



CONSTRUCTION

BUREAU OF BUILDING, GROUNDS AND REAL
PROPERTY MANAGEMENT

Definitions

- ▶ **Construction:** **Section 31-7-1** means 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. Refer also **10.109.01** of Procurement Manual
- ▶ **Contractor:** **Section 31-3-1** any person contracting or undertaking as prime contractor, subcontractor or sub-subcontractor of any tier to do any erection, building, construction, demolition, **repair, maintenance** or related work on any public or private project...
- ▶ **Regularly Scheduled Maintenance:** Not defined in statute other than it "isn't" construction per 31-7-1...
- ▶ **Routine Repair:** Not defined in statute other than it "isn't" construction per 31-7-1...
- ▶ **OSHA:** Occupational Safety and Health Administration, Federal Agency responsible for 29 CFR Part 1910 **Maintenance** and Part 1926 **Construction**.

Definitions

- ▶ **Public Works:** Public facilities and improvements financed by the government for the public good.
- ▶ **Real Property:** All land, structures, and firmly attached and integrated equipment.
- ▶ **Architect:** **Section 73-1-3** Defines architect / **practice of architecture**
Licensing of architecture firms is under purview of Board of Architecture and Landscape Architecture.
- ▶ **Engineer:** **Section 73-13-3** Defines engineer / **practice of engineering**
Licensing of engineers and engineering firms is under purview of Board of Professional Engineers and Land Surveyors.

Requirements for Construction

- ▶ **Architect or Engineer is Required when:** **Section 73-13-45(1)(a)** Neither the state, nor any of its political subdivisions, such as a county, city or town, shall award **construction** contracts of any **public work** involving the practice of **engineering** or **architecture** unless the plans, specifications and estimates have been prepared and such work supervised by a **registered professional engineer or architect**; however, nothing in this subsection shall be held to apply to such public work in which the expenditure does not exceed One Hundred Thousand Dollars (\$100,000.00).
- ▶ **Certificate of Responsibility is Required when:** **Section 31-3-21** All bids submitted for public or private projects where the bid is in excess of Fifty Thousand Dollars (\$50,000.00). Issued by Mississippi Board of Contractors.
 - ▶ Must be on the exterior of the envelope or must have a statement on the exterior stating bid did not exceed Fifty Thousand Dollars (\$50,000.00)
 - ▶ Both the bidder and person opening or considering a bid without a Certificate of Responsibility is subject to fine, imprisonment or both

Other Requirements for Construction

- ▶ **Advertisement:** **Section 31-7-13(c)(i)(3)** Construction over \$50,000.00 must advertise for two consecutive weeks and not be opened in less than fifteen (15) working days after the last notice is published. Must concurrently give notice to MDA for MPTAP if not utilizing RFX module in MAGIC.
- ▶ **Component Breakdown:** **Section 31-7-13(b)** Construction over \$5,000.00 and up to \$50,000.00 price must be broken down by components to provide detail of component description and pricing.
- ▶ **Insurance:** **Section 31-5-51(7)** Construction over \$5,000.00 if State, over \$25,000.00 if county, city or other public authority must have not less than \$1,000,000.00 in general liability insurance for bodily injury and property damage
- ▶ **Bonds:** **Section 31-5-51(5)** 100% Performance and Payment Bonds required for construction \$25,000.00 or more. Less than \$25,000.00, can elect to make lump sum payment at completion of the job in lieu of bond.
- ▶ **A/E Contract Preapproval:** **31-11-3** Construction over \$100,000.00 documents must be prepared by licensed architect or engineer. Architect and engineer contracts must be pre-approved by BoB unless exempt per statute.

