

Rule No.: 941 - 7401 - 01000

Agency: Mississippi Department of Transportation

Agency Effective Date: May 15, 2005

Agency Issued Date: March 8, 2005

Secretary of State Authority Date: May 15, 2005

Supercedes Rule:

Division: Contract Administration

Rule Title: Bidding Rules

The person to be contacted regarding the Proposed Rule is: Facility and Records Management Director

Name of person originating the proposed rule: Neal Dougherty

Name of supervisor or person who approved the proposed rule: B. B. House, P. E.

Purpose:

The purpose of provisions requiring that contracts with public authorities be let only after competitive bidding [is] to secure economy in the construction of public works and the expenditures of public funds for materials and supplies needed by public bodies; to protect the public from collusive contracts; to prevent favoritism, fraud, extravagance, and improvidence in the procurement of these things for the use of the state and its local self-governing subdivisions; and to promote actual, honest, and effective competition to the end that each proposal or bid received and considered for the construction of a public improvement, the supplying of materials for public use, etc., may be in competition with all other bids upon the same basis, so that all such public contracts may be secured at the lowest cost to taxpayers.

Summary:

These rules apply to the competitive bidding process for projects administered by the Mississippi Department of Transportation Contract Administration Division from Advertising of the project to Execution of the contract. These rules relative to the *Federal Highway Administrations Program Administration Contract Administration Core Curriculum Participant's Manual and Reference Guide as amended*, *The Mississippi Standard Specifications For Road and Bridge Construction as amended*, *The Mississippi Code of 1972 as amended*, *the Code of Federal Regulations as amended* and *Title 23 of the United States Code as amended* will be adhered to at all times. Sections and Laws noted are not all inclusive. When reference is made to a regulation, specification or code, such means the latest version of such. *As applicable, Electronic bidding procedures will be governed by the MDOT Electronic Bidding Procedures Manual as amended.*

The full text of the proposed rule is:

All cites herein refer to the most current version of the cited document.

- 1) **Method of Construction** – actual construction work shall be performed by contract awarded by competitive bidding; unless as provided in Title 23 Sec. 635.104 of the *Code of Federal Regulations as amended*.
- 2) **Advertising/Notice to Contractors** – the rule conforms to Sec. 102.001 *Mississippi Standard Specifications for Road and Bridge Construction*, Sections 31-7-13, subsection (c) (i) and 65-1-85 of the *Mississippi Code of 1972 as amended*, Title 23 Sec. 635.112 of the *Code of Federal Regulations as amended* and as noted in the *Federal Highway Administrations Program Administration Contract Administration*

Core Curriculum Participant's Manual and Reference Guide Section III. (As applicable)

- 3) **Prequalification of Bidders** – the rule conforms to Sec. 102.01 *Mississippi Standard Specifications for Road and Bridge Construction, as amended*; and Title 23 Sec. 635.110 of the *Code of Federal Regulations as amended*.
- 4) **Proposal Sales and/or Distribution** – Proposals are sold according to terminology in the advertisement for each project. Proposals are normally distributed within 24 hours of the receipt of the payment and complete description of the proposal being requested. Sections 102.02 and 102.03 of the *Mississippi Standard Specifications for Road and Bridge Construction, as amended*, are to be noted for this rule.
- 5) **Addenda to Proposal** – the rule conforms to Sec. 102.06 and Sec. 102.07 subsection (e) of the *Mississippi Standard Specifications For Road and Bridge Construction, as amended*; Section 31-7-13, subsection (c) (ii) of the *Mississippi Code of 1972 as amended*, Title 23 Sec. 635.112 of the *Code of Federal Regulations as amended* and as noted in the *Federal Highway Administrations Program Administration Contract Administration Core Curriculum Participant's Manual and Reference Guide Section III*. Addenda issued after a proposal has been purchased but prior to the letting date will be sent to those contractors who purchased said proposals along with an acknowledgement. The contractors should review the addenda, execute and/or respond to the acknowledgement prior to the letting date.
- 6) **Letting Process** – the rule conforms to Sec. 102 *Mississippi Standard Specifications For Road and Bridge Construction as amended*, Sec. 31-3-21 of the *Mississippi Code of 1972 as amended* and Title 23 Sec. 635.113 *Code of Federal Regulation as amended*. Sealed proposals are received in accordance with the terminology noted in the advertisement/Notice to Contractors. Sealed proposals are opened and read in accordance with *Mississippi Transportation Commission Order dated 12-5-2002, found at Minute Book 9, Page 1225 of the Official Minutes of the Mississippi Transportation Commission (opening and reading construction bids publicly)* and Title 23 Section 635.113 *Code of Federal Regulations as amended*, however, irregularities (some noted in Sec. 102.07 *Mississippi Standard Specifications For Road and Bridge Construction, as amended* and Title 23 Sec. 635.113 *Code of Federal Regulations as amended* and as noted in the *Federal Highway Administrations Program Administration Contract Administration Core Curriculum Participant's Manual and Reference Guide Section III*) in the bid submitted by the contractor may result in the bid submission being rejected. To avoid irregular bids, contractors should comply with the Bidder Check List at the front of each proposal. Bid Bonds are required in accordance with Sec. 102.08 of *the Mississippi Standard Specifications for Road and Bridge Construction, as amended*.
- 7) **Award and Execution of Contract** – the rule conforms to Sec. 103 of *the Mississippi Standard Specifications for Road and Bridge Construction as amended*, Sections 31-7-13 & 65-1-85 of *the Mississippi Code as amended* and Title 23 Sec. 635.114 *Code of Federal Regulations*, and Title 23 Section 112 *United States Code as amended* and as noted in *the Federal Highway Administrations Program Administration Contract Administration Core Curriculum Participant's Manual and Reference Guide Section III*. Generally, awards are made at the first Commission meeting after the bid opening; however, concurrence in award is a prerequisite to

Federal participation of Federal-aid contracts in construction costs and is considered as authority to proceed with construction, unless specifically stated otherwise. Once the Commission makes the award and concurrence from Federal Highway Administration (if required) is obtained, the department will mail notification of award. The Contractor receiving the award will receive other documentation that is required to be executed and submitted back to the department to analyze for completeness before a Notice to Proceed with construction can be issued. If the documentation submitted back to the department is appropriate and accurate, the contract will be executed by the Executive Director, which is what actually makes it a valid contract and the Contractor will be issued a Notice to Proceed with construction. Section 103.08 and 108.02 of *the Mississippi Standard Specifications for Road and Bridge Construction as amended*, explains the consequences for the contractor failing to execute and return said documents.

Electronic links to all materials referenced (manuals, laws, regulations, etc.) relative to the Administrative Procedures Act Rules for the Contract Administration Division may be accessed via the department's internet website as follows:

<http://www.gomdot.com>