE §31-7-1 DEFINITIONS

- (g) "Construction" means the process of building, altering, improving, renovating or demolishing a public structure, public building, or other public real property. It does not include routine operation, routine repair or regularly scheduled maintenance of existing public structures, public buildings or other public real property.
- (h) "Purchase" means buying, renting, leasing or otherwise acquiring.
- (i) "Certified purchasing office" means any purchasing office in which fifty percent (50%) or more of the purchasing agents hold a certification from the Universal Public Purchasing Certification Council or other nationally recognized purchasing certification, and in which, in the case of a state agency purchasing office, in addition to the national certification, one hundred percent (100%) of the purchasing officials hold a certification from the State of Mississippi's Basic or Advanced Purchasing Certification Program.

8 MS CODE §31-7-12 -- STATE CONTRACT PRICE FOR PURCHASE OF COMMODITIES

(2) Governing authorities may purchase commodities approved by the Department of Finance and Administration from the state contract vendor, or from any source offering the identical commodity, at a price not exceeding the state contract price established by the Department of Finance and Administration for such commodity, without obtaining or advertising for competitive bids. Governing authorities that do not exercise the option to purchase such commodities from the state contract vendor or from another source offering the identical commodity at a price not exceeding the state contract price established by the Department of Finance and Administration shall make such purchases pursuant to the provisions of Section 31-7-13 without regard to state contract prices established by the Department of Finance and Administration, unless such purchases are authorized to be made under subsection (5) of this section.

9 MS CODE §31-7-12

(5) Any school district may purchase commodities from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures pursuant to Section 31-7-13 for purchases of the same commodities. Purchases authorized by this subsection may be made by a school district without obtaining or advertising for competitive bids, and such purchases shall be made at the same prices and under the same conditions as purchases of the same commodities are to be made by the levying authority of the school district under the contract with the vendor.

10 MS CODE §31-7-13

(a) Bidding procedure for purchases not over \$5,000.00.

Purchases which do not involve an expenditure of more than \$5,000.00, exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive bids.

|| MS CODE §31-7-13

(b) Bidding procedure for purchases over \$5,000.00 but not over \$50,000.00 exclusive of freight and shipping charges, may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained.

Or check to see if DFA has a state contract, negotiated contract, or approved cooperative.

If a technology purchase, check to see if ITS has an approved EPL.

******When using state contracts or EPL's be sure to follow their contract instructions and place all the required documents with your PO.

12 PURCHASES WITH FEDERAL FUNDS

COMMODITIES:

- Because MS Law is more restrictive, use the State Thresholds for quotes (\$5,000) and formal bids (\$50,000).
- When using State Contracts or EPL's, at least 2 quotes are needed when the purchase is over \$5,000 but not over \$50,000.

SERVICES:

- Services of \$10,000 up to \$250,000—Two (2) competitive quotes
- Services more than \$250,000 – Formal Competitive Request for Proposals

REMEMBER TO INCLUDE FEDERAL REQUIREMENT CERTIFICATIONS

I3 MS CODE §3 I-7-13 (B)

- “competitive written bid” shall mean a bid submitted on a bid form furnished by the governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor’s letterhead or identifiable bid form and signed by authorized personnel representing the vendor.
- Bids submitted by electronic transmission shall not require the signature of the vendor’s representative unless required by governing authorities.
- “Competitive” shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and without knowledge of other bids or prospective bids.

14 MS CODE §31-7-13 (B) (CONTINUED)

- Any bid item for **construction** in excess of \$5,000.00 shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written bids and become part of the bid evaluation criteria.

(g) "Construction" means the process of building, altering, improving, renovating or demolishing a public structure, public building, or other public real property. It does not include routine operation, routine repair or regularly scheduled maintenance of existing public structures, public buildings or other public real property.

15 MS CODE §31-5-51 PERFORMANCE & PAYMENT BONDS; PROOF OF GENERAL LIABILITY

- (1) Any person entering into a formal contract with the state or any county, city or political subdivision thereof, or other public authority for the construction, alteration, or repair of any public building or public work, before entering into such contract, shall furnish to such public body, except as provided in subsection (5) of this section, bonds with good and sufficient surety as follows:(a) A performance bond payable to, in favor of or for the protection of such public body, as owner, for the work to be done in an amount not less than the amount of the contract, conditioned for the full and faithful performance of the contract;
- (b) A payment bond payable to such public body but conditioned for the prompt payment of all persons supplying labor or material used in the prosecution of the work under said contract, for the use of each such person, in an amount not less than the amount of the contract; and

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**MS CODE §31-5-51 PERFORMANCE & PAYMENT
BONDS; PROOF OF GENERAL LIABILITY (CONT.)**

(5) Whenever a contract is less than Twenty-five Thousand Dollars (\$25,000.00) the owners may elect to make a lump sum payment at the completion of the job. Lump sum payments will not be made until completion and acceptance by the governing agency. In such a case a performance bond or payment bond will not be required.