Yet More Requirements for Construction

- ▶ **Compliance with Building Code** Fire Marshal Office Approval
- ▶ **Compliance with Energy Code**
- ▶ **Compliance with Mississippi Antiquities Law** Applies to any modification to either Mississippi Landmark buildings or “potentially eligible” Mississippi Landmark buildings.
- ▶ **Compliance with Americans with Disabilities Act**
- ▶ **Compliance with Department of Health Regulations**
- ▶ **Zoning Regulations**
- ▶ **Flood Zones**
- ▶ **Wetlands and other environmental**
- ▶ **Asbestos and other hazards**

Requirements for *Routine* Repair and *Regularly* *Scheduled* Maintenance

- ▶ If “isn’t” construction, contracts for “*routine*” repair and “*regularly scheduled*” maintenance are considered a service subject to rules and regulations promulgated by PSCRB.
- ▶ If under \$75,000.00, not subject to PSCRB approval.
- ▶ A contract procured as a service will almost never comply with requirements for construction, so be certain, assume construction or contact the Bureau of Building for guidance.
- ▶ **EXERCISE #1: Maintenance & Repair Roulette**

Construction Specifications

- ▶ Proper specifications mean never having to say you're sorry...
 - ▶ *In accordance with Mississippi Code of 1972, Annotated, **Section 31-7-13 (c)(iv)(1)** and Bureau of Building, Grounds and Real Property Management standard Division 1 specification Section 01630 Substitutions and Product Options, the Bureau hereby reaffirms and clarifies that it is the intent of the Bureau that all specifications written by Professionals and/or their Engineering Consultants shall be written so as not to exclude comparable equipment of domestic manufacture.*
- ▶ Generally, construction specifications are prepared by licensed architects and engineers regardless of dollar threshold.
 - ▶ Can't you prepare your own specifications if construction is under \$100,000.00?
 - ▶ Yes
 - ▶ Can't you also defend yourself in court?
 - ▶ Yes, but you have a fool for a client...
 - ▶ Architects and Engineers are required to be licensed, insured, and defend the Owner if we are sued.

Specification Types

- ▶ **Named Products:** Identify 2 or more manufacturers / products and indicate “or equal”. Preference is to identify 3 or more and identify “or equal”. Division 1 of Specification must include a substitution procedure.
- ▶ **Performance:** This is for items or assemblies where the performance of the item is critical, but methods of how achieved are less critical. **Example:** Prefabricated Roof Trusses
- ▶ **Basis of Design:** One manufacturer / product is identified as the “basis of design” but equal products meeting requirements defined by such product are also acceptable. Such specifications must also identify the key technical and performance requirements of the named item that are critical for any equal to meet.
- ▶ **Brand Specific:** Identify 1 manufacturer / product and indicate “no equal”. Requires pre-approval by the Public Procurement Review Board. Product must be available from more than one distributor.
- ▶ **Sole Source:** Identify 1 manufacturer / product and indicate “no equal”. Requires pre-approval by the Public Procurement Review Board. Requires advertised notice of intent to sole source. If used, recommend removing item from general construction bid and procuring separately avoid bid distortions.

Templates and Standards

- ▶ **Do Not Reinvent the Wheel:** The Bureau of Buildings has template forms, construction bid and quote documents, professional contracts, and commissioning contracts available for use by state agencies and governing authorities. In addition to being field-tested and continuously updated to reflect statutory and regulatory changes, they have been pre-reviewed by Assistant AG's assigned to the Bureau of Buildings as to form. The Bureau of Buildings template contracts contain a pre-determined fee schedule for which architects and engineers throughout the State agree to work. Use of non-template contracts can lead to higher costs and weaker terms and conditions. Use of these template contracts also speeds review and approval process by the Bureau of Building. These can be found online at: www.dfa.ms.gov/Offices/BOB/BOBforms2.htm
- ▶ **Division 0:** Includes standard advertisement, instructions to bidders, proposal form, agreement, bond form, insurance form, general and supplementary conditions including compliance with critical statutory and regulatory requirements such as retainage, e-verify, e-payment, etc.
- ▶ **Division 1:** Includes numerous sections concerning the logistics unique to administering and paying for construction contracts.

Thank You !

- ▶ Please contact me with any questions, answers, or insights at:
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