

CHAPTER I

1-101 GENERAL PROVISIONS INTRODUCTION

1-101.01 *Purpose of the Personal Service Contract Procurement Regulations*

The purpose of the Mississippi Personal Service Contract Procurement Regulations is to set forth laws and regulations along with other pertinent information that shall be in effect with the implementation of Section 25-9-120, Mississippi Code of 1972, Annotated (Rev. 1997). **The policies and procedures set forth herein apply only to the procurement of personal and professional services with any funds, regardless of source, by those agencies which are required by the statute to be under the authority of the Personal Service Contract Review Board which, with the exception of the Mississippi Department of Transportation, are those agencies under the authority of the State Personnel Board. (See Appendix A).** This manual is intended to be a comprehensive presentation of regulations relative to obtaining personal service contracts pursuant to Section 25-9-120. Further, it shall serve as a source of information for contractors instructing them as to the proper procedures that must be followed in doing business with the State.

1-101.02 *Interpretation, Purposes and Policies*

- (1) *Interpretation:* These regulations shall be construed and applied to promote their underlying purposes and policies.
- (2) *Purposes and Policies:* The underlying purposes and policies of these regulations are:
 - (a) to simplify, clarify, and modernize the regulations governing contracting for personal service by agencies of the State of Mississippi;
 - (b) to permit the continued development of procurement policies and practices;
 - (c) to provide for increased public confidence in the procedures followed in public procurement for personal services contracts;
 - (d) to ensure the fair and equitable treatment of all persons who deal with the procurement system of this State for personal services contracts;
 - (e) to provide increased economy in State of Mississippi procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the State;
 - (f) to foster effective broad-based competition with the free enterprise system; and
 - (g) to provide safeguards for the maintenance of a procurement system of quality and integrity.
- (3) *Singular-Plural and Gender Rules:* In these regulations, unless the context requires otherwise:
 - (a) words in the singular number include the plural, and those in the plural include the singular; and
 - (b) words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

Personal Service Contract Procurement Regulations**Chapter 1**

1-101.03 Purpose and Implementation of these Regulations

These regulations, issued by the Mississippi Personal Service Contract Review Board hereafter referred to as the Board, establish policies, procedures, and guidelines relating to the procurement, management, and control of personal and professional services, as applicable, under the authority of these regulations. These regulations are designed to achieve maximum practicable uniformity throughout the State. Hence, implementation by and within Mississippi agencies shall be consistent with these regulations and any other regulations required by the funding source which may be more stringent.

1-102 Supplementary General Principles of Law Applicable

Subject to the principals of law and equity, these regulations will govern the creation and administration of service contracts.

1-103 Requirement of Good Faith

These regulations require all parties involved in the negotiation, performance or administration of Mississippi contracts to act in good faith.

1-104 Application of the Regulations

(1) *General Application:* These regulations apply only to contracts solicited or entered into after the effective date of these regulations unless the parties agree to its application to a contract solicited or entered into prior to the effective date.

(2) *Application to Mississippi Procurement:* These regulations shall apply to every expenditure of public funds irrespective of their source. However, in the event of a conflict, the guidelines of the grant, gift, or self-generated funds shall prevail; and in any case, violation of these regulations shall carry such penalties as may be applicable under state laws.

1-105 Severability

If any provision of these regulations or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

1-106 Duration

These regulations, when approved by the Personal Service Contract Review Board as authorized by Section 25-9-120, Mississippi Code of 1972, Annotated, (Rev. 1997) shall be in effect as written until amended or repealed by the Board.

1-201 Definitions

The words defined in this section shall have the meanings set forth below whenever they appear in the regulations, unless: (1) the context in which they are used clearly requires a different meaning; or (2) a different definition is prescribed for a particular chapter or provision.

Personal Service Contract Procurement Regulations**Chapter 1**

1-201.01 *Definition of Terms Used in the Regulations*

- (1) **Agency** shall be defined as any State board, commission, committee, council, department or unit thereof created by the constitution or statutes if such board, commission, committee, council, department, unit or the head thereof, is authorized to appoint subordinate staff by the constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof, Institutes of Higher Learning and the Mississippi Department of Transportation.
- (2) **Board** shall mean the Personal Service Contract Review Board.
- (3) **Business** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- (4) **Change Order** means a written order signed by the Procurement Officer directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.
- (5) **Contract Analyst** means the person holding the position as Contract Analyst with the Personal Service Contract Review Board.
- (6) **Contract** means all types of Mississippi agreements, regardless of what they may be called, for the procurement of services.
- (7) **Contract Modification** means any written alteration in contract requirements, deliverables, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- (8) **Contractor** means any person having a contract with a governmental body.
- (9) **Data** means recorded information, regardless of form or characteristic.
- (10) **Day** means calendar day, unless otherwise specified.
- (11) **Designee** means a duly authorized representative of a person holding a superior position.
- (12) **Employee** means an individual drawing a salary from a governmental body, whether elected or not, and any non-compensated individual performing personal services for any governmental body.
- (13) **May** denotes the permissive.
- (14) **Person** means any business, individual, union, committee, club, other organization, or group of individuals.
- (15) **Procurement** means buying, purchasing or otherwise acquiring any services. It also includes all functions that pertain to the obtaining of any services, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.
- (16) **Procurement Officer** means any person duly authorized to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority.
- (17) **Purchasing Agency** means any governmental body which is authorized by regulations to enter into contracts.
- (18) **Regulation** means a governmental body's statement, having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describing organization, procedure, or practice requirements, which has been promulgated in accordance with Section 25-9-120, Mississippi Code of 1972, Annotated.
- (19) **Services** means the furnishing of labor, time, or effort by a contractor, not usually involving the delivery of a specific end product other than that which is incidental to the required performance.

Personal Service Contract Procurement Regulations
Chapter 1

(20) **Shall** denotes the imperative.

1-301 Public Access to Procurement Information

Procurement information shall be public record to the extent provided in Section 25-61-1 et seq. Mississippi Code of 1972, Annotated, except as noted in 1-301.01 of these regulations.

1-301.01 **Information Results:** Information pertaining to the results of any bid may be reviewed on the premises of the contracting agency at any time during normal working hours subsequent to the time of the bid opening. This authority shall be granted only to any business or person who has submitted bids on the particular transaction. The contracting entity may restrict the availability of the bids or proposals during the evaluation process so as to improve the efficiency of the evaluation and award process. Businesses or persons not participating in the process will not be permitted access to any applicable file until after an award is made. After the award is made, all information and documents applicable to the awarded contract shall be available to any business or person; provided, however, that no information specified by a participant and approved by the procurement officer as proprietary information shall be available to any business or person without a written request. When the agency receives a request to release confidential information, the agency shall give the owner of this information a reasonable amount of time to obtain a court order protecting the information as confidential. If the agency receives a court order pursuant to Mississippi Code Annotated, Section 25-61-9 within this time, it must then notify the requestor that the information is protected by court order and cannot be furnished. No agency or governing authority is compelled to copy or duplicate any record for any person except that the requesting person or firm shall be charged a fee for such copy or duplication in compliance with written procedures adopted by the public body. All agencies should review their agency's printed policies concerning fees for copying documents.