17 MS CODE §31-5-51 PERFORMANCE & PAYMENT BONDS; PROOF OF GENERAL LIABILITY (CONT.)

(7) **Any person entering into a formal contract** with the state which exceeds Five Thousand Dollars (\$5,000.00), **or with a county, city or other public authority which exceeds Twenty-five Thousand dollars (\$25,000.00)**, for the construction, alteration, or repair of any public building or public work, before entering into such contract, shall furnish to the public body proof of general liability insurance coverage in an amount not less than One Million Dollars (\$1,000,000.00) for bodily injury and property damage. Exempted from the provisions of this subsection are any persons who enter into a contract with the Mississippi Department of Rehabilitation Services for the construction, alteration or repair of the home of a disabled individual who has been determined eligible for services by the Mississippi Department of Rehabilitation Services.

MADISON COUNTY SCHOOL DISTRICT
 QUOTE REQUEST FOR CONSTRUCTION/REPAIR
 Between \$5,000 but not more than \$50,000

COMPANY: _____

ADDRESS: _____

Phone: _____ Fax: _____ Email: _____

AUTHORIZED SIGNATURE: _____

PROJECT: _____ DATE: _____

Effective April 15, 2009, SB3923 provides the following in §31-7-13(b): Any quoted item for construction/repair in excess of \$5,000, but not more than \$50,000, shall be broken down by components to provide detail of component description and pricing. Component meaning, parts of the project of which the whole quote is comprised. The components shall include parts, materials, labor, miscellaneous, etc. If there is a detailed Scope of Work and/or drawing, please include with your quote.

Example: If quoting 1,000 yards of carpet for a total of \$20,000, your list should look something like this:

Carpet Materials: 1,000 sq. yd @ \$15/yd = \$15,000

Labor and Misc Items: 1,000 sq. yd @ \$5/yd = \$5,000

IS YOUR QUOTE ITEMIZED IN DETAIL?

Yes ___ No ___ 1) Itemized Quote with each component broken down by description and price.

If quote is \$25,000, the awarded vendor shall submit the following:

IF AWARDED, WILL YOU INCLUDE THE FOLLOWING?

Yes ___ No ___ 1) Performance Bond (§31-5-51)

Yes ___ No ___ 2) Payment Bond (§31-5-51)

Yes ___ No ___ 3) Proof of General Liability Insurance coverage, not less than \$1,000,000, including...

Yes ___ No ___ 4) Workers Comp - Per Code§ 71-3-5, Workers Comp as required by law.

Yes ___ No ___ 5) Scope of Work Drawing, if applicable

IF NO, EXPLAIN

| QTY | DESCRIPTION AND SCHEDULE OF VALUES OF EACH COMPONENT - Broken Down & Itemized in Detail (List cost for each: Parts-Supplies-Materials-Labor-Misc) | UNIT PRICE | TOTAL |
|-----|---|------------|-------|
| | | | |
| | | | |
| | | | |
| | | | |

19 MS CODE §31-7-13(C)

(c) Bidding procedure for purchases over \$50,000.00 exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located.

The bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project, such bids shall not be opened in less than fifteen (15) working days after the last notice is published.

On the same date that the notice is submitted to the newspaper for publication, the governing authority involved shall mail written notice to, or provide electronic notification to the main office of the Mississippi Procurement Technical Assistance Program (MPTAP) under the Mississippi Development Authority that contains the same information as that in the published notice.

<https://www.mspsc.com/> “Agency Bid Bank”

20 MS CODE §31-7-13(C) (CONT.)
****JULY 1, 2021 LAW UPDATE**

2. Reverse auctions shall be the primary method for receiving bids during the bidding process, except for construction. If a purchasing entity determines that a reverse auction is not in the best interest of the state, then that determination must be approved by the Public Procurement Review Board. The purchasing entity shall submit a detailed explanation of why a reverse auction would not be in the best interest of the state and present an alternative process to be approved by the Public Procurement Review Board.

However, reverse auction shall not be used for any public contract for design or construction of public facilities, including buildings, roads and bridges **and term contracts as provided in paragraph (n) of this section.**

The Public Procurement Review Board must approve any contract entered into by alternative process.

21 MS CODE §31-7-13(N) TERM CONTRACT AUTHORIZATION.

ALL CONTRACTS FOR THE PURCHASE OF:

(i) All contracts for the purchase of commodities, equipment and public construction (including, but not limited to, repair and maintenance), may be let for periods of not more than sixty (60) months in advance, subject to applicable statutory provisions prohibiting the letting of contracts during specified periods near the end of terms of office. Term contracts for a period exceeding twenty-four (24) months shall also be subject to ratification or cancellation by governing authority boards taking office subsequent to the governing authority board entering the contract.

22 MS CODE §31-7-13(N) TERM CONTRACT AUTHORIZATION. (CONT.)

(ii) Bid proposals and contracts may include price adjustment clauses with relation to the cost to the contractor based upon a nationally published industry-wide or nationally published and recognized cost index. The cost index used in a price adjustment clause shall be determined by the Department of Finance and Administration for the state agencies and by the governing board for governing authorities. The bid proposal and contract documents utilizing a price adjustment clause shall contain the basis and method of adjusting unit prices for the change in the cost of such commodities, equipment and public construction.

23 MS CODE §31-7-13

(ii) Bidding process amendment procedure.

No addendum to bid specifications may be issued within two (2) working days of the time established for the receipt of bids unless such addendum also amends the bid opening to a date not less than five (5) working days after the date of the addendum.

(iii) Filing requirement. In all cases involving governing authorities, before the notice shall be published or posted, the plans or specifications for the construction or equipment being sought shall be filed with the clerk of the board of the governing authority. In addition to these requirements, a bid file shall be established which shall indicate those vendors to whom such solicitations and specifications were issued, and such file shall also contain such information as is pertinent to the bid.

24 MS CODE §31-7-13

(iv) Specification restrictions.

1. Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. However, if valid justification is presented, the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job.

25 MS CODE §31-7-13

(iv) Specification restrictions. (Cont.)

In addition to these requirements, from and after July 1, 1990, vendors of relocatable classrooms and the specifications for the purchase of such relocatable classrooms published by local school boards shall meet all pertinent regulations of the State Board of Education, including prior approval of such bid by the State Department of Education.

***Remember: MDE (Safe & Orderly Schools – School Buildings & Grounds) has to approve relocatable classrooms. Rules and Regulations and MDE Request for Approval can be found at:*

<https://www.mdek12.org/OSOS/Home>

26 MS CODE §31-7-13

(v) **Electronic bids.** Governing authorities shall 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 Department of Finance and Administration shall provide, by regulation, the standards that agencies must follow when receiving electronic bids. Agencies and governing authorities shall make the appropriate provisions necessary to accept electronic bids from those bidders who choose to submit their bids electronically for all purchases requiring competitive bidding under this section.

Any special condition or requirement for the electronic bid submission shall be specified in the advertisement for bids required by this section. Agencies or governing authorities that are currently without available high speed Internet access shall be exempt from the requirement of this subparagraph (v) until such time that high speed Internet access becomes available.

27 MS CODE §31-7-13

(v) Electronic bids (Cont.)

Any county having a population of less than twenty thousand (20,000) shall be exempt from the provisions of this subparagraph (v). Any municipality having a population of less than ten thousand (10,000) shall be exempt from the provisions of this subparagraph (v). The provisions of this subparagraph (v) shall not require any bidder to submit bids electronically.

When construction bids are submitted electronically, the requirement for including a certificate of responsibility, or a statement that the bid enclosed does not exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the bid envelope as indicated in Section 31-3-21 (1) and (2) shall be deemed in compliance with by including same as an attachment with the electronic bid submittal.

REQUEST FOR PROPOSAL NOTICE

The Madison County School District will accept sealed proposals until 2:00 p.m., CST, October 26, 2021, at the Office of the Superintendent of Education, 476 Highland Colony Parkway, Ridgeland, MS 39157 for the purpose of purchasing the following:

RFP #: 10-2022
Description: Grease Trap Maintenance

Official bid documents can be downloaded from www.centralbidding.com. Electronic bids can be submitted free of charge at www.centralbidding.com. For any questions regarding the electronic bidding process, please contact Central Bidding at 833-412-5717 or email info@centralbidding.com.

In addition, RFP specifications and instruction forms may be obtained from the MCSD Department of Finance, 476 Highland Colony Parkway, Ridgeland, MS.

Kathie Childress, CPPB
Purchasing Agent
Certified Public Purchasing Office
Ph: (601) 499-0731
Email: kchildress@madison-schools.com

Superintendent: Charlotte Seals

Advertisement Dates: October 7 & 14, 2021

29 MS CODE §31-7-13

(d) Lowest and best bid decision procedure.

(i) Decision procedure. Purchases may be made from the lowest and best bidder. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation.

If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No governing authority shall accept a bid based on items not included in the specifications.

30 MS CODE §31-7-13

(ii) Decision procedure for Certified Purchasing Offices. In addition to the decision procedure set forth in subparagraph (i) of this paragraph (d), Certified Purchasing Offices may also use the following procedure:

Purchases may be made from the bidder offering the best value. In determining the best value bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions, documented previous experience, training costs and other relevant provisions, including, but not limited to, a bidder having a local office and inventory located within the jurisdiction of the governing authority, may be included in the best value calculation. This provision shall authorize Certified Purchasing Offices to utilize a Request For Proposals (RFP) process when purchasing commodities.

No agency or governing authority shall accept a bid based on items or criteria not included in the specifications.

31 MS CODE §31-7-13

(e) Lease-purchase authorization.

(f) Alternate bid authorization. When necessary to ensure ready availability of commodities for public works and the timely completion of public projects, no more than two (2) alternate bids may be accepted by a governing authority for commodities. No purchases may be made through use of such alternate bids procedure unless the lowest and best bidder cannot deliver the commodities contained in his bid. In that event, purchases of such commodities may be made from one (1) of the bidders whose bid was accepted as an alternate.

32 MS CODE §31-7-13

(h) Petroleum purchase alternative. In addition to other methods of purchasing authorized in this chapter, when any governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of the amount set forth in paragraph (a), (b), and (c), i.e., quotes or bids, and no acceptable bids can be obtained, governing authority is authorized and directed to enter into any negotiations necessary to secure the lowest and best contract available for the purchase of such commodities.

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**COMMODITY - FORMAL BID
CHECKLIST
Over \$50,000**

BID NUMBER: _____

BID DESCRIPTION: _____ Amends: _____

| CHECKLIST | PROCESS DATE | NOTES |
|--|--------------|-------|
| REQUEST FOR BOARD APPROVAL TO ADVERTISE | | |
| REVERSE AUCTION EXEMPTION - IF NEEDED, MUST FIRST BE APPROVED BY THE PRB. | | |
| AD TO PAPER - (WITH PURCHASE ORDER) (Run 2 weeks- Bid Open at least 7 working days after last Ad run- on 8th working day) rlc-die@hls@jackson.gannett.com - Madison Co Herald is designated paper Deadline: 3:00 pm Thursday to be published by following Thurs. 601-961-7148 | | |
| MISS PROCUREMENT TECHNICAL ASSISTANCE PROGRAM (MPTAP) (SEND SAME DAY AS AD) Effective 11/1/12: http://mptac.com (Upload Ad and get Confirmation) | | |
| BID SPECIFICATION RELEASED & TO CENTRAL BIDDING - Bid Notice, Bid Instructions and Bid Form | | |
| LIST OF BIDDERS And Follow-up of Bid Receipts | | |
| COPY OF NEWSPAPER - AFFIDAVIT | | |
| BID TABULATION | | |
| IF FEDERAL FUNDS (Required on all purchases >\$25,000) Must be an ACTIVE registrant in www.SAM.gov and must not be debarred. | | |
| INTENT TO AWARD | | |
| PRB APPROVAL OF CONTRACT, IF EXEMPT FROM REVERSE AUCTION | | |
| RECOMMENDATION TO SCHOOL BOARD | | |
| COPY OF BOARD APPROVAL | | |
| COPY OF PURCHASE ORDER | | |
| SPECIAL NOTE: No addendum to bid specs may be issued within (2) working days of the time established for the receipt of bids unless you amend bid open date not less than (5) working days after the addendum. | | |

FORMAL BID STEPS FOR REVERSE AUCTION:

- REQUEST FOR BOARD APPROVAL TO ADVERTISE
- REVERSE AUCTION EXEMPTION. IF NEEDED, MUST FIRST BE APPROVED BY THE PPRB.
- 34 AD TO PAPER – Run 2 consecutive weeks-Bid Open at least 7 working days after last Ad run-on 8th working day
- MISS PROCUREMENT TECHNICAL ASSISTANCE PROGRAM (MPTAP)
(SEND SAME DAY AS AD) <http://mscpc.com> (Upload Ad and get Confirmation for Bid File)
- BID SPECIFICATION RELEASED & TO CENTRAL BIDDING: Bid Notice, General Conditions (boilerplate) Information, Instructions and Special Conditions, Detailed Specifications with Minimum Requirements, and Un-priced Bid Form
- LIST OF BIDDERS
- *No addendum to bid specs may be issued within (2) working days of the time established for the receipt of bids unless you amend bid open date not less than (5) working days after the addendum.*
- COPY OF NEWSPAPER AFFIDAVIT
- EVALUATE UN-PRICED BIDS
- IF FEDERAL FUNDS - All purchases >\$25,000 must be an ACTIVE registrant in www.SAM.gov and must not be debarred.
- INVITE QUALIFIED BIDDERS TO REVERSE AUCTION
- BID TABULATION
- INTENT TO AWARD – INCLUDE A DEADLINE TO ASK AWARD QUESTIONS.
- PPRB APPROVAL OF CONTRACT, IF PRIOR APPROVED TO BE EXEMPT FROM REVERSE AUCTION
- RECOMMENDATION TO SCHOOL BOARD
- PURCHASE ORDER

CONSTRUCTION - FORMAL BID CHECKLIST

Same as above except:

- DOES NOT require Reverse Auction
- IF PROJECT IS \$100,000, A PROFESSIONAL ENGINEER OR ARCHITECT MUST PREPARE PLANS/SPECIFICATIONS AND SUPERVISE. (73-13-45).
- AD TO PAPER – Run 2 consecutive weeks-Bid Open at least 15 working days after last Ad runs-on 16th working day
- A CERTIFICATE OF RESPONSIBILITY SHALL BE OBTAINED FROM BIDDER WITH THE CONTRACTORS CURRENT CERTIFICATE # APPEARING ON THE OUTSIDE OF THE SEALED BID ENVELOPE OR ELECTRONIC BID. (31-3-15 & 21).
- MUST REQUIRE PERFORMANCE AND PAYMENT BONDS (31-5-51 (5))
- MUST REQUIRE CERTIFICATE OF INSURANCE (31-5-51 (7)) INCLUDING WORKER'S COMPENSATION (71-3-5)

ADDITIONAL INFORMATION:

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- MDE Approval is Required for:
Vehicles/Buses, Relocatable Classrooms, and Food Service Management RFP Contracts
-

If you issue a RFP for Student Transportation or Food Service Management, you need to become familiar with the state laws and/or Federal Regulations

- Student Transportation MS Code 37-41
Title 37 - Education, Chapter 41 – Transportation of Pupil
- Food Service Management (MDE has requirements and must be in accordance with Federal Regulations)

<https://www.fns.usda.gov/cn/updated-guidance-contracting-food-service-management>

USDA Guidance for School Food Authorities on Contracting with Food Service Management Companies.

37 MS CODE §31-7-13

(k) Governing authority emergency purchase procedure. If the governing authority 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 interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.

38 MS CODE §31-7-13 (EMERGENCY CONTINUED)

- Does it fall under the “emergency” definition?
- What happened to cause the emergency?
- What would be the negative consequences of following purchasing law procedures?

**MADISON COUNTY SCHOOL DISTRICT
EMERGENCY PURCHASE CERTIFICATION**

39

Date of Board Meeting:

Does it fall under the "emergency" definition?

Date of Emergency incident:

Cost:

What happened to cause the emergency?

What would be the negative consequences of following the purchasing law procedures?

Section 31-7-13 (k) defines an emergency as "when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens".

Charlotte Seals, Superintendent

Date: _____

40 MS CODE §31-7-13 (M)

- (m) Exceptions from bidding requirements.
 - (i) Purchasing agreements approved by DFA. (State Contracts & Cooperatives)
 - (ii) Outside equipment repairs.
 - (iii) In-house equipment repairs.
 - (iv) Raw gravel or dirt.
 - (v) Governmental equipment auctions.
 - (vi) Intergovernmental sales and transfers.
 - (vii) Perishable supplies or food.

41 MS. CODE §31-7-13 (EXCEPTIONS CONTINUED)

(viii) **Single source items.** (*MCS D does not allow Single Source when paid with Federal funds.*)

Noncompetitive items available from one (1) source only.

Requirement:

- A certification of the conditions and circumstances requiring the purchase shall be filed by the governing authority with the board of the governing authority.

42 MS CODE §31-7-13 (SOLE SOURCE CONTINUED)

- Do other companies make similar commodities that will do the same job or meet the same goal?
- How is this item unique from all others?
- What can this item do that others cannot?
- Is there a copyright or patent on the commodity?
- Is this item available from other distributors?

The justification should be written so that those not familiar with the situation can understand.

43 MS. CODE §31-7-13 (EXCEPTIONS CONTINUED)

(xi) Information technology products. Contracts executed or approved by the Mississippi Department of Information Technology Services

(xii) Energy efficiency services and equipment.

(xiv) Library books and other reference materials. Any such items as would be used for teaching, research or other information distribution; however, equipment such as projectors, recorders, audio or video equipment, and monitor televisions are not exempt under this subparagraph.

44 MS. CODE §31-7-13 (EXCEPTIONS CONTINUED)

(xviii) Purchases of prison industry products by the Department of Corrections, regional correctional facilities or privately owned prisons.

(xxi) **Certain school district purchases.** Purchases of commodities made by school districts from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures for purchases of the same commodities, i.e., the district's Board of Supervisors.

(xxii) **Garbage, solid waste and sewage contracts.** When over \$50,000, must issue a competitive RFP. Refer to (r): Solid waste contract proposal procedure

(xxiv) **Purchases of Mississippi Industries for the Blind products.**

(xxv) **Purchases of state-adopted textbooks.**

45 MS. CODE §31-7-13 (EXCEPTIONS CONTINUED)

(xxx) **School yearbooks.** Purchases of school yearbooks by state agencies or governing authorities; provided, however, that state agencies and governing authorities shall use for these purchases the RFP process as set forth in the Mississippi Procurement Manual adopted by the Office of Purchasing and Travel.

DFA link to Procurement Manual: <https://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/bureau-of-purchasing-and-contracting/procurement-manual/>

3.107 Competitive Sealed Proposals

***MCSD deems yearbooks as resale per definition for “commodities”.*

46 MS. CODE §31-7-1 (ADDITIONAL EXCEPTIONS)

31-7-1 – Definitions

(e) "Commodities" means and includes the various commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state and governing authorities, but not commodities purchased for resale or raw materials converted into products for resale.

MS. CODE §31-7-13

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(n) Term contract authorization. All contracts for the purchase of:

(i) All contracts for the purchase of commodities, equipment and public construction (including, but not limited to, repair and maintenance), may be let for periods of not more than sixty (60) months in advance, subject to applicable statutory provisions prohibiting the letting of contracts during specified periods near the end of terms of office. Term contracts for a period exceeding twenty-four (24) months shall also be subject to ratification or cancellation by governing authority boards taking office subsequent to the governing authority board entering the contract.

MS. CODE §31-7-13

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(ii) Bid proposals and contracts may include price adjustment clauses with relation to the cost to the contractor based upon a nationally published industry-wide or nationally published and recognized cost index. The cost index used in a price adjustment clause shall be determined by the governing board for governing authorities. The bid proposal and contract documents utilizing a price adjustment clause shall contain the basis and method of adjusting unit prices for the change in the cost of such commodities, equipment and public construction.

Example of what we use:

It is the intent of the MCSD for the initial term of agreement to be for a period of (12) months, beginning on July 1, 2021, and go through June 30, 2022. MCSD reserves the right to have the option to extend the agreement for one year at a time. This agreement may, by mutual written assent of both parties, be extended for three (3) additional twelve (12) month periods, up to a cumulative total of forty-eight (48) months. Initial bid pricing is guaranteed for a minimum of the first year with price reductions always acceptable.

However, any increase in pricing at the end of the annual term or any renewal term shall be justifiable and limited to the lesser of the South Region Consumer Price Index (CPI). The agreed upon pricing shall be firm for that contract year. Should the MCSD determine the increase is not in the best interest of the MCSD, the MCSD shall have the right to terminate the agreement.

Consumer Price Index for All Urban Consumers (CPI-U) or South Region CPI: <https://www.bls.gov/cpi/>

49 MS. CODE §31-7-13

(o) Purchase law violation prohibition and vendor penalty. Splitting purchase orders/invoices to circumvent purchasing law.

Submission of such invoices shall constitute a misdemeanor punishable by a fine of not less than \$500.00 nor more than \$1,000.00, or by imprisonment for thirty (30) days in the county jail, or both such fine and imprisonment. In addition, the claim or claims submitted shall be forfeited.

SOURCES OF INFORMATION

MS. Secretary of State (*MS Law Lookup*): <https://www.sos.ms.gov/communications-publications/mississippi-law>

DFA (*State Contracts, PPRB, Travel Info/Travel Card, Monthly Newsletter, MS Procurement Manual*): <https://www.dfa.ms.gov>

MS. Information Technology Services (*Computer & Telecommunications Equip, Services, and Software*): <https://www.its.ms.gov/Procurement/Pages/EPLs.aspx>

MS. Attorney General (*AG Opinion Search*): <https://govt.westlaw.com/msag/Index?lRTS=20210411174211798>

SOURCES OF INFORMATION

MS Department of Education: <https://www.mdek12.org/>

MDE Approval is Required for:

- Vehicles & Buses,
- Relocatable Classrooms, and
- Food Service Management RFP Contracts

**Vehicles: May purchase from State Contract or follow Purchasing Law thresholds.*

Cross your fingers that you can get the vehicle!! 😊

APPLICATION TO PURCHASE VEHICLES OTHER THAN SCHOOL BUSES

The school board of the MADISON COUNTY School District on _____
(date) approved the purchase of the vehicle(s) described below and requests approval from the Mississippi Department of Education.

NOTE: ONLY VEHICLES WITH IDENTICAL DESCRIPTIONS SHALL BE SUBMITTED ON THE SAME FORM

1. Number to be purchased _____
2. Type of Vehicle _____ New () Used ()
3. Make _____ Model _____
4. Total cost per vehicle \$ _____
5. Indicate the primary use(s) for this/these vehicle(s):

| | |
|---|---|
| _____ Pupil Transportation Service Vehicle | Method of Payment: Cash (X) Loan* () |
| _____ General Maintenance Service Vehicle | *If a loan, under what authority or how |
| _____ Faculty, Staff, Administrative Travel | will the district repay the loan? _____ |
| _____ Driver Education | _____ |
| _____ Other (list) _____ | _____ |

I certify that the purchase of this vehicle complies with current general purchase laws and that this vehicle will be properly identified as required by Section 25-1-87, MS Code of 1972, as amended.

Signature, School Superintendent _____ Date _____

Based on information contained herein, the local school board is authorized to order, take delivery of, and pay for the vehicle(s) listed above. It is the sole responsibility of the local school board to comply with all general purchase laws. In addition, the Mississippi Department of Education shall not approve the purchase of vehicles other than school buses to be used for the Transportation of students to and from school or related events.

Director, Pupil Transportation _____ Date _____
Mississippi Department of Education

**USING M.D.E. APPROVED VENDOR'S
MADISON COUNTY SCHOOL DISTRICT**

BUS INFORMATION: _____

REQUESTING PARTY: _____

Jonathan Tillman, Sr. (As of 08/02/21)
 MDE – School Transportation Administrator
 Email: tillman@mdek12.org
 Phone: 601-359-3486

| CHECKLIST | COPY IN BID FILE | PROCESS DATE |
|--|------------------|--------------|
| REQUEST FOR BOARD APPROVAL TO PURCHASE If time, present the quotes for Board approval get quotes first | | |
| GET QUOTES FROM MDE APPROVED VENDOR'S (At least 2 but preferably all.) Use MDE Application for Quote Request | | |
| SEND MDE APPLICATION OF LOW QUOTE TO MDE FOR APPROVAL. (EMAIL TO ABOVE) | | |
| PROCESS PURCHASE ORDER FOR BUSES List Board Approval Dates and MDE Approval Date Attach all Approvals and quotes to PO | | |
| PROCESS PURCHASE ORDER FOR TAGS (\$10 EA) Maint will need to make sure check is cut before delivery and return receipts. | | |
| NOTICE OF AWARD TO VENDOR'S | | |
| FOLLOW SPECIAL REQUIREMENTS IF PURCHASED BY A.R.R.A. FUNDS | | |

The school board of the **MADISON COUNTY SCHOOL DISTRICT** on _____ (date) approved the purchase of the following transportation equipment from _____ (company) and requests approval from the Mississippi Department of Education.

Number to be Purchased _____ Method of Payment: Cash _____ Loan* _____
*If a loan, under what authority or how will your district repay the loan? _____

Type of Bus (circle one): A B C D Rear Mounted Engine Front Mounted Engine

SCHOOL BUS CHASSIS

Chassis Make _____ Year Model _____ Model or Series _____ Wheelbase _____
Engine: Diesel () Gasoline () Engine Series/Model _____ Tire Size _____
Front Axle GAWR _____ Rear Axle GAWR _____
Transmission: Automatic () Standard () Rear Axle Ratio _____

SCHOOL BUS BODY

Body Make _____ Year Model _____ Model or Series _____
Seating Capacity (prior to installation of wheelchair positions) _____ After installation _____

OPTIONAL EQUIPMENT

List ALL optional equipment listed under "Optional Equipment" section of the Mississippi Board of Education approved price list.

| Optional Equipment | Price | Optional Equipment | Price |
|--------------------|----------|--------------------|----------|
| _____ | \$ _____ | _____ | \$ _____ |
| _____ | \$ _____ | _____ | \$ _____ |
| _____ | \$ _____ | _____ | \$ _____ |
| _____ | \$ _____ | _____ | \$ _____ |

Total price of each chassis (if purchased separately) delivered to _____ (Bus Body Plant) \$ _____
Total price of complete bus, including options, delivered to school district \$ _____
I certify this equipment complies with all Mississippi Minimum Standards for School Buses and Federal Motor Vehicle Safety Standards for the year in which it was manufactured.

Signature _____ Title _____

Company Name and Address _____ Telephone Number _____

Motor Vehicle License Number _____ Date _____

DUNS Number _____

APPROVED BY: _____

Signature, School Superintendent _____ Date _____

Based on information contained herein, the local school board is authorized to order, take delivery of, and pay for the equipment listed above. It is the sole responsibility of the local school board to comply with all general purchase laws when purchasing school buses chassis separately.

RULES AND REGULATIONS OF THE STATE BOARD OF EDUCATION GOVERNING SPECIFICATIONS, PLANS AND PURCHASE OF RELOCATABLE CLASSROOMS AS AUTHORIZED BY HOUSE BILL 677, SECTION 3, REGULAR 1990 LEGISLATIVE SESSION.

(ADOPTED BY MISSISSIPPI STATE BOARD OF EDUCATION MAY 18, 1990 --- EFFECTIVE DATE JULY 1, 1990)

- I. Minimum specifications for relocatable classrooms shall be approved by the State Board of Education.
- II. The State Department of Education, Division of School Building and Transportation, shall approve or disapprove:
 - A. All plans for relocatable classrooms by persons, firms, corporations or associations,
 - B. Persons, firms, corporations or associations before bids are submitted to the local school district.
- III. The State Department of Education, Division of School Building and Transportation, shall have the right to reject any and all relocatable classroom plans submitted.
- IV. The State Department of Education, Division of School Building and Transportation, shall approve the purchase of relocatable classrooms based on the following:
 - A. Compliance with all applicable state purchasing laws, Sections 37-7-13(c) and 37-7-301(c),
 - B. Certified Proof of Publication for bids for the purchase of relocatable classrooms,
 - C. Complete tabulation of all bids,
 - D. Copy of lowest bid,
 - E. Copy of approved plans as bid by lowest bidder,
 - F. Copy of certified letter from the manufacturer stating that no asbestos-containing building materials were used in the manufacture of the relocatable classroom(s).
- V. Approval for the purchase of relocatable classrooms must be granted by the State Department of Education, Division of School Building and Transportation, before the contract for purchase may be awarded.
- VI. All rules and regulations as stated above shall be applicable to the leasing of or the lease/purchase of relocatable classrooms.
- VII. In situations where there occurs either a natural or man-made disaster, the State Department of Education, Division of School Building and Transportation, may forego the above stated rules and regulations in order to expedite the acquisition of relocatable classrooms by the local school district. However, the acquisition of such units shall at all times comply with all applicable state purchasing laws.

Vendors Approved to Sell Relocatable Classrooms

Adams Home Center LLC

Paul Adams, Jr. and Joann
Adams P.O. Box 207
Yazoo City, MS 39194
Phone: (662) 751-8886
Phone: (662) 571-7930
www.classroomsrus.com

Aries Building Systems, LLC

Attn: Christopher A Brewer 201
W. Pearl Street
Granbury, TX 76048
Phone: (832) 496-7879
cb@ariesbuilding.com

Vesta Modular

Attn: Glenn McGarey
695 Atlanta Highway SE Winder,
Georgia 30680
Phone: (770) 867-6800
gimgarey@vestamodular.com

Sustainable Moduclar Management, Inc.

Attn: Blake Sabadie
7500 Dallas Parkway, Suite 175
Plano, TX 75024
Phone: (972) 619-7311
www.sustainablemodular.com

Revised 7/22/2019

FORMAL BID CHECKLIST

RELOCATABLE CLASSROOM - If over \$50,000

Approval for the purchase of relocatable classrooms must be granted by the State Department of Education, Division of School Building and Transportation, before the contract for purchase may be awarded. This is approved in the MDE office of Mark Hopson. Send required documents by email. (Doesn't need MDE Board approval)
 **Mark Hopson- ph: 601-359-3513 ~ Email: MHopson@mde.k12.ms.gov

Print from MDE's Web Site: Rules and Regulations (Minimum Specifications) & Vendors Approved to Sell Relocatable Classrooms

BID NUMBER: _____

| CHECKLIST | PROCESS DATE | NOTES |
|--|--------------|-------|
| REQUEST FOR BOARD APPROVAL TO BID | | |
| REVERSE AUCTION – EXEMPTION IF NEEDED. MUST FIRST BE APPROVED BY THE PPRB | | |
| AD TO PAPER – (WITH PURCHASE ORDER) (Run 2 weeks- Bid Open atleast 7 working days after last Ad run-on 8 th working day) Tel-sellers@jackson.gannett.com - Madison Co Herald is designated paper Deadline- 3:00 pm Thursday to be published by following Thurs. 601-961-7148 | | |
| MISS PROCUREMENT TECHNICAL ASSISTANCE PROGRAM (MPTAP) (SEND SAME DAY AS AD) Effective 11/1/12: http://mcspe.com (Upload Ad and get Confirmation) | | |
| BID SPECIFICATION RELEASED & TO CENTRAL BIDDING- Based on Minimum Specs with MDE and Rules and Regulations Bid Notice, Bid Instructions and Bid Form | | |
| LIST OF BIDDERS – Approved List From MDE And Follow-up of Bid Receipts | | |
| COPY OF NEWSPAPER AD - AFFIDAVIT | | |
| BID TABULATION | | |
| INTENT TO AWARD | | |
| PPRB APPROVAL OF CONTRACT, IF EXEMPT FROM REVERSE AUCTION | | |
| RECOMMENDATION TO STATE DEPARTMENT Send the following: Purchasing Compliance-Tabulation-Copy of Lowest Bid-Copy of Approved Plans of Lowest Bidder-Copy of Certified Letter from manufacturer of NO asbestos. | | |
| RECOMMENDATION TO SCHOOL BOARD | | |

COPY OF BOARD APPROVAL

NOTICE OF AWARD TO ALL VENDORS

COPY OF PURCHASE ORDER - **And MDE Approval**

HOW TO BECOME A CERTIFIED PURCHASING OFFICE FOR GOVERNING AUTHORITIES

#1 - GET YOUR NATIONAL CERTIFICATION:

MS Assoc of Governmental Purchasing & Property Agents: <https://www.magppa.org/>

National Institute for Public Procurement: <https://www.nigpp.org/> (CPPB Exam through UPPCC or NIGP-CPP Exam through NIGP)

#2 - GET APPROVED BY DFA AS A CERTIFIED PURCHASING OFFICE ONCE YOU HAVE YOUR NATIONAL CERTIFICATION:

DFA: <https://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/bureau-of-marketing-travel-and-card-programs/certified-purchasing-office-information/>

QUESTIONS

