

STATE OF MISSISSIPPI DEPARTMENT OF EDUCATION	TOPIC: CONTRACTS
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CONTRACT PROCUREMENT POLICY

The Mississippi Department of Education (Department) Contract Procurement Policy set forth herein applies to the procurement, management, and control of all personal and professional services with any funds by the Department. These procedures shall apply to all expenditures of public funds irrespective of their source. Violation of these regulations shall carry such penalties as may be applicable under state laws. In the event of a conflict, the guidelines of the grant, gift, or self-generated funds shall prevail. The awarding office shall be responsible for being aware of all applicable regulations and rules governing the procurement of services, as well as ensuring that these procedures are followed in the procurement process.

Contracting for services shall be governed by the applicable rules and regulations promulgated by the Personal Service Contract Review Board (PSCRB), as well as the policy and procedures approved by the Department. Contracts must be procured by obtaining adequate and reasonable competition, with the exception of sole-source and emergency procurement (defined below). Generally, the total amount of the contract shall be used to determine the appropriate method for procurement of services.

In accordance with Department and PSCRB rules and regulations, the following methods of source selection shall be utilized in procuring contractual services:

Independent Contractor Thresholds:

- Up to \$5,000
- \$5,000.01 - \$50,000
- \$50,000.01 - \$75,000
- Over \$75,000

Procurement Methods:

- No competitive procurement required
- PSCRB Preapproved Vendor Lists
- Two (2) written quotations
- Request for Sealed Qualifications
- PSCRB Preapproved Vendor Lists
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- Three (3) written quotations
- Request for Sealed Qualifications
- PSCRB Preapproved Vendor Lists
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- Competitive Sealed Bids
- Competitive Sealed Proposals
- Competitive Sealed Qualifications
- PSCRB Preapproved Vendor Lists

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Contract Worker Thresholds:

- Up to \$5,000
- \$5,000.01 - \$75,000
- Over \$75,000

Procurement Methods:

- No competitive procurement required
- Request for Application
- Request for Application
- Competitive Sealed Qualifications

All contracts in excess of \$50,000 must be approved by the Mississippi Board of Education (Board) prior to the Department awarding the contract. The awarding office must present any such contract to the Board at the Board meeting prior to the beginning date of the contract.

All contracts in excess of \$75,000 must be submitted for approval to the PSCRB no more than thirty (30) calendar days prior to the PSCRB meeting that precedes the proposed effective date of the contract. Therefore, the awarding office should present any contract in excess of \$75,000 to the Director of Procurement in sufficient time to be approved by the Board prior to submission to PSCRB for placement on their board agenda. The effective date of the contract shall be the date of PSCRB approval or thereafter.

It is the responsibility of the awarding office to meet the time frames necessary to secure Board and PSCRB approval. Generally, contracts requiring PSCRB approval must receive Board approval prior to consideration by the PSCRB. Timelines for submission of contracts in order to meet deadlines for the Board and PSCRB can be found at the [Office of Procurement \(Procurement\) website](#).

Procurement will review the contract before the State Superintendent of Education, or designee, approves the contract. The review will be made to determine if the contract is complete, in compliance with Department and PSCRB policies, and if regulatory approval authority is required.

Procurement will send the contract to the necessary regulatory agencies. Specifically, the review will consist of, but not be limited to:

- Appropriate method of source selection.
- Adequate description of services.
- Inclusion of all required sections, terms and conditions.
- Reasonable and sufficient justification of budget.
- Reasonable indirect cost rate (if applicable) and if the indirect cost plan is on file.
- Regulatory approvals.
- Department approvals.

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CONTRACTS EXEMPT FROM APPROVAL BY THE PSCRB

The following contracts are exempt from approval by the PSCRB:

- Personal service contracts not exceeding \$75,000
- Contracts between agencies under the purview of the PSCRB
- Computer or information technology-related services governed by the Mississippi Department of Information Technology Services (ITS)
- Personal service contracts entered into by the Mississippi Department of Transportation
- Contracts exempt by legislative statutory authority
- Contracts for equipment repairs governed by Mississippi Code Annotated 31-7-13
- Contracts to manage trust funds by the Board of Trustees of the Public Employees' Retirement System

The following service types are also exempt from approval by the PSCRB when performing duties for which they are licensed or certified:

- Accountant
- Engineer
- Architect
- Attorney
- Utility rate expert services
- Auditor

While the above contracts are exempt from the PSCRB approval, the awarding office is responsible for ensuring that these contracts comply with the Department's internal review and approval procedures.

METHODS OF SOURCE SELECTION

The following policies and procedures shall be followed in determining the methods of source selection to be used in procuring contractual services:

[Competitive Sealed Bids](#) - ATTACHMENT A

When a determination is made that competitive sealed bids procurement is best suited for a particular service, an Invitation for Bids (IFB) shall be issued in accordance with PSCRB regulations. The IFB shall include the following:

- Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the State, and any other special information;

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- Purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and,
- Contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

The IFB shall be utilized by the awarding office to initiate a competitive sealed bid procurement. The IFB must be reviewed and approved by the Director of Procurement prior to distribution to potential service providers or vendors. The bid shall be assigned a Bid File Number by the awarding office, which shall consist of the word BID, fiscal year, organizational code with an office identifier (if necessary), and sequential number of bid.

When the anticipated expenditure is more than \$75,000, public notice of IFB's shall be publicized in a newspaper published in the county or municipality in which the agency is located, and shall be posted on the Mississippi Contract/Procurement Opportunity Search portal. Advertisement of bids shall be published once each week for two consecutive weeks with the second notice being published on or after the seventh (7th) calendar day after publication of the first notice. For publication on the Mississippi Contract/Procurement Opportunity Search Portal, the advertising time shall be concurrent with a newspaper publication, and shall run for fourteen (14) consecutive days. The date set for the bid opening for services shall not be less than seven (7) working days (as opposed to calendar days) after the last notice appears in the newspaper and no more than fourteen (14) working days after the last notice appears in the newspaper unless it is determined due to the complex requirements of the procurement that a longer vendor response time is necessary. The date set for bid opening must be included in the advertisement.

Note: There must be seven (7) full working days between the date the last notice appeared and the date that bids are opened. This does not include weekends or holidays. Also, the date on which the last notice runs is not included in the calculation of days. The last day of this period will be included unless the last day is a Saturday, Sunday, Monday, or legal holiday, in which case the period lasts until the end of the next day which is not a Saturday, Sunday, Monday, legal holiday, or day following a state (or legal) holiday.

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The following is a suggested guide for the legal advertisement:

The {name of the entity} will accept sealed bids until {time of bid opening}, {day of the week}, {month}, {date}, {year} for the purpose of purchasing the following: {name of service to be procured}, {bid file number}, Detailed specifications may be obtained by contacting {name of contact person} at {telephone number} or at {physical mailing address}.

The awarding office should post the IFB to the [Department website](#) under the Public Notice section. The awarding office should also have the IFB removed after the bid opening deadline.

Pre-bid conferences may be conducted to explain the procurement requirements. The conference shall be announced to all prospective bidders known to have received an IFB. The conference should be held long enough after the IFB has been issued to allow bidders to become familiar with it but sufficiently before bid opening to allow consideration of the conference results in preparing bids. Nothing stated at the pre-bid conference shall change the IFB unless a change is made by written amendment as provided in the PSCRB regulations. A summary of the conference shall be supplied to all prospective bidders known to have received an IFB. If a transcript is made, it shall be of public record.

Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of bids at the place designated for opening is late. No late bid, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action or inaction of Department personnel directly involved with the procurement activity.

Bids shall be opened publicly in the presence of one or more witnesses. The opened bids shall be available for inspection by participants, except to the extent the bidder designates trade secrets or other proprietary data to be confidential. Prices of the services offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary. Bids shall be available for inspection at any time subsequent to the awarding of the contracts.

Bids shall be unconditionally accepted without alteration or correction, except as authorized in the PSCRB regulations.

Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes shall be permitted in accordance with the PSCRB regulations.

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Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable. The IFB shall set forth the evaluation criteria to be used. No criteria may be used in the evaluation that is not set forth in the IFB.

An in-house and/or external selection committee shall be appointed by the awarding office any time an IFB is utilized in procuring services. The selection committee shall be comprised of a minimum of five (5) individuals. The program office responsible for awarding the contract is responsible for selection of the evaluation committee using qualified internal staff or external evaluators who have knowledge or expertise of the contract requirements. This committee will evaluate the bids and make the recommendations for award. Each evaluator must sign a Conflict of Interest form, End of Review form, Evaluator Guidelines, and a Statement of Confidentiality form. The awarding program office is responsible for assuring a conflict of interest does not exist with each evaluator. An existing advisory committee may serve in the place of an in-house selection committee. The selection committee will review the IFB and the bids received in response to the IFB.

The program office responsible for awarding the contract will develop criteria for evaluating the bids and will review the evaluation criteria with the evaluation committee prior to the committee's review of bids. The program office will also designate a staff member to be accessible to the evaluation committee during the evaluation process, should questions regarding the bid requirements arise. Procurement will designate one staff member to monitor the evaluation process, to ensure that procurement policies and procedures are followed. Program office should pre-screen the bids prior to the evaluation process to determine if any should be rejected. If any bid is to be rejected, program office must complete the Summary of Proposals Not Evaluated form. The form should be signed by the program office Bureau Director or above and submitted to Procurement. Procurement will review the form and supporting documentation to confirm if they agree that the bids should not be evaluated based on the criteria stated in the IFB.

Bids should be reviewed and scored by the evaluators. The program office is responsible for tallying the scores and compiling a summary score sheet detailing the results of the evaluation process and the recommendations for award. These documents along with the proposed board item, if required, shall be submitted to Procurement with a Contract Justification for review and approval.

The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bids meets the requirements and criteria set forth in the IFB. Negotiations must be done in accordance with PSCRB rules and regulations. Written notice of award shall be sent to the successful bidder.

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Notice of award shall be made available to the public.

When it is considered impractical to initially prepare a definitive purchase description to support an award based on price, a multi-step sealed bid may be issued requesting the submission of unpriced offers. Another IFB would follow, which would be limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. Multi-step bidding must be performed in accordance with PSCRB rules and regulations.

Competitive Sealed Proposals - ATTACHMENT A

The following policies and procedures shall govern the competitive sealed proposals procurement:

A contract may be entered into by competitive sealed proposals when the use of competitive sealed bids is determined to be either not practicable or not advantageous to the State of Mississippi (State).

Proposals shall be solicited through a Request for Proposals (RFP). The RFP must be reviewed and approved by the Director of Procurement prior to distribution to potential service providers or vendors. The RFP template can be found at the [Procurement website](#).

The RFP shall include the description and contract terms indicated under Competitive Sealed Bids, as well as include:

- a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
- a statement of when and how price should be submitted.

The RFP shall also include the following:

- type of services required;
- a description of the work involved;
- an estimate of when and for how long the services will be required;
- the type of contract to be used;
- a date by which proposals for the performance of the services shall be submitted;
- a statement that the proposals shall be in writing;
- a statement that offerors may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential in accordance with §§ 25-61-9 and 79-23-1, Mississippi Code of 1972, Annotated;
- a statement of the minimum information that the proposal shall contain, including:
 - The name of the offeror, the location of the offeror's principal place of business

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- and, if different, the place of performance of the proposed contract;
- The age of the offeror's business and average number of employees over a previous period of time, as specified in the RFP;
- The abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
- A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP; and,
- a plan giving as much detail as is practical explaining how the services will be performed.
- the factors to be used in the evaluation and selection process and their relative importance.

The evaluation shall be based on the evaluation factors set forth in the RFP. Evaluations shall be performed using a standard, 100 point scoring scale. Factors not specified in the RFP shall not be considered. The following factors shall be considered in conducting the evaluation:

- the plan for performing the required services;
- ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services ;
- the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting;
- a record of past performance of similar work; and,
- price.

When the anticipated expenditure is more than \$75,000, public notice of RFP's shall be publicized in a newspaper published in the county or municipality in which the agency is located, and shall be posted on the Mississippi Contract/Procurement Opportunity Search portal. Advertisement of RFP's shall be published once each week for two consecutive weeks with the second notice being published on or after the seventh (7th) calendar day after publication of the first notice. For publication on the Mississippi Contract/Procurement Opportunity Search Portal, the advertising time shall be concurrent with a newspaper publication, and shall run for fourteen (14) consecutive days. The date set for the proposal opening for services shall not be less than seven (7) working days (as opposed to calendar days) after the last notice appears in the newspaper and no more than fourteen (14) working days after the last notice appears in the newspaper unless it is determined due to the complex requirements of the procurement that a longer vendor response time is necessary. The date set for proposal opening must be included in the advertisement.

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The last day of this period will be included unless the last day is a Saturday, Sunday, Monday, or legal holiday, in which case the period lasts until the end of the next day which is not a Saturday, Sunday, Monday, legal holiday, or day following a state (or legal) holiday.

The following is a suggested guide for the legal advertisement:

The {name of the entity} will accept proposals until {time of bid opening}, {day of the week}, {month}, {date}, {year} for the purpose of purchasing the following: {name of service to be procured}, {bid file number}, Detailed specifications may be obtained by contacting {name of contact person} at {telephone number} or at {physical mailing address}.

The awarding office should post the RFP to the [Department website](#) under the Public Notice section. The awarding office should also have the RFP removed after the application deadline.

Pre-proposal conferences may be conducted to explain the procurement requirements. The conference shall be announced to all prospective offerors known to have received an RFP. The conference should be held long enough after the RFP has been issued to allow offerors to become familiar with it but sufficiently before proposal opening to allow consideration of the conference results in preparing proposals. Nothing stated at the pre-proposal conference shall change the RFP unless a change is made by written amendment as provided in the PSCRB regulations. A summary of the conference shall be supplied to all prospective offerors known to have received an RFP. If a transcript is made, it shall be of public record.

Any proposal received after the time and date set for receipt of proposals is late. Any withdrawal or modification of a proposal received after the established due date at the place designated for receipt of proposals is late. No late proposal, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action or inaction of Department personnel directly serving the procurement activity.

Proposals shall not be opened publicly but shall be opened in the presence of two (2) or more Department officials. A Register of Proposals shall be prepared which shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the service offered.

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An in-house and/or external selection committee shall be appointed by the awarding office any time an RFP is utilized in procuring services. The selection committee shall be comprised of a minimum of five (5) individuals. The program office responsible for awarding the contract is responsible for selection of the evaluation committee using qualified internal staff or external evaluators who have knowledge or expertise of the contract requirements. This committee will evaluate the proposals and make the recommendations for award. Each evaluator must sign a Conflict of Interest form, End of Review form, Evaluator Guidelines, and a Statement of Confidentiality form. The awarding program office is responsible for assuring a conflict of interest does not exist with each evaluator. An existing advisory committee may serve in the place of an in-house selection committee. The selection committee will review the RFP and the proposals received in response to the RFP.

The program office responsible for awarding the contract will develop criteria for evaluating the proposals and will review the evaluation criteria with the evaluation committee prior to the committee's review of proposals. The program office will also designate a staff member to be accessible to the evaluation committee during the evaluation process, should questions regarding the proposal requirements arise. Procurement will designate one staff member to monitor the evaluation process to ensure that procurement policies and procedures are followed. Program office should pre-screen the proposals prior to the evaluation process to determine if any should be rejected. If any proposal is to be rejected, the program office must complete the Summary of Proposals Not Evaluated form. The form should be signed by the program office Bureau Director or above and submitted to Procurement. Procurement will review the form and supporting documentation to confirm if they agree that the proposals should not be evaluated based on the criteria stated in the RFP.

Proposals should be reviewed and scored by the evaluators. The program office is responsible for tallying the scores and compiling a summary score sheet detailing the results of the evaluation process and the recommendations for award. These documents along with the proposed board item, if required, shall be submitted to Procurement with a Contract Justification for review and approval.

As provided in the RFP, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.

Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation. Written notice of award shall be sent to the all offerors. Notice of award shall be made available to the public.

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Competitive Sealed Qualifications - ATTACHMENT B

The competitive sealed qualifications procurement method is used when the qualifications or specialized expertise of the respondent is critical to meet the needs of the agency and is the most important factor in selection. Single or multiple awards may be made depending upon the number of respondents needed by the agency to provide the service. Competitive sealed qualifications are sought through a Request for Qualifications (RFQ). Respondents to the RFQ must submit a Statement of Qualifications (SOQ). A contract may be entered into by competitive sealed qualifications as provided herein.

The RFQ must be reviewed and approved by the Director of Procurement prior to distribution to potential service providers or vendors.

The RFQ shall include, but is not limited to, the following information;

- A description of the services to be provided;
- The minimum qualifications required, such as education, license(s), certification(s), experience, special skills needed to perform the services, the capacity and capability to perform the services within a relevant deadline, and the past record of performance with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines;
- The manner in which SOQ's will be evaluated, including the relative weight to be given to each qualification criterion, if not equal in weight;
- An estimate of when and for how long the services will be required;
- The type of contract to be used;
- The deadline and manner the SOQ's are to be submitted;
- The required form and content of the SOQ;
- The method through which a price will be determined;
- The deadline for submission of questions and posting of answers, if applicable;
- Information regarding the pre-conference, if applicable;
- Information regarding discussions with acceptable respondents, if applicable; and,
- A statement of minimum information that the SOQ should contain, including:
 - The name of the respondent, the location of the respondent's principal place of business and, if different, the place of performance of the proposed contract;
 - The age of the respondent's business and average number of employees over a previous period of time, as specified in the RFQ, except when respondent is a contract worker;
 - The qualifications, including licenses, certifications, education, skills, and experience of all persons who would be assigned to provide the required services; and,
 - A listing of other contracts under which services similar in scope, size, or

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discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFQ.

When the anticipated expenditure is more than \$75,000, public notice of RFQ's shall be publicized in a newspaper published in the county or municipality in which the agency is located, and shall be posted on the Mississippi Contract/Procurement Opportunity Search portal. Advertisement of RFQ's shall be published once each week for two consecutive weeks with the second notice being published on or after the seventh (7th) calendar day after publication of the first notice. For publication on the Mississippi Contract/Procurement Opportunity Search Portal, the advertising time shall be concurrent with a newspaper publication, and shall run for fourteen (14) consecutive days. The date set for the packet opening for services shall not be less than seven (7) working days (as opposed to calendar days) after the last notice appears in the newspaper and no more than fourteen (14) working days after the last notice appears in the newspaper unless it is determined due to the complex requirements of the procurement that a longer vendor response time is necessary. The date set for packet opening must be included in the advertisement.

Note: There must be seven (7) full working days between the date the last notice appeared and the date that packets are opened. This does not include weekends or holidays. Also, the date on which the last notice runs is not included in the calculation of days. The last day of this period will be included unless the last day is a Saturday, Sunday, Monday, or legal holiday, in which case the period lasts until the end of the next day which is not a Saturday, Sunday, Monday, legal holiday, or day following a state (or legal) holiday.

The awarding office should post the RFQ to the [Department website](#) under the Public Notice section. The awarding office should also have the RFQ removed after the application deadline.

Any packet received after the time and date set for receipt of packets is late. Any withdrawal or modification of a packet received after the established due date at the place designated for receipt of packets is late. No late packet, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action or inaction of Department personnel directly serving the procurement activity.

Packets shall not be opened publicly but shall be opened in the presence of two (2) or more Department officials. A Register of Respondents shall be prepared which shall include the name of each respondent, the number of modifications received, if any, and a description sufficient to identify the qualifications submitted.

The selection committee shall be comprised of a minimum of five (5) individuals. The Agency Head is responsible for selection of the evaluation committee using qualified internal staff or

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external evaluators who have knowledge or expertise of the contract requirements. Each evaluator must sign a Conflict of Interest form, Evaluator Guidelines, End of Review form and a Statement of Confidentiality form. The awarding program office is responsible for assuring a conflict of interest does not exist with each evaluator. The selection committee will review the SOQ packets received in response to the RFQ and rank them in order of highest to lowest qualified.

Price may be set by the Department or request respondents submit sealed pricing documents to be opened only after the evaluation of statements of qualifications in accordance with multi-step sealed qualifications according to PSCRB regulations.

The program office will also designate a staff member to be accessible to the evaluation committee during the evaluation process, should questions regarding the packet requirements arise. Procurement will designate one staff member to monitor the evaluation process, to ensure that procurement policies and procedures are followed. Program office should pre-screen the packets prior to the evaluation process to determine if any should be rejected. If any packet is to be rejected, the program office must complete the Summary of Proposals Not Evaluated form. The form should be signed by the program office Bureau Director or above and submitted to Procurement. Procurement will review the form and supporting documentation to confirm if they are in agreement that the packets should not be evaluated based on the criteria stated in the RFQ.

Packets should be reviewed and scored by the evaluators. The program office is responsible for tallying the scores and compiling a summary score sheet detailing the results of the evaluation process and the recommendations for award. These documents along with the proposed board item, if required, shall be submitted to Procurement with a Contract Justification for review and approval.

As provided in the RFQ, discussions may only be held with respondents whose SOQ packets are classified as acceptable or potentially acceptable. All respondents so classified shall be given an equal and fair opportunity to participate in individual discussions. The purpose of discussions is to determine in greater detail each respondent's qualifications and to determine if a respondent classified as potentially acceptable should be reclassified as acceptable.

Award shall be made to the highest ranked respondent, or respondents, if multiple contracts are required based upon the needs of the agency.

Written Quotations

Any procurement for personal or professional services greater than \$5,000 but not exceeding \$75,000, except for sole-source purchases, is considered a small purchase and may be made by

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obtaining written responses. The procurement shall not be artificially divided nor underestimated to constitute a small purchases procurement.

\$5,000 to \$50,000

Contracts between \$5,000 and \$50,000 may be procured by soliciting two (2) written quotations. Written responses must be either signed on letterhead or otherwise identifiable to be valid. Written quotes shall, at a minimum, contain:

- A statement of price;
- Terms of the agreement;
- Description of services offered by the vendor to the agency; and,
- Name, address, and telephone number of the offeror.

Award shall be made to the vendor offering the lowest and best bid or proposal. In the event two responses are not obtained, the Department shall include a memo to the procurement file explaining why this was not accomplished.

Greater than \$50,000 and up to \$75,000

Contracts greater than \$50,000 but not exceeding \$75,000 may be procured by soliciting three (3) written quotations. Written responses must be either signed on letterhead or otherwise identifiable to be valid. Written quotes shall, at a minimum, contain:

- A statement of price;
- Terms of the agreement;
- Description of services offered by the vendor to the agency; and,
- Name, address, and telephone number of the offeror.

Award shall be made to the vendor offering the lowest and best bid or proposal. In the event three written responses are not obtained, the Department shall include a memo to the procurement file explaining why this was not accomplished. All vendors submitting responses shall be promptly notified in writing of the contract award.

Preapproved Vendor Lists

The PSCRB has established preapproved vendor lists for use by entities under PSCRB purview. The preapproved vendor lists shall be posted on the PSCRB tab of the MSPB webpage at: <http://www.mspb.ms.gov>. The agency should locate the preapproved vendor list for the selected service in the region where the service is to be provided. The agency is encouraged, but not required, to contact the lowest bidder first. Once a vendor is selected, the agency and the vendor should finalize the negotiable terms. Any additional terms or change in non-negotiable terms, such as the scope of services, may not be used.

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[Request for Applications](#) - ATTACHMENT C

The following policies and procedures shall govern the procurement process for contract workers greater than \$5,000 but not exceeding \$75,000:

Proposals shall be solicited through a Request for Applications (RFA). The RFA must be reviewed and approved by the Director of Procurement prior to distribution to potential service providers or vendors. The RFA template can be found at the [Procurement website](#).

The RFA shall include the following:

- Job Duties;
- Minimum Qualifications;
- Rate of pay per hour and maximum number of hours for the contract period;
- Selection process; and,
- Instructions for applying.

The rate of pay per hour shall be computed according to the Contract Worker Rate of Pay Determination Form as provided by the Office of Procurement. Supporting documentation to support the rate of pay shall be provided to the Office of Procurement.

Choices include:

- Comparable position on the Mississippi State Personnel Board's website as demonstrated through the characteristics and examples of work outlined in the job description;
- Obtain salary data from MSIS for school personnel, i.e. superintendents, teachers, administrators, federal program directors, counselors; and,
- Obtain salary data from private industry performing comparable services.

The program office shall:

- Draft the RFA based upon a template posted on the Office of Procurement's website using the information provided and send to the Office of Procurement for approval. The RFA will require a completed and signed MDE Contract Worker Application, a resume, and references with current contact information;
- Once approved, the RFA shall be forwarded to the Office of Technology and Strategic Services (OTSS) to post on the Public Notice Section of the MDE Home Page;
- Review the applications for responsiveness (e.g. does the applications contain a completed and signed MDE Contract Worker Application, resume, and references with current contact information?);
- Send letters of notification to any non-responsive applicants advising that their application has been declared non-responsive;
- Have a committee that will review all responsive applications and select the top

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applicants to recommend to their Director who will decide whether or not to accept the recommendation of the top candidate/candidates in sufficient number to fill each position;

- Forward the contract packet to the Office of Procurement for all successful candidates receiving a contract; and,
- Maintain copies of the approved RFA, screen shot from the MDE website documenting the posting of the RFA, all applications and supporting documents that are received, letters sent to the non-responsive applicants, executed contracts, and all selection documents.

The following additional requirements are applicable for contract workers exceeding \$75,000 using the RFA process:

The procurement shall be publicized on the Mississippi Contract/Procurement Opportunity Search Portal in accordance with Mississippi Code Annotated § 25-53-151 and in either the legal notices or employment section of a newspaper. The notice shall include the deadline and manner for submitting applications.

All applications received by the deadline shall be evaluated by the Agency Head, his designee(s), or an evaluation committee appointed by the Agency Head. For each contract worker position to be filled, or positions if more than one is needed, the same person or committee shall evaluate all applications.

Once evaluated, all applications shall be classified as either acceptable or unacceptable. For applications classified as unacceptable, the applicant shall be promptly notified in writing of the classification of the application as unacceptable and the reasons therefor. A copy of the notification letter shall be kept in the procurement file.

Interviews may be conducted with a number of applicants to be specified by the Agency Head, their designee(s), or the evaluation committee, from the list of applicants classified as acceptable. If interviews are conducted, after all interviews are completed, the applicants interviewed shall be evaluated based on predetermined criteria.

Recommendation(s) shall be made to the Agency Head, who may then award the contract(s). Notification that the contract has been awarded shall be promptly given in writing to all applicants whose applications were classified as acceptable. A copy of each notification letter shall be kept in the procurement file. A notice of award shall be made available to the public in accordance with Executive Order 1362. The public notice of award must be accompanied by an analysis as to why the personal or professional services contract was awarded, renewed, or amended.

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Sole-Source Procurement

Sole-source procurements are limited to procurements in which the State Superintendent of Education or designee determines in writing that only one source is available that can provide the required personal or professional service. These provisions apply to all sole-source procurements, regardless of the value of the procurement.

Sole-source procurement is not permissible unless a service is available from only a single vendor. The determination as to whether a procurement shall be made as a sole-source shall be made and approved by the State Superintendent of Education or designee. Such determination and the basis therefor shall be in writing, signed by the State Superintendent of Education or designee and maintained in the procurement file. The State Superintendent of Education or designee may specify the application of such determination and the duration of its effectiveness.

If a binding, valid court order has been issued mandating that a particular source or provider must be used for the required service, a copy of the applicable court order must be attached to the State Superintendent of Education's written determination and included in all future sole-source contract submissions for the particular personal or professional service referenced in the court order.

The State Superintendent of Education or designee shall conduct negotiations, as appropriate, as to price, delivery, and terms. If the contract amount is greater than \$75,000, the contract must be forwarded to the PSCRB for approval prior to any services being rendered.

Any agency alleging to have a sole-source for any personal or professional service shall have the terms of the proposed contract for the service published on the Mississippi Contract/Procurement Opportunity Search Portal website for at least fourteen (14) consecutive days, unless the agency has a binding, valid court order. Publication of a sole-source award shall include, but is not limited to, the following information:

- (a) The personal or professional service offered in the contract;
- (b) An explanation of why the personal or professional service is the only one that can meet the needs of the agency;
- (c) An explanation of why the source is the only person or entity that can provide the required personal or professional service;
- (d) An explanation of why the amount to be expended for the personal or professional service is reasonable;
- (e) The efforts that the agency made to obtain the best possible price for the personal or professional service; and
- (f) Instructions for filing objections with current contact information for the agency that published the proposed sole-source contract and the PSCRB.

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If any person or entity objects and proposes that the personal or professional service is not a sole-source service and that the service can be provided by another person or entity, the objecting person or entity shall notify the agency that published the proposed sole-source contract and the PSCRB in writing with a detailed explanation of why the personal or professional service is not a sole-source service. The objection must be submitted to the agency within seven (7) calendar days of the last date on the Mississippi Contract/Procurement Opportunity Search Portal website. The review of objection to Sole-Source Determination will be according to the PSCRB rules and regulations.

Emergency Procurement

If an emergency exists in regard to the procurement of personal or professional services so that the delay incident to undertaking a competitive procurement would threaten the health or safety of any person, or the preservation or protection of property, then the State Superintendent of Education or designee may make an emergency procurement. Emergency procurements shall be made with such competition as is practicable under the circumstances.

The State Superintendent of Education or designee shall make a written determination of the conditions and circumstances of the emergency, including a detailed description of the events leading up to the situation, the negative impact to the agency if the procurement of services is required to be competitively bid, and the basis for the selection of the particular contractor. The written determination shall be signed by the State Superintendent of Education or designee and maintained in the procurement file. The term of an emergency contract shall not exceed one year.

Emergency procurement shall be limited to those personal or professional services necessary to meet the emergency. The term of an emergency contract shall be limited to the time necessary to meet the emergency, but in no circumstance, shall the term exceed one year.

GENERAL PROVISIONS FOR PERSONAL SERVICE CONTRACTING

The following policies and procedures shall govern the procurement of personal and professional service contracts:

A contractual agreement is required for all personal and professional services. Payment for any personal and professional services shall not be processed without a contractual agreement.

All contracts for services shall include a list of contract specifications or deliverables. These may be incorporated from the scope of work included in the Solicitations of Bids, Proposals, or Statements of Qualifications. This list should be used as evaluation criteria when monitoring contract performance in accordance with the Contract Administration section below. The

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description of services to be performed should be result-oriented, not procedure-oriented, and should at a minimum include the following:

- What service is to be performed;
- When the service is to be performed;
- How frequently the service is to be performed;
- Where the service is to be performed;
- How much the service will cost; and
- Why the service is necessary.

Mandatory clauses have been established to be included in all contracts. In addition, certain clauses are required to be included in the Solicitation of Bids, Proposals, or Statement of Qualifications. Alternative clauses are available for use in contracts and the Solicitation of Bids, Proposals or Statement of Qualifications and can be found at the [Procurement website](#).

Solicitation may be canceled, or any or all responses to the solicitation may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the State. The reasons shall be made part of the contract file.

The awarding office shall make a written determination of non-responsibility of a bidder, offeror, or respondent. The unreasonable failure of a bidder, offeror, or respondent to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder, offeror, or respondent.

Information furnished by a bidder, offeror, or respondent shall not be disclosed outside the Department, except as provided in § 25-61-9, Mississippi Code of 1972, Annotated.

Prospective contractors may be pre-qualified for particular types of services. Solicitation mailing lists of potential contractors shall include but shall not be limited to such prequalified contractors.

A contractor shall, when requested by the Department, submit cost or pricing data and shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of a mutually determined specified date.

Subject to the limitations of this section, any type of contract, which will promote the best interests of the State, may be used. A cost reimbursement contract may be used only when a written determination is made by the awarding office that such contract is to be less costly to the State than any other type or that it is impracticable to obtain the services required except under such a contract.

Unless otherwise provided by law, a contract for services may be entered into for a period of time not to exceed four (4) years with an option to renew for one (1) year, provided the term of

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the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

An incremental award is an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required. An incremental award may be used only when awards to more than one bidder or offeror for different amounts of the same items are necessary to obtain the total quantity or the required delivery.

A multiple award is an award of an indefinite quantity contract for services to more than one bidder, offeror, or respondent when the State is obligated to order all of its actual requirements for the specified supplies or services from those contractors. The obligation to order the State's actual requirements is limited by § 75-2-306, Mississippi Code of 1972, Annotated.

The Department may, at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the Department.

The Department may, at reasonable times and places, audit the books and records of any contractor or subcontractor pursuant to Section 3-602 (Right to Audit Records) of PSCRB's Regulations.

Legal and contractual remedies, to include debarment and suspensions, shall be conducted in accordance with state law and PSCRB regulations, as applicable.

The determinations required by PSCRB regulations are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

When, for any reason collusion or other anticompetitive practices are suspected among any bidders, offerors, or respondents a notice of the relevant facts shall be transmitted to the Attorney General.

The Department may contract with state agency/Institutions of Higher Learning (IHL) employees who have been classified under Fair Labor Standards Act (FLSA) as non-eligible (exempt) employees by their primary employer. These individuals will be required to produce proof of their FLSA classification from their primary employer prior to contract execution. It will be the responsibility of the awarding office to obtain the classification from the potential contractor and to maintain in the contract file. If there is a need to contract with an individual who has been classified for FLSA purposes as an eligible (non-exempt) state agency/IHL employee, the awarding

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office will be required to obtain approval from the State Superintendent of Education or designee on a case-by-case basis prior to contract execution.

Compensation for preparation time for trainers is discouraged; however, the allowance of such will be considered on an individual basis and must be approved by the State Superintendent of Education or designee. Prep time shall be specifically identified in the contract and the awarding office is responsible for ensuring its proper use.

CONTRACT PACKAGE

The requesting office should evaluate the available resources within the Department before determining whether or not to contract for services. If staff is available to perform the task then the requesting office should seek the services internally. However, if the service cannot be performed by department staff, then steps must be taken to procure the services with a contract.

The Internal Revenue Service (IRS) has established rules and regulations concerning the classification of contractual workers. IRS classification of contractual personnel must be determined by completing the Independent Contractor versus Contract Worker Checklist. Following the determination of the contractor's classification, the appropriate contract package should be prepared and submitted to Procurement for review and approval. All forms necessary for the completion of the contract package can be found on the [Procurement website](#).

The required standard terms and conditions are included in the contract templates and can be found at the [Procurement website](#). No clauses should be added, deleted or altered without the approval of Procurement.

If federal funds are utilized, complete the Catalog of Federal Domestic Assistance (CFDA) Number, Title of Federal Program, and Federal Award Number sections of the template.

Independent Contractor

The following items should be submitted as part of the contract package:

1. Contract Justification – Independent Contractor
2. Independent Contractor versus Contract Worker Checklist
3. If RFP or RFQ process was used to select contractor attach:
 - Summary of evaluation scores
 - Evaluation score sheets from all evaluators
4. Select and complete appropriate contract template:
 - Short Contract – use for trainers, speakers, etc.

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- Long Contract over \$75,000 – use for contracts over \$75,000 procured through the competitive RFP or RFQ process
- 5. Requisition, completed and signed
- 6. Board item, if required
- 7. Form W-9, completed by independent contractor
- 8. Certification of PERS Service Retirement form
- 9. Employee vs. Independent Contractor Determination Questionnaire – Complete this form if independent contractor is a PERS retiree. This will delay the approval process as the form is submitted to PERS for their determination of the retiree's status.
- 10. Certification of School District – Complete this form if independent contractor is a school district or public entity employee.

Independent Contractor Modification

The following items should be submitted as part of the contract package:

1. Contract Justification – Independent Contractor Modification/Renewal
2. Requisition, completed with the amount of increase/decrease and signed
3. Contract Modification Signature Page and Budget Summary Page with the revised contract amounts included
4. Board item, if required
5. Employee vs. Independent Contractor Determination Questionnaire - Complete this form if independent contractor is a PERS retiree. This will delay the approval process as the form is submitted to PERS for their determination of the retiree's status.

Contract Worker

The following items should be submitted as part of the contract package:

1. Contract Justification – Contract Worker
2. Independent Contractor versus Contract Worker Checklist
3. Select and complete appropriate contract template:
 - Non-PERS retiree
 - PERS retiree
4. Board item, if required
5. Travel Guidelines, if travel is included in the contract
6. Form W-4, completed by contract worker
7. State Withholding form
8. Certification of PERS Service Retirement form
9. PERS Form 4B, complete if contractor worker is a retiree
10. Background Acknowledgement and Authorization to Release Information

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11. Certification of School District - Complete this form if contract worker is a school district or public entity employee.

* If the Form I-9 is required, it should not be submitted to Procurement until contract has been approved by Procurement and program office has been notified of approval to obtain signatures from contractor. Upon signature from contractor, program office should obtain identification documents as outlined in the Form I-9 and submit to Procurement for final signature and execution of contract.

Contract Worker Modification

The following items should be submitted as part of the contract package:

1. Contract Justification – Contract Worker Modification/Renewal
2. Contract Modification Signature Page and Contract Budget Summary with the revised contract amounts included
3. Board item, if required

Procurement is responsible for reviewing the contract package and determining compliance with Board and PSCRB policies and procedures.

Once the contract packet is approved by Procurement, the requesting office will be notified to obtain final signatures on one (1) original contract. The contract shall be signed by the Contractor, Chief Officer/Deputy Superintendent, and the Director of Procurement. The contract is not valid until it is signed by all parties. If required, a Form I-9, along with copies of required identification, should be submitted at this time for E-Verify purposes. Once the contract is signed and approved in the Statewide Payroll and Human Resource System (SPAHRs) or MAGIC, Procurement will send the original copy of the contract to the Office of Accounting (Accounting), along with the justification. A scanned copy of the contract will be returned to the program office. The program office should maintain one copy for their files and a copy should be given to the contractor.

PAYMENTS

Each contract should identify the following terms and conditions relating to payments for services:

- Payment schedule and invoicing
- Terms
- Retainage (if applicable)
- Final payment
- Penalties (if applicable)

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The contract shall indicate the schedule on which the independent contractor is to invoice the Department (monthly, quarterly, upon completion of work, etc.) and what form the invoice should take (line-item or lump-sum). Also, the type documentation necessary for approval of the invoice (invoices from third parties, time sheets, etc. or perhaps the level of completion of the project) shall be made part of the contract. At no time should the contractor simply invoice the Department without a basis for the payment to be remitted. Invoices shall include detailed description of services rendered during the period for which the independent contractor is requesting payment. Generally, independent contractors receive payment upon completion of the work specified in the contract.

The contract should provide for terms of payment by the Department (30 days, 45 days, etc.). A penalty clause for late receipt of deliverables could be included and the terms for the final payment may stipulate the Department must approve the finished product.

Furthermore, the contract should indicate if any retainage is applicable. If so, a percentage or firm dollar amount should be indicated. Each invoice should indicate the gross amount of the invoice, then a line item with retainage that would be deducted to arrive at the amount to be paid. The retainage would be held until the Department has possession of the finished product and the contractor submits an invoice for the final amount.

In lieu of, or in addition to retainage, the contract could place certain criteria on the final payment. These criteria could deal with prompt delivery of the product, the adequacy of the product, etc. An invoice should accompany the delivery of the finished product. This invoice must be marked "Final" by the contractor.

Contract worker payments will be made on a bi-weekly delayed payment schedule. Invoices must be received two (2) working days after the end of each two-week period. Invoices shall include detailed description of services rendered during each day for which the contractor is requesting payment. Independent contractor payments are made in accordance with the terms of the contract. Invoices shall include a detailed description of services rendered during the period for which the contractor is requesting payment.

Finally, the contract may need to include penalty clauses for breach and/or anticipatory break of contract. A definition of each of these terms and criteria for determining each should be included in the contract. Either could occur through actions of the contractor or inaction of the contractor, based on completion points.

A copy of all payment records will be maintained in the Accounting's contract file. The awarding office shall maintain up-to-date records of all disbursements made under contracts in each office.

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CORRESPONDENCE

A copy of any correspondence relative to the contract must be retained in the awarding office's contract file. The contract number should be indicated on all correspondence.

CONTRACT CLOSEOUT PROCESS

The closeout process is to be an accounting by the contractor to the Department. The awarding office shall utilize the closeout process to ensure that the Department has received the goods and services identified in the contract prior to the payment of the final invoice.

If the contract has been a line-item budget, the closeout would encompass verification that the budget has not been exceeded by line-item and/or in total. The closeout would also include verification that the required documentation is on file for all payments and that reimbursement has not or will not be made to the contractor for costs that are unallowable.

After the closeout has been accomplished, an approved invoice marked final will be transmitted to Accounting for payment. Instructions to Accounting to de-obligate any remaining balance on the contract shall accompany the invoice. The final invoice shall be transmitted to accounting as quickly as possible. However, it must be submitted within 30 days after the end of the contract.

CONTRACT ADMINISTRATION

All contracts shall be monitored by the awarding office at least monthly to confirm acceptable performance, timely fulfillment of deliverables and compliance with terms of the agreement. Monitoring shall include, but not be limited to:

- Review and approval of contract deliverables.
- Compliance with contractual terms.
- Coordination of the flow of information between the parties.
- Response to requests of the contractor.
- Monitoring of disbursements against the contract budget.
- Monitoring of actual progress against work schedules.
- Coordination of furnishing the necessary materials.
- Recommendation of no cost modifications.
- Recommendation of modifications involving increased costs.

For contract worker contracts, a performance review should be done biannual by the awarding office. The Contract Worker Performance Review Form can be located on the [Procurement website](#).

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E-VERIFY

Pursuant to the Mississippi Employment Protection Act, all Mississippi employers are required to register with and use the federal government's E-Verify System to determine that individuals hired as employees are legal citizens or legally authorized to work in the United States.

TRANSPARENCY

Pursuant to the Mississippi Accountability and Transparency Act of 2008, (§ 27-104-3, Mississippi Code of 1972, as amended), DFA is required to post to a website electronic data and redacted copies of contracts for each grant, contract, or subcontract executed on or after July 1, 2008. Disclosure of trade secrets or other proprietary information, including confidential vendor information, or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes is not required. Information for the website is furnished by state agencies.

ETHICS IN PUBLIC CONTRACTING FOR PERSONAL AND PROFESSIONAL SERVICES

Public employment is a public trust. It is the policy of the State of Mississippi to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the State. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service. Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the State procurement organization. To achieve this, Department employees shall observe the ethical standards prescribed herein:

Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust.

Any effort to influence any public employee or contractor with the State, to breach the standards of ethical conduct is also a breach of ethical standards.

It shall be a breach of ethical standards for any employee to participate directly or indirectly in procurement when the employee knows that:

- The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement.
- A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

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- Any other person, business, or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

The Department discourages any contracts with a relative of an employee. However, in situations where there is no potential of a conflict of interest and the need is justified for such a contract, approval by the State Superintendent of Education, or designee, is required. The awarding office is responsible for determining whether such a relationship exists with an employee.

It shall be a breach of this regulation for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request. It shall further be a breach for any person to influence the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or proposal therefore.

It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, unless such an arrangement is fully disclosed in writing. Every person, before being awarded a State contract, shall represent, in writing, that such person has not retained anyone in violation of the above contingent fee section. Failure to do so constitutes a breach of ethical standards.

Except as may be permitted by regulations or rulings of the Mississippi Ethics Commission, it shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become or be, while such an employee, the employee of any person contracting with the governmental body by whom the employee is employed. Additionally, § 25-4-105(3)(a), Mississippi Code of 1972, Annotated, states that "no public servant shall be a contractor, subcontractor or vendor with the governmental entity of which he/she is a member, officer, employee or agent, other than in his contract of employment; or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he/she is a member, officer, employee or agent."

It shall be a breach of ethical standards for any former employee knowingly to act as a principal, or as an agent for anyone other than the State, in connection with any contract in which the employee participated personally and substantially while an employee, where the state is a part or has a direct and substantial interest.

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It shall be a breach of ethical standard for any former employee, within one year after cessation of the former employee's official responsibility, knowingly to act as a principal, or agent for anyone other than the State, in connection with any contract in matters which were within the former employee's official responsibility, where the State is a party or has a direct or substantial interest.

It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the State, in connection with any contract in which the employee either participates personally and substantially, or which is the subject of the employee's official responsibility, where the State is a party or has a direct and substantial interest.

Department employees shall comply with § 25-4-105, Mississippi Code of 1972, Annotated, which states, "No public servant shall use his official position to obtain pecuniary benefit for himself other than that compensation provided for by law, or to obtain pecuniary benefit for any relative or any business with which he is associated."

It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

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Attachment A

REQUEST FOR PROPOSALS (RFP/IFB) Procedures

COMPETITIVE SEALED PROPOSALS/BIDS

Conditions for Use

The competitive proposal method is used when a contractor has reached the threshold established by the agency. A contract may be entered into by competitive sealed proposals when the use of competitive sealed bids is determined to be either not practicable or not advantageous to the State of Mississippi (State).

Proposals shall be solicited through a Request for Proposals (RFP). The RFP must be reviewed and approved by the Director of Procurement prior to distribution to potential service providers or vendors.

Visit the [Procurement website](#) to obtain the RFP/IFB checklist that will include forms and templates needed to create the RFP/IFB packets. Submitting packets to procurement must contain the following:

- Submission Form
- RFP/IFB Tentative Timeline
- RFP/IFB
- Draft Contract
- Letter for Advertisement

PUBLIC NOTICE

Adequate public notice (advertisement) of the Request for Proposal shall be two consecutive weeks not to include weekends, holidays, Mondays.

PRE-PROPOSAL CONFERENCES

Pre-proposal conferences may be conducted and any such conference should be held prior to submission of initial proposals

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PROPOSAL PREPARATION TIME

Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals.

FORM OF PROPOSAL

The manner in which proposals are to be submitted, including any forms to be used, shall be included as part of the Request for Proposal.

CONTENT OF THE REQUEST FOR PROPOSAL

- ☐ Statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions;
- ☐ A statement of when and how price should be submitted; and

At least the following information:

- ☐ Type of services required;
- ☐ A description of the work involved;
- ☐ An estimate of when and for how long the services will be required;
- ☐ The type of contract to be used;
- ☐ A date by which proposals for the performance of the services shall be submitted;
- ☐ A statement that the proposals shall be in writing;
- ☐ A statement that offerors may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential
- ☐ A statement of minimum information that the proposal shall contain, including:
- ☐ The name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
- ☐ The age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposal;
- ☐ The abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
- ☐ A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposal; and,
- ☐ A plan giving as much details as is practical explaining how the services will be performed.
- ☐ The factors to be used in the evaluation and selection process and their relative importance.

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EVALUATION FACTORS

The Request for Proposals shall state the relative importance of price and other evaluation factors in terms of important, very important, and critical. The evaluation shall be based on the evaluation factors set forth in the Request for Proposal. Factors not specified in the Request for Proposal shall not be considered.

The following factors shall be listed and shall be considered in conducting the evaluation. The relative importance of these and other factors will vary according to the type of services being procured.

The 5 minimum factors are:

- ✓ (1) the plan for performing the required services;
- ✓ (2) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
- ✓ (3) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting;
- ✓ (4) a record of past performance of similar work; and,
- ✓ (5) price.

Evaluation Scoring

Evaluations shall be performed using a standard, 100 point scoring scale.

Example of weighted score criteria:

- ✓ Proposed Plan – 30 points (30%)
- ✓ Ability to Perform Services – 20 points (20%)
- ✓ Personnel, Equipment, and Facilities – 15 points (15%)
- ✓ Price Proposal – 20 points (20%)
- ✓ Record of Past Performance – 15 points (15%)

Total Score = 100 points (100%)

DISCUSSIONS WITH RESPONSIBLE OFFERORS AND REVISIONS TO PROPOSAL

If provided in the Request for Proposals and as set forth in these regulations, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible to being selected for award. The discussions shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. In conducting discussions, agencies should be cautious to not disclose information derived from competing offers. Offerors should be accorded fair and equal treatment with respect to any

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opportunity for discussion. Revision of proposals may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

DETERMINATIONS REQUIRED

When a RFP is modified or withdrawn, or a proposal is corrected, withdrawn, or the correction or withdrawal is denied, a written determination shall be prepared and maintained in the agency procurement file showing that relief was granted or denied in accordance with these regulations.

AWARD (Authorization needed from the Office of Procurement)

Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation.

PUBLICIZING AWARD

Written notice of award shall be sent to all offerors and copies of such notices shall be maintained in the file and copies submitted to the Office of Procurement.

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Attachment B

REQUEST FOR QUALIFICATIONS (RFQ) Procedures

COMPETITIVE APPLICATIONS

Conditions for Use

The competitive statement of qualifications (SOQ) method is used when a contractor's contract will *exceed* the \$75K threshold established by the agency for individual *contractors or contract workers*. This method may also be used for multiple awards performing the same service for contracts \$5 - \$75K when the contractor's qualifications or specialized expertise is critical to meet the needs of the agency and is the most important factor in selection.

Visit the [Procurement website](#) to obtain the RFQ checklist that will include forms and templates needed to create the RFQ packets. Submitting packets to procurement must contain the following:

- Submission Form
- RFQ/RFA Tentative Timeline
- RFQ
- Draft Contract
- Letter for Advertisement

CONTENT OF THE REQUEST FOR APPLICATIONS (RFQ)

The RFQ shall include, but is not limited to, the following information:

- ✓ A description of the services to be provided;
- ✓ The minimum qualifications required, such as education, license(s), certification(s), experience, special skills needed to perform the services, the capacity and capability to perform the services within a relevant deadline, and the past record of performance with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines;
- ✓ Cost for work or hourly rate associated with description of services
- ✓ The manner in which application will be evaluated, including the relative weight to be given to each qualification criterion, if not equal in weight;
- ✓ An estimate of when and for how long the services will be required;
- ✓ The type of contract to be used;
- ✓ The deadline and manner the application will be submitted;

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- ✓ The required form and content of the application;
- ✓ The method through which a price will be determined;
- ✓ The deadline for submission of questions and posting of answers, if applicable;
- ✓ Information regarding the pre-conference, if applicable;
- ✓ Information regarding discussions with acceptable respondents, if applicable; and,
- ✓ A statement of minimum information that the RFQ should contain, including:
 - ✓ The name of the respondent, the location of the respondent's principal place of business and, if different, the place of performance of the proposed contract;
 - ✓ The age of the respondent's business and average number of employees over a previous period of time, as specified in the RFQ;
 - ✓ The qualifications, including licenses, certifications, education, skills, and experience of all persons who would be assigned to provide the required services; and,
 - ✓ A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFQ

PUBLIC NOTICE

Adequate public notice (advertisement) of the RFQ shall be two consecutive weeks not to include weekends, holidays, Mondays.

EVALUATION OF STATEMENTS OF QUALIFICATIONS

Selection criteria will be performed using a standard, 100 point scoring scale as follows:

- Special experience points
- General experience points
- Education points
- Certification/Licensure points

EVALUATION COMMITTEE

The Agency Head shall appoint at least a five member evaluation committee.

EVALUATION AND CLASSIFICATION OF STATEMENTS OF QUALIFICATIONS

The committee shall evaluate each RFQ packet.

The committee shall classify RFQ packets as acceptable, potentially acceptable, or unacceptable. For any packet classified as unacceptable, the respondent shall be promptly notified in writing of

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the classification and the reasons therefor. A copy of the written notification shall be kept in the file. If a packet is classified as unacceptable, the designee shall record in writing the basis for the finding of unacceptability and make it part of the procurement file. If provided in the RFQ, discussions may be held with individual respondents. If discussions are not held, the evaluation committee shall provide the Procurement Officer with a list of all acceptable respondents, ranking them in order of highest to lowest qualified. If discussions are held, the committee shall provide the list after consideration and evaluation of the information provided during the discussions. Only respondents classified as acceptable after discussions, if any, shall be included on the list.

INTERVIEWS WITH INDIVIDUAL RESPONDENTS

Discussions may only be held with respondents whose RFQ packets are classified as acceptable or potentially acceptable. All respondents so classified shall be given an equal and fair opportunity to participate in individual discussions. The purpose of discussions is to determine in greater detail each respondent's qualifications and to determine if a respondent classified as potentially acceptable should be reclassified as acceptable.

CONDUCT OF AN INTERVIEW

A Procurement Officer along with an office designee shall be invited to keep a record of the date, place, attendees, and a summary of the discussions of any such meeting, and make it part of the procurement file.

AWARD

Award shall be made to the highest ranked respondent, or respondents, if multiple contracts are required based upon the needs of the agency. The office designee shall make a written determination showing the basis on which the award was found to be most advantageous to the State based on the factors set forth in the RFQ. The written determination shall be maintained in the file.

PUBLICIZING AWARD

Written notice of award shall be sent to all respondents and copies of such notices shall be maintained in the file. Notice of award shall be made available to the Office of Procurement and must describe how the personal or professional services contract was awarded, renewed, or amended.

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Attachment C

REQUEST FOR APPLICATIONS (RFA) Procedures

COMPETITIVE APPLICATIONS

Conditions for Use

The competitive application method is used when a contractor has reached the threshold established by the agency. Also, the contractor's qualifications or specialized expertise of the respondent is critical to meet the needs of the agency and is the most important factor in selection. Single or multi awards may be made depending upon the number of respondents needed by the agency to provide the service.

Visit the [Procurement website](#) to obtain the RFA checklist that will include forms and templates needed to create the RFA packets. Submitting packets to procurement must contain the following:

- Submission Form
- RFQ/RFA Tentative Timeline
- RFA
- Application
- Draft Contract
- Contractor Rate of Pay Form
- Letter for Advertisement

DETERMINATION OF PRICE

The rate of pay-per-hour shall be computed according to the Contract Worker Rate of Pay Determination Form as provided by the Office of Procurement. Supporting documentation to support the rate of pay shall be provided to the Office of Procurement as the determination may be used by one of the following comparative methods:

- ✓ Comparable position on the Mississippi State Personnel Board's website as demonstrated through the characteristics and examples of work outlined in the job description;
- ✓ Obtain salary data from MSIS for school personnel, I.E. superintendents, teachers, administrators, federal program directors, counselors; and,
- ✓ Obtain salary data from private industry performing comparable services.

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CONTENT OF THE REQUEST FOR APPLICATIONS (RFA)

The RFA shall include, but is not limited to, the following information:

- ✓ Job Duties;
- ✓ Minimum Qualifications;
- ✓ Rate of pay per hour and maximum number of hours for the contract period;
- ✓ Selection process; and,
- ✓ Instructions for applying.

PUBLIC NOTICE

Adequate public notice (advertisement) of the RFA shall be two consecutive weeks not to include weekends, holidays, Mondays.

EVALUATION OF STATEMENTS OF QUALIFICATIONS

Selection criteria will be performed using a standard, 100 point scoring scale as follows:

- ✓ Special Experience points
- ✓ General experience points
- ✓ Education points
- ✓ Certification/Licensure points

Evaluation Committee

The Agency Head shall appoint an evaluation committee.

Evaluation and Classification of Statements of Qualifications

The committee shall evaluate each RFA packet.

The committee shall classify RFA packets as acceptable, potentially acceptable, or unacceptable. For any packet classified as unacceptable, the respondent shall be promptly notified in writing of the classification and the reasons therefor. A copy of the written notification shall be kept in the file. If a packet is classified as unacceptable, the designee shall record in writing the basis for the finding of unacceptability and make it part of the procurement file. If provided in the RFA, discussions may be held with individual respondents. If discussions are not held, the evaluation committee shall provide the Procurement Officer with a list of all acceptable respondents, ranking them in order of highest to lowest qualified. If discussions are held, the committee shall provide the list after consideration and evaluation of the information provided during the discussions. Only respondents classified as acceptable after discussions, if any, shall be included on the list.

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INTERVIEWS WITH INDIVIDUAL RESPONDENTS

Discussions may only be held with respondents whose RFA packets are classified as acceptable or potentially acceptable. All respondents so classified shall be given an equal and fair opportunity to participate in individual discussions. The purpose of discussions is to determine in greater detail each respondent's qualifications and to determine if a respondent classified as potentially acceptable should be reclassified as acceptable.

CONDUCT OF AN INTERVIEW

A Procurement Officer along with an office designee shall be invited to keep a record of the date, place, attendees, and a summary of the discussions of any such meeting, and make it part of the procurement file.

AWARD

Award shall be made to the highest ranked respondent, or respondents, if multiple contracts are required based upon the needs of the agency. The office designee shall make a written determination showing the basis on which the award was found to be most advantageous to the State based on the factors set forth in the RFA. The written determination shall be maintained in the file.

PUBLICIZING AWARD

Written notice of award shall be sent to all respondents and copies of such notices shall be maintained in the file. Notice of award shall be made available to the Office of Procurement and must describe how the personal or professional services contract was awarded, renewed, or amended.