

“HIRE MISSISSIPPI”

RESIDENT CONTRACTOR UTILITIZATION

100 Purpose

Public utilities in Mississippi are capital intensive businesses that require millions of dollars of investment in capital and operations and maintenance costs each year to meet their obligation to serve Mississippi residents with essential services. These costs are then passed on to the utilities' customers through their rates. For the purpose of promoting economic development, creating jobs, and improving the communities served by the utilities, the Commission urges utilities to maximize, consistent with law, the use of goods, products, and materials produced in the State of Mississippi. This rule shall serve as a tool to encourage and measure public utility utilization of Mississippi resident contractors, subcontractors, vendors and businesses. This rule is created to foster utility engagement with potential Mississippi suppliers and contractors, providing ways to inform Mississippi companies of business opportunities. However, this rule shall not be interpreted to supersede any state statute, and nothing in this rule shall be construed to prevent a utility from choosing the lowest and best bidder for any project or interfering with the mandate to serve the ratepayers or adequately respond to emergencies or support outages.

This rule is promulgated pursuant to the authority of the Mississippi Public Service Commission (the “Commission”) under Miss. Code Ann. §§ 77-3-45 and 77-3-16. The purpose of this rule is to apply to new contracts and projects of the utilities, and the provisions of this rule shall not apply to existing contracts and/or projects for which the competitive solicitation process has been initiated before the effective date of this rule.

101 Definitions

1. **Local Business Enterprise** – A resident contractor determined by the utility to be qualified to furnish goods and services to the utility and placed on the utility’s “Hire Mississippi” list pursuant to Section 103 below.
2. **Nonresident Contractor** - A prime contractor or subcontractor, be they corporate, individual or partnership, domiciled or having its principal place of business in a location other than the State of Mississippi that wishes to enter into any agreement with the utility or prime contractor for any purpose covered by this rule.
2. **Prime Contractor** - Any party or person (who is not an employee of the utility or its affiliated or associated companies) who directly enters into any agreement with a utility for the furnishing of goods or services.
3. **Resident Contractor** – A prime contractor or subcontractor, be they corporate, individual, or partnership, domiciled or having its principal place of business in the State of Mississippi that wishes to enter into any agreement with the utility or prime contractor for any purpose covered by this rule.
4. **Subcontractor** - Any party or person, who is not an employee of the prime contractor or the utility, who directly enters into any agreement with a prime contractor:
 - a. for the furnishing of goods or services; or
 - b. under which any portion of the prime contractor’s obligation under any contracts with the utility is performed or undertaken.

Exhibit A

A subcontractor shall be treated as a prime contractor hereunder to the extent the subcontractor assumes any portion of the prime contractor's obligation under any contracts with the utility.

5. **Utility** – Any public utility as defined in Miss. Code Ann. § 77-3-3(d)(i)-(ii) subject to rate regulations by the Mississippi Public Service Commission.

102 Resident Contractor Outreach and Assistance

The utility shall actively seek out opportunities to identify and assist potential resident contractors in order to expand the utility's contracting source pool within the state of Mississippi.

The utility shall help enable contracting relationships with resident contractors by exercising reasonable efforts to explain utility qualification requirements, bid and contracting procedures, materials requirements, invoicing and payment schedules, and other procurement practices and procedures.

The utility shall make available to resident contractors lists of contract categories which may best align with the resident contractor's stated qualifications.

The utility shall develop marketing program literature to provide to resident contractors and the business community summarizing its efforts pursuant to this rule. Such summaries shall state that the resident contractor will be furnished a complete copy of this rule upon request. Such summaries shall encourage the participation of resident contractors as prime contractors and subcontractors.

The Commission also encourages the utilities to explore opportunities for outreach involving Mississippi's institutions of higher education, community colleges, and other trade and technical schools to raise awareness of career opportunities in fields utilized by the public utility sector, with special emphasis on explanation of the contract bidding process.

103 "Hire Mississippi" List

The utility shall maintain a "Hire Mississippi" list consisting of resident contractors determined by the utility to be qualified to furnish goods and services of the types described in Miss. Code Ann. § 77-3-16. At least every three (3) months, the utility shall publish in a newspaper in each county in the utility's certificated area, a notice requesting names of qualified resident contractors. Special attention shall be paid to counties which have no daily local paper to make reasonable efforts to reach potential contractors through cost effective available avenues which may include without limitation electronic communications.

A contