



STATE OF MISSISSIPPI
HALEY BARBOUR, GOVERNOR

DEPARTMENT OF FINANCE AND ADMINISTRATION

KEVIN J. UPCHURCH
EXECUTIVE DIRECTOR

MEMORANDUM

TO: State Agency Procurement Directors

FROM: Gina Davis, Director *GD*
Office of Purchasing, Travel and Fleet Management

DATE: June 15, 2009

RE: Purchasing Law Changes - ARRA Memo #9 REVISED

The following is a brief review of the changes made by Senate Bill 2923 which became effective April 15, 2009. In the following discussion we have attempted to accurately describe the changes.

Bid Thresholds – SB2923 amends section 31-7-13(b) to allow for written quotes to be accepted for purchases involving an expenditure of more than \$5,000 but not more than \$50,000. The current law required written quotes for \$5,000 to \$25,000.

SB2923 also added the following statement to 31-7-13(b): “Any state agency or community/junior college purchasing commodities or procuring construction pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, to accept the lowest competitive written bid under Fifty Thousand Dollars (\$50,000.00)”.

SB2923 also provides the following in 31-7-13(b): Any quoted item for construction in excess of Five Thousand Dollars (\$5,000.00) but not more than Fifty Thousand Dollars (\$50,000) shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written quote and become part of the quote evaluation criteria.

The DFA is interpreting the term “component” as follows: Parts of the project of which the whole quote is comprised. The components shall include parts, materials, labor, miscellaneous, etc.

For example: If you **quote** 1,000 yards of carpet for a total of \$20,000, your list should look something like this:

Carpet material: 1,000 s.y. @ \$15.00/yd = 15,000.00

Labor and Miscellaneous items 1,000 s.y. @ \$5.00/yd = \$ 5,000.00

If you are familiar with doing a schedule of values for items over \$20,000 for large projects, use the same format except any item over \$5,000 must be broken down by the same method.

SB2923 further amends section 31-7-13 (c) by reflecting the change in the threshold from \$25,000 to \$50,000 required for publication which allows- two written quotes for acquisitions up to \$50,000. This change moves the upward boundary for quotes from \$25,000 to \$50,000.

There is an exception to this allowance: Section 31-7-13 (c)(1.) requires that American Recovery and Reinvestment Act (ARRA) projects in excess of \$25,000 be bid. Publication must be made for these projects at least one (1) time. Additionally, if it is an ARRA funded project, the bid opening shall not be less than ten (10) working days after the date of the published notice.

For ARRA projects, the same date that notice information is provided to the newspaper for publication, the agency or governing authority must also submit this notice electronically to the Mississippi Procurement Technical Assistance Program within the Mississippi Development Authority. The Mississippi Procurement Technical Assistance Program is required to publish these notices on a unique website within 24 hours of receipt. Notices should be emailed to bids@mississippi.org or faxed to (601) 359-5290. Subject line should include "ARRA Stimulus Recovery Project". Note that the bids cannot be opened until posted on this site for a minimum of ten (10) consecutive working days.

Additional changes to this section require DFA to post award and contract information as well as other information related to ARRA on a dedicated website. DFA shall promulgate rules regarding format, content and deadlines, unless otherwise specified by law, of the posting of award notices, contract execution and subsequent amendments, links to the contract documents, expenditures against the awarded contracts and general expenditures of funds from ARRA. The law requires that within one (1) working day of the contract award, the agency or governing authority shall post to the designated web page notice of the award, including the award recipient, the contract amount, and a brief summary of the contract. Then within one (1) working day of the contract execution, the agency or governing authority shall post to the designated web page a summary of the executed contract and make a copy of the appropriately redacted contract documents available for linking to the designated web page in accordance with the rules promulgated by the department. This information shall remain posted to the web page for the duration of the ARRA funding or until the project is completed, whichever is longer.

DFA is developing policies and procedures regarding this and other reporting requirements for the American Recovery and Reinvestment Act. These requirements will be distributed at www.mmrs.state.ms.us > stimulus > DFA Stimulus Policies and Procedures.

SB2923 added the following section as 31-7-13(v): Insurability of bidders for public construction or other public contracts. It states the following: In any solicitation for bids to perform public construction or other public contracts to which this section applies including, but not limited to, contracts for repair and maintenance, for which the contract will require insurance coverage in an amount of not less than One Million Dollars (\$1,000,000.00), bidders shall be permitted to either submit proof of current insurance coverage in the specified amount or demonstrate ability to obtain the required coverage amount of insurance if the contract is awarded to the bidder. Proof of insurance coverage shall be submitted within five (5) business days from bid acceptance. Note: This is at bid acceptance and intent of award, but award shall not be made until required coverage is provided.

Other statutory requirements to be considered in Construction Contracting:

1. Professional's name: _____

(a requirement per Code 73-13-45 for projects over \$75,000.00 budget - - - or indicate "no professional, not over \$75,000.00")

2. Certificate of Responsibility Numbers: _____

(a requirement per MS Code 31-3-15 and 31-3-21 for bid/quote/contract over \$50,000.00 - - - or indicate "not over \$50,000.00")

3. If this is a bid/quote above \$25,000.00 - Contractor/Vendor will be prepared to submit a Performance and Payment Bond if Contractor/Vendor is awarded the contract.

(If this is an advertised bid under \$50,000.00, then items listed herein apply. If this is an advertised bid over \$50,000.00, then MS Code 31-7-13(c) applies.)

4. If this is a bid/quote over \$5,000.00 - Contractor/Vendor will be prepared to submit a Certificate showing Liability Insurance, at least, if Contractor/Vendor is awarded the contract.

5. If this is a bid/quote for construction,- Contractor/Vendor will be prepared to submit a Certificate showing Workers Comp, at least, if Contractor/Vendor is awarded the contract, which will be attached to his Letterhead or Proposal form included herein:

Yes _____ No _____ (because Company is less than 5 employees)

(a requirement per Code 71-3-5 for companies with over 5 employees)

6. If this is a bid/quote between \$5,000.00 and \$50,000.00, **without advertising** – Contractor/Vendor must have completed the section on his Proposal form included herein regarding the component breakdown(s). (per MS Code 31-7-13 (b) and SB2923 L'09)
