

## Chapter 10

### Special Procedures

#### 10.101 Special Procedures

This section sets forth unique policies and procedures to be used when purchasing certain items or when using specialized techniques as follows:

- (1) Section 10.102, Purchasing Petroleum Products
- (2) Section 10.103, Purchasing Hi-Tech and Surveillance Equipment
- (3) Section 10.104, Acquiring Copiers
- (4) Section 10.105, Purchasing Commodities Produced from Recovered Materials
- (5) Section 10.106, Procedures for Establishing an Agency Contract
- (6) Section 10.107, Procedures for Issuance of Open Purchase Orders
- (7) Section 10.108, Procedures for Applying Preference to Resident Contractors
- (8) Section 10.109, Information Applicable to Construction
- (9) Section 10.110, Information Applicable to Taxes
- (10) Section 10.111, Information Applicable to Services
- (11) Subsection 10.111.03, Small Purchase Procurement Card

#### 10.102 Purchasing Petroleum Products

[Section 31-7-13\(h\), Mississippi Code of 1972, Annotated](#), provides that when any agency or governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of, \$5,000 the agency or governing authority may purchase the commodity after having solicited and obtained at least two competitive written bids as defined in [Section 31-7-13\(b\), Mississippi Code of 1972, Annotated](#). If two competitive written bids are not obtained, the entity shall comply with the formal bidding procedures set forth in [Section 31-7-13\(c\), Mississippi Code of 1972, Annotated](#). After having advertised for bids for the purchase of gas, diesel fuel, oils and other petroleum products and no acceptable bids can be obtained, the agency or governing authority may negotiate in such a manner as to secure the best price available. Therefore, when purchasing these products, the following procedures should be followed:

- (1) If the total purchase does not exceed, \$5,000 the purchase may be made without any quotes or bids. We recommend that the purchasing entity contact at least two sources to assure that the price paid is not excessive.
- (2) If the total purchase exceeds, \$5,000 you may obtain two written, signed quotes and purchase from the vendor who has offered the lowest and best bid. State agencies will not be required to submit a P-1 for gasoline purchases.

- (3) If the entity is unable to obtain two written quotes, the entity must advertise as set forth in [Section 31-7-13\(c\), Mississippi Code of 1972, Annotated](#). We suggest that the advertisement be for a contract to purchase gasoline for a term of 12 months. Upon receipt of bids if the low bid is acceptable, then you may award the contract and make all purchases for the period from the awarded vendor. If no bids are acceptable, then the entity should reject all bids and may negotiate to meet their needs. Please note that a bid with an escalation clause may be an acceptable bid provided that the invitation to bid included a price adjustment clause and the basis and method of adjusting unit prices. After having advertised and received no acceptable bids, we suggest that the entity obtain telephone quotes each time gasoline is needed. After obtaining an adequate number of telephone quotes, the entity should purchase from the vendor offering the lowest and best bid. It will be absolutely imperative that a file be maintained which should include:
- (a) The firm name,
  - (b) Individual contacted,
  - (c) Vendor phone number,
  - (d) Price for each vendor contacted,
  - (e) Copy of the original advertisement for bids, and
  - (f) A letter of explanation as to why all bids were rejected.

#### **10.102.01 Fuel Management Services**

Any governing authority or agency of the State shall, before contracting for the services and products of a fuel management or fuel access system, enter into negotiations with not fewer than two (2) sellers of fuel management or fuel access systems for competitive written bids to provide the services and products for the systems. In the event that the governing authority or agency cannot locate two (2) sellers of such systems or cannot obtain bids from two (2) sellers of such systems, it shall show proof that it made a diligent, good-faith effort to locate and negotiate with two (2) sellers of such systems. Such proof shall include but not be limited to publications of a request for proposals and letters soliciting negotiations and bids. For purposes of this paragraph, a fuel management or fuel access system is an automated system of acquiring fuel for vehicles as well as management reports detailing fuel use by vehicles and drivers.

#### **10.102.02 Contract for Fuel Access Card Services**

The Bureau of Fleet Management maintains a contract for Fuel Access Card Services which is available for use by all state agencies and governing authorities. Proper use of this contract would exempt the using department from bid procedures for purchases made pursuant to this contract.

**Commentary**

When it comes to purchasing gas with a credit card or a fuel access card, it is very important to understand exactly what the card does and for what you are being charged. It is improper for an entity to pay interest on debt unless they have specific authority to do so. Therefore, the use of a credit card which charges a service charge or interest should not be allowed. On the other hand, the use of a fuel access card or gas identification card is considered acceptable as long as there are no service charges or interest charges. If these purchases are individual purchases less than \$5,000.01 and the purchases are not being artificially broken up so as to circumvent the law, there would not be any reason to require quotes or formal advertisement.

**10.103 Purchasing Hi –Tech and Surveillance Equipment**

The Mississippi Bureau of Narcotics and any other such department of state or local government involved in any type of undercover operations relating to drug enforcement will be required to comply with this regulation when making any purchase as permitted in [Section 31-7-13\(m\)\(xix\), Mississippi Code of 1972, Annotated](#).

**10.103.01 Objective**

The objective of this regulation is to provide a procedure that would allow for the acquisition of surveillance equipment or any other hi-tech equipment used by law enforcement agents in undercover operations in the most cost-effective manner without requiring public notification of the intent to purchase the equipment.

**10.103.02 Definitions**

The following definitions will apply when used throughout this regulation.

- (1) Surveillance Equipment – any equipment or device used to monitor, track, or observe persons or things related to any type of investigation or evidence gathering process wherein the need for the highest degree of security is mandatory so as not to compromise the operation in general or personnel in particular.
- (2) Hi-Tech Equipment – any equipment considered by the industry and law enforcement personnel to be specialized, sophisticated and secretive in nature that to publicize its acquisition could or would jeopardize the success of the mission or the safety of those persons involved in that mission.
- (3) Quote – any price solicitation as described in [Section 31-7-13\(b\), Mississippi Code of 1972, Annotated](#).

**10.103.03 Conditions for Soliciting Competition**

[Section 31-7-13\(m\)\(xix\), Mississippi Code of 1972, Annotated](#), exempts the purchase of surveillance and other hi-tech equipment used by law enforcement agents in undercover operation from competitive bid requirements. This should be interpreted to mean that no notification of the intent to purchase need be published as required by [Section 31-7-13\(c\), Mississippi Code of 1972, Annotated](#). It should not be interpreted to mean that competition be ignored.

**10.103.04 Procedures****10.103.04.1 State Agency Procedures**

When acquiring the equipment referenced herein, state agencies will solicit multiple quotes unless it is determined that the item being purchased is available from only a single supplier. If the purchase is in excess of \$50,000 the Request for Authority to Purchase, P-1, must be submitted to the Office of Purchasing, Travel and Fleet Management. In completing the P-1, the item description section need only reflect the term “surveillance” or “hi-tech” equipment. No specific description need be presented. In listing the quotes when multiple suppliers are available, the suppliers’ name may be listed by name and address, or they may simply be designated as supplier 1, supplier 2, etc. The agency shall maintain a file for each such purchase which shall contain, but is not limited to:

- (1) Description of the equipment being purchased;
- (2) Specifications (if used);
- (3) List of vendors receiving solicitation;
- (4) Copies of quotes;
- (5) Justification for single-source purchase (if single-source provision is exercised);
- (6) Justification for accepting other than the low bid (if other than the low bid is receiving the award); and
- (7) Any other documentation relative to the purchase.

**10.103.04.2 Governing Authority Procedures**

Law enforcement units which are entities of governing authorities are not required to obtain approval of the Office of Purchasing, Travel and Fleet Management when making purchases as set forth in this regulation. The Board of the governing authority having jurisdiction over the law enforcement unit making the purchase shall set the guidelines to be followed in making those purchases. However, where competition is available, the purchases shall be made on the basis of competitive quotes. These entities shall also maintain a bid file on each purchase made under the provisions of [Section 31-7-13\(m\)\(xix\), Mississippi Code of 1972, Annotated](#), and the file will contain the same information as set forth in the above requirements applicable to state agencies.

**10.104 Acquiring Copiers****10.104.01 Methods**

The following is an explanation of the methods available to state agencies and governing authorities to acquire copiers:

**10.104.01.1 Purchase**

There are a number of copiers on contract with a net cost of \$50,000 and below. State agencies may purchase from any of the vendors listed in these contracts Copiers with a net cost which exceeds \$50,000 and copiers not covered by state contracts may be purchased in compliance with statutory bidding requirements set forth in [Section 31-7-13, Mississippi Code of 1972, Annotated](#). Governing authorities may purchase from any vendor offering the contract item at or below the contract price.

**10.104.01.2 Rental**

There are a number of copiers available on contract for one and/or multiple-year rental programs. Agencies may rent from any of the vendors listed in these contracts. Governing authorities may rent from any vendor offering the contract items at or below the contract prices. When renting a copier, state agencies must use the Vendor Rental Agreement for use by Mississippi departments and vendors.

**10.104.01.3 Rental, Not on Contract**

Rental, by state agencies, of copiers not covered by the contracts and/or longer term rentals may be considered on the basis of competitive bids. The correct procedure for this type of acquisition will be as follows:

- (1) The agency should determine their needs in the area of copies per minute, copies per month, duplexing, finishing, collating, reduction/enlargement, electrical capabilities, space allocation, length of commitment, etc. The agency should then contact at least two vendors and ask them to submit a bid which will meet the agency's needs. If the base commitment (monthly rental x number of months) exceeds, \$50,000 the agency must advertise as per [Section 31-7-13\(c\) of the Mississippi Code of 1972, Annotated](#).
- (2) The bids should be in writing so that all vendors are submitting an offer based on the same requirements. The agencies must assure that all costs are included and that all vendors are making uniform bids.
- (3) Upon receipt of the, bids, the agency should evaluate the bids to determine which is in the best interest of the agency. Upon completion of the evaluation, the agency should submit a P-1 to the Office of Purchasing, Travel and Fleet Management with copies of all bids and a letter of justification explaining the agency's preference. If the agency is not accepting the lowest bid, they will be expected to submit a justification explaining why the low bid is not acceptable.

**10.104.02 Trade-In of Office Equipment for Credit**

The Office of Purchasing, Travel and Fleet Management will permit trade-in of equipment for credit when state agencies enter into a rental contract. However, all applicable credit must be extinguished prior to any payments being made by the agency. Contracts wherein that credit is spread out over the term of the contract will not be allowed.

**10.104.03 Assignment of Contracts**

This is a reminder that no contract for commodities, supplies or equipment, with a state agency, may be assigned without the express written consent of the Office of Purchasing, Travel and Fleet Management.

**10.105 Purchasing Commodities Produced from Recovered Materials****10.105.01 Objective**

The objective of this regulation is to establish procedures to be followed when state agencies purchase products that can be produced from recovered materials.

**10.105.02 Specifications**

When preparing specifications for products that can be produced from recovered materials, the agency should include a clause indicating the desire for recycled products. The agency should also define, for the purposes of the specific purchase, the minimum percentage of recovered material which will be required to be considered for the ten percent (10%) preference. In addition, the agency should describe the award process so that all vendors know how the evaluation and award is to be made.

**Specification Clause for Products Made from Recovered Materials**

It is suggested that all agencies consider using the following clause when issuing specifications for products made from recovered materials. This applies to printing, paper, corrugated boxes, paper bags, toilet tissue, etc.

Mississippi law requires that specifications be written so as to promote the use of products made from recovered materials. Therefore, bidders are asked to consider bidding on a product made from recovered materials; provided, however, that any product bid must be equal in quality, weight, texture, and color to the product required by these specifications. For the purposes of these specifications, a commodity made from recovered materials must be at least 20% post-consumer waste as defined by EPA and ASTM.

Products made from recovered materials will be given a preference in the award procedure as follows:

- (1) The low bid which meets specifications will be determined.
- (2) If the low bid meeting specifications is made from recovered materials, then the award will be made to the vendor offering the low bid.
- (3) If the low bid is not made from recovered materials, then the award will be made to the

low bid meeting specifications which is made from recovered materials; provided, however, that the price paid may not be more than ten percent (10%) higher than the lowest bid received.

- (4) If there are no bids for recycled products within ten percent (10%) of the lowest bid, then the award will be made to the vendor offering the lowest bid.

## **10.106 Procedures for Establishing an Agency Contract**

### **10.106.01 Objective**

The objective of this regulation is to establish the procedures for agencies and institutions of the State of Mississippi to enter into Agency Contracts for the purchase of commodities, supplies, and equipment.

### **10.106.02 Definition**

Agency Contract is defined as an agreement between an agency and a vendor, wherein the agency purchases specific products from the vendor for a specific period of time and, in most cases, at firm prices.

### **10.106.03 Procedures for Items Where Multiple Bids can be Obtained**

- (1) When multiple bids can be obtained, the agency should develop specifications, advertise, and solicit bids as per [Section 31-7-13\(c\), Mississippi Code of 1972, Annotated](#). If the agency intends to award on an "all or none" basis, they must indicate estimated usage for each item on the bid form.
- (2) After receipt of bids and evaluation, the agency should prepare an electronic Request for Authority to Purchase, P-1.
- (3) The agency should also submit:
  - (a) Two (2) copies of the proposed prices, (not required if using electronic process;
  - (b) A copy of the advertisement;
  - (c) A bid tabulation sheet; and
  - (d) Copies of the bids.

If preparing copies of the bids appears to be too cumbersome, agencies may request approval to send only the tabulation sheet. The Office of Purchasing, Travel and Fleet Management will reserve the right to require copies of any and all bids at any time.

- (4) The agency should also submit any letters of justification or information which relate to the proposed contract(s).
- (5) If there are multiple vendors being awarded items, a separate P-1 shall be done for each awarded vendor.

- (6) The Office of Purchasing, Travel and Fleet Management will approve the contract at which time the agency will receive an e-mail notification of the approval and may then begin issuing purchase orders against the contract.
- (7) All purchase orders issued by the agency during the term of the contract for the commodities covered shall indicate the P-1 number in the space provided.

#### **10.106.04 Procedures for Single-Source Items, Firm Price**

- (1) For items wherein the agency cannot obtain competitive bids but can obtain firm prices for a fixed period of time, the agency should submit an electronic Request for Authority to Purchase, P-1.
- (2) The agency should submit a copy of the proposed prices
- (3) The agency should also submit any letters of justification or information which relate to the proposed contract(s). This should include an explanation why the need fulfilled by the commodity cannot be met by any other available product.
- (4) The Office of Purchasing, Travel and Fleet Management will approve the contract at which time the agency will receive an e-mail notification of approval and may then begin issuing purchase orders against the contract.
- (5) All purchase orders issued by the agency, during the term of the contract, for the commodities covered, shall indicate the P-1 number in the space provided.

#### **10.106.05 Procedures for Single-Source Items, Firm Price Not Available**

- (1) For items wherein the agency cannot obtain competitive bids and cannot obtain firm prices for a fixed period of time, the agency should prepare and submit a Request for Authority to Purchase, P-1.
- (2) The agency should also submit any letters of justification or information which relate to the proposed contract(s). This should include an explanation why the need fulfilled by the commodity cannot be met by any other available product, as well as an explanation as to why firm pricing is not available.
- (3) The Office of Purchasing, Travel and Fleet Management will approve the contract at which time the agency will receive an e-mail notification of approval and may then begin issuing purchase orders against the contract.
- (4) All purchase orders issued by the agency, during the term of the contract for the commodities covered shall indicate the P-1 number in the space provided.

#### **10.107 Procedures for Issuance of Open Purchase Orders**

##### **10.107.01 Objective**

The objective of this regulation is to establish procedures for open purchase orders which may be used for multiple purchases from a single vendor for a period of not more than an allotment period. The purchase order may be issued on or after the first day of the allotment period. Partial



payments may be made as valid invoices are received and verified. This procedure is established in accordance with [Section 31-7-9, Mississippi Code of 1972, Annotated](#).

#### **10.107.02 State Agency Procedures for Open Purchase Orders in Excess of \$5,000**

All open purchase orders in excess of \$5,000 must have an approved electronic Request for Authority to Purchase, P-1, attached to the purchase order. P-1 approval is not required for open purchase orders for service contracts. To receive P-1 approval, the P-1 must have the following included on the P-1 or attached:

- (1) A brief justification of the need for an open purchase order in lieu of normal P.O. procedures. This should include, but not be limited to, an estimate of the quantity of purchase orders that would be required if the Open Purchase Order Procedures are not used.
- (2) A general description of the commodities/services and the maximum amount per invoice.
- (3) The following certification:

"This is to certify that only the commodities/services shown will be purchased and that no items currently covered by any state contract will be purchased under the terms of this purchase order without proper approval from the Office of Purchasing, Travel and Fleet Management. This procedure will not be used to separate purchases so as to circumvent any laws, regulations or policies of the State of Mississippi."

#### **10.107.03 State Agency Procedures for Open Purchase Orders for \$5,000 or Less**

All open purchase orders for \$5,000 or less must have the following either included on the P.O. or attached:

- (1) A brief justification of the need for an open purchase order in lieu of normal P.O. procedures.
- (2) In the case of a rental which requires P-1 approval, the P.O. must include the appropriate P-1 approval number.
- (3) A general description of the commodities/services and the maximum amount per invoice.
- (4) The following certification:

"This is to certify that only the commodities/services shown will be purchased and that no items currently covered by any state contract will be purchased under the terms of this purchase order without proper approval from the Office of Purchasing, Travel and Fleet Management. This procedure will not be used to separate purchases so as to circumvent any laws, regulations or policies of the State of Mississippi."

**10.107.04 Procedures to be Established by State Agencies**

The agencies who issue open purchase orders should establish a procedure whereby the person picking up goods or services has a signed or approved purchase requisition form in order to maintain control of the open purchase order balances. The items purchased from all open purchase orders must agree with the proper object of expenditure code recorded for that particular P.O. All responsibility that the proper type of items are being purchased and that all purchasing laws concerning bid or contract items are being followed will fall upon the agency officials.

**10.107.05 Institutions of Higher Learning Procedures for Open Purchase Orders**

The Institutions of Higher Learning may issue open purchase orders which are in compliance with policies and procedures which have been submitted to and approved by the Department of Finance and Administration.

**10.108 Procedures for Applying Preference to Resident Contractors**

[Sections 31-7-47 and 31-3-21, Mississippi Code of 1972, Annotated](#), state that, "In the letting of public contracts, preference shall be given to resident contractors, and a non-resident bidder domiciled in a state, city, county, parish, province, nation or political subdivision having laws granting preference to local contractors shall be awarded Mississippi public contracts only on the same basis as the non-resident bidder's state, city, county, parish, province, nation or political subdivision awards contracts to Mississippi contractors bidding under similar circumstances. Resident contractors actually domiciled in Mississippi, be they corporate, individuals or partnerships, are to be granted preference over non-residents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state, city, county, parish, province, nation or political subdivision of domicile of the non-resident.

**Commentary**

In layman's terms, this means that we must penalize out-of-state vendors by the same amount as their state laws would penalize our vendors. If State A has a five percent (5%) in-state preference and a vendor from State A is bidding in Mississippi, then you must give a Mississippi vendor a five percent (5%) preference in the evaluation and award of the contract. Agencies are advised to review the applicable statutes and discuss this matter with their attorney.

**10.109 Information Applicable to Construction**

Agencies considering construction projects should become familiar with the applicable sections of the [Mississippi Code of 1972, Annotated](#), and the Construction Manual developed by the Bureau of Building, Grounds and Real Property Management. The following definitions and commentary are set forth as an introduction and should not be considered to be a complete discussion of construction contracting.

**10.109.01 Construction Defined**

The Office of Purchasing, Travel and Fleet Management, in cooperation with the Office of the State Auditor, has developed the following guidelines to assist agencies and governing authorities in the interpretation of the purchasing requirements.

As per [Section 31-7-1, Mississippi Code of 1972, Annotated](#), “construction” shall mean 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. As per [Section 31-7-13, Mississippi Code of 1972, Annotated](#), “construction” falls under the public bid laws. The question is, where does “routine repair” end and “construction” begin? In general, it is considered construction if it would add to, restore, or reduce the value of a property.

“Add to” would indicate an addition to or an improvement to the property. This would include such projects as the construction of a new building or road, the construction of an additional office to an existing building, or the installation of a new air conditioning system into an existing building. “Restore” would indicate a situation where a building or road had depreciated significantly, and the project was intended to bring the property back to its original value. “Reduce” would indicate demolition of the property.

In addition, there are other “projects” which would fall under the term “construction” which would not necessarily follow the definition shown above. Routine maintenance to retain value and/or function would not be considered construction, and, therefore, would not require compliance with the public purchasing laws. However, non-routine maintenance to restore value as opposed to retain value would be considered “construction” and would fall under the public bid laws. Therefore, it is important to establish and maintain maintenance schedules on all property in an effort to retain the value and not allow property to depreciate.

Please remember that repairs made to a building, road, or bridge in an emergency are exempt from the bidding requirements. Part of the definition of an emergency is “...when the immediate restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable....” Since “emergency” repairs are exempt from the bidding requirements, this would indicate that repairs which are not an emergency would not be considered exempt.

Another “rule of thumb” is that if the funding source is from a budget line “Capital Outlay” then the project is considered construction. Please do not construe this statement to imply that purchases made from other funds would be exempt from the bidding requirements.

Please note that the lack of a requirement to obtain competitive bids should not preclude the purchasing agent from attempting to obtain the best possible price for the entity. If in doubt, follow the statutory bid laws set forth in [Section 31-7-13, Mississippi Code of 1972, Annotated](#). A few examples will help to give some guidelines to follow in determining if bids are required.

- (1) Pouring of concrete to add a parking area would be considered construction since value is being added to the property. Resealing of an existing parking area, on a routine basis, would not necessarily be considered construction since this would be considered routine maintenance, and the value of the property is being retained at its original value and not increased.

- (2) Adding new pipe to an existing structure so as to provide water to a new part of the building would be considered construction. Replacing existing pipe would not be considered routine maintenance and would be considered construction.
- (3) Painting of a building on a routine basis would not necessarily be considered construction since you would be retaining the value of the building. This may be considered a contractual service and would not necessarily require bidding. If, however, you purchased paint and hired a painter, you would need to follow the statutory procedures for purchasing of the paint. If there was not a maintenance schedule, this project would appear to be an effort to restore the value and should be considered as a construction project and compliance with the bid laws would be required.
- (4) Demolition of existing walls and replacement with new walls would not be considered routine maintenance. The “renovations” would have an impact upon the value of the building; this would be considered construction. Since it is not routine maintenance, it must be construction. In this case, it may be better to be safe than sorry; put it out for bids.

#### 10.109.02 Public Projects

When preparing Instructions and Specifications for a public project, it may be wise to include the specific requirements for information to be shown on the outside of the envelope. As per [Section 31-3-21\(2\), Mississippi Code of 1972, Annotated](#), all bids submitted for public projects where said bid is in excess of \$50,000 shall contain on the outside of the envelope the contractors current certificate of responsibility number. Also, please remember that no bids for a public project shall be opened unless such certificate number appears on the envelope or unless there appears a statement on the outside of the envelope to the effect that the bid enclosed therewith did not exceed \$50,000.

For informational purposes, a public project is defined as, “Any project for erection, building, construction, reconstruction, repair, maintenance or related work which is funded in whole or in part with public funds.”

#### Commentary

In layman’s terms, this means that you need to remind the bidders that if they plan to bid on a public project, they better put the certificate number on the envelope or a statement that the bid is not over \$50,000. Without one or the other, you cannot open the bid. Interested parties may want to review [Section 31-3-21, Mississippi Code of 1972, Annotated](#).

#### 10.109.03 Architectural or Engineering Service Contracts

[Section 31-11-3, Mississippi Code of 1972, Annotated](#), requires that the Department of Finance and Administration shall review and preapprove all architectural or engineering service contracts entered into by any state agency, institution, commission, board or authority other than architectural or engineering contracts paid for by self-generated funds of any of the state institutions of higher learning or community college projects that are funded from local funds. Also, this requirement does not apply to any construction or design projects of the State Military

Department that are funded from federal funds or other non-state sources. Prior to entering into any such contract or agreement, agencies should contact the Bureau of Building, Grounds, and Real Property Management.

#### **10.110 Information Applicable to Taxes**

In general, state agencies have limited authority to pay taxes. Therefore, any reference to taxes owed in contracts should be reviewed with legal counsel. Agencies should may want to consider deleting sections pertaining to the payment of taxes during negotiations with the vendor advise vendors that the state is exempt from taxes on the sale of property, labor, services and products sold directly to the state or its departments or institutions.

#### **10.111 Information Applicable to Services**

Except as specified in Subsection 10.111.01, Services Requiring Competition and [Section 25-9-120, Mississippi Code of 1972, Annotated](#), the state purchasing laws do not make any mention of “services”; therefore, for many agencies, there is no statutory requirement for obtaining bids to acquire services. Agencies under the authority of the Personal Services Contract Review Board (PSCRB) shall follow the guidelines set forth in the Personal Services Contract Procurement Regulations.

##### **10.111.01 Services Requiring Competition**

The services shown below require competition as indicated.

- (1) Fuel management services, see Subsection 10.102.01, Fuel Management Services.
- (2) Garbage collection or disposal, solid waste collection or disposal, sewage collection or disposal. Contracts in excess of \$50,000 for these services may be entered into after following a formal request for proposal procedure and advertising in accordance with Subsection 3.106.05, Public Notice.

Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals. If the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinstituted.

##### **10.111.02 Small Purchase Procurement Card Services**

In accordance with [Section 7-7-23, Mississippi Code of 1972, Annotated](#), the State Fiscal Officer established a general rule to allow state agencies to make certain purchases without first issuing a purchase order. The various state agencies may make purchases under the Small Purchase Procurement Card Program established by the Office of Purchasing, Travel and Fleet Management provided, however, that all such purchases shall be made in compliance with the

minimum policies and procedures established by the Office of Purchasing, Travel and Fleet Management. The Chief Procurement Officer or his/her designee of Office of Purchasing, Travel and Fleet Management shall have the authority to limit the ability of any agency to use the Small Purchase Procurement Card Program if it is determined that the agency is not in compliance with the policies and procedures. Policies, procedures, and guidelines on the Procurement Card Program can be found in the State Procurement Card Guidelines.

#### **10.111.03 State of Mississippi Procurement Card Program**

The Office of Purchasing, Travel and Fleet Management maintains a contract for a Procurement Card Program. The intent of this Procurement Card Program is to allow government entities to make small purchases of commodities, repairs, or services easier and more economical. This card is accepted by a wide variety of businesses offering goods and services. Government entities may use the Procurement Card to make purchases which are bona fide needs of the entity.

The maximum amount of a single purchase transaction shall be \$5,000 (entities may establish stricter guidelines.) Municipalities need to follow requirements by law for issuing purchase orders. The procedures for the program can be found in the State Procurement Card Guidelines.

#### **10.111.04 Procurement Card Program Exception**

If an agency establishes the fact that the State Procurement Card program cannot or will not meet the needs of the agency, the agency may submit a request for approval from the Office of Purchasing, Travel and Fleet Management to establish their own procurement card program.

When the approval from the Office of Purchasing, Travel and Fleet Management has been received, the procedures established in Section 3.107, Competitive Sealed Proposals, must be followed. Prior to any award, justification must be submitted to the Office of Purchasing, Travel and Fleet Management indicating how their program better meets the needs of the agency and indicate the differences from that of the State Procurement Card Program.

If a governing authority establishes the fact that the Small Purchase Procurement Card cannot or will not meet the needs of the governing authority, the governing authority may submit a request for approval from their governing board to establish their own Procurement Card program by following the procedures established in Section 3.107, Competitive Sealed Proposals. Approval of such action shall be placed on the minutes of the board of the governing authority and a copy of the approval sent to the Office of Purchasing, Travel and Fleet Management.

#### **10.112 Credit Cards and Club Membership Cards**

In accordance with [Section 31-7-1\(1\)\(b\), Mississippi Code of 1972, Annotated](#) the Office of Purchasing, Travel and Fleet Management has established these purchasing regulations governing the use of credit cards and purchasing club membership cards to be used by state agencies and governing authorities. Use of the cards shall be in strict compliance with these regulations.

##### **10.112.01 Balances On Accounts**

Balances on credit cards shall be paid at the receipt of the monthly statement, once the

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statement has been reconciled for accuracy. Balances on credit cards shall not be carried over to the next month except on disputed claims and only for the disputed amount. Any amounts due on credit cards shall incur interest charges as set forth in [Section 31-7-305, Mississippi Code of 1972, Annotated](#), which only allows for an interest rate of 1 ½% per month to be applied to any unpaid balance not paid within 45 days.

#### **10.112.02 Limitations of Use**

The Chief Procurement Officer or his/her designee shall have the authority to limit the ability of any government entity to use procurement cards, credit cards and club membership cards if it is determined that the entity is not in compliance with the minimum policies and procedures established by this office.

#### **10.112.03 Merchant-Specific Credit Cards**

The use of the Small Purchase Procurement card should prevent the need for merchant specific credit cards (i.e. Walmart, Home Depot, Texaco, etc.) and should be utilized if the need for a credit card is established. Exceptions may be approved if circumstances arise which require the need for a merchant specific credit card. State agencies desiring to obtain a merchant specific credit card shall submit to the Office of Purchasing, Travel and Fleet Management for approval, written justification for the need of a merchant-specific credit card.

Governing authorities desiring to obtain a merchant specific credit card shall submit to their governing board for approval, written justification for the need of a merchant specific credit card. Approval of such action shall be placed on the minutes of the board of the governing authority.

#### **10.112.04 Merchant Specific Credit Card Minimum Requirements**

The following are the minimum requirements for use of credit cards. Individual entities may decide to implement stricter or additional requirements. Each entity should develop written policies and procedures to present to cardholders prior to receipt of any credit card. The minimum requirements are as follows:

- (1) Assure any purchases made using a credit card adheres to all applicable purchasing procedures, as set forth in [Section 31-7-1, Mississippi Code of 1972, Annotated](#).
- (2) Assure that the items purchased are required for bona fide government purposes.
- (3) Assure that the prices paid are fair and reasonable.
- (4) Notify the merchant that the purchase is being made in the name of a government entity which is exempt from state and local taxes.
- (5) Assure that a list of the items purchased (either in the form of a detailed sales receipt or an order description) is reviewed and confirmed in writing by the cardholder. This list should have the cardholder's printed name and signature.
- (6) Assure that all items are received (no back orders allowed).
- (7) Assure that state contract items are purchased only from the state contract vendor at or below the state contract price.

- (8) Assure that purchases are within the limits set by the individual entity and available budget authority.
- (9) State Agencies shall assure that no purchases are made for travel purposes; In general, Governing Authorities shall not use a credit card for travel purposes except where allowed by statute, such as [Section 19-24-13, Mississippi Code of 1972, Annotated](#), which allows a sheriff and his deputies to use an approved credit card to pay expenses incurred when traveling in or out of state in the performance of their official duties.
- (10) Assure that no cash advances are made with the card.
- (11) Upon receipt of the monthly statement, the cardholder shall review all charges to assure accuracy, complete applicable dispute documents, reconcile the statement with copies of receipts and order logs, and approve and sign the statement.
- (12) Forward the statement, copies of receipts, logs, and dispute documents to the appropriate official within the agency according to agency policy. This should be done within one day after receipt of the statement. The documents may be mailed, but it is recommended that these items be sent via facsimile.
- (13) Appropriate official within the agency should review statements and applicable documents to assure that only proper purchases have been made and that the statement accurately reflects the charges indicated on the receipts, logs, and dispute documents. If correct, the appropriate official shall approve the statements for payment and process to the agency accounting office. The agency accounting office shall verify all statements and submit for payment.
- (14) The appropriate agency official shall maintain a file with the statements and all applicable receipts and dispute documents.
- (15) Prior to receiving a credit card, the cardholder shall sign a statement verifying that he/she has read these minimum requirements, and any additional policies established by the agency, and that it is understood he/she will be personally liable for any purchase that is made which is not in compliance with these procedures; and in addition to being responsible for any such charges, the cardholder may lose the privilege of using the credit card.
- (16) Prior to any credit cards being issued, the appropriate agency official shall sign a statement verifying that he/she has read these minimum requirements and that it is understood he/she may be held jointly liable for any purchase that he/she approved which is not in compliance with these procedures; and in addition to being responsible for any such charges, the agency may lose the privilege of using the credit cards.

#### **10.112.05 Membership Club Cards**

Membership club card fee's, such as Sam's club cards, are allowed but should be justified by the agency or governing authority to show that the anticipated savings from using the card would exceed the cost of the card fee. This justification should be maintained on file with the government entity. Each subsequent year, the government entity shall document actual savings for the previous year which substantiate the cost of the card. This would not mean documenting savings on each and every purchase but enough documentation to substantiate adequate



savings to justify the expense of the card.

State agencies desiring to obtain a membership club card shall submit to the Office of Purchasing, Travel and Fleet Management for approval with written justification for the need of a membership club card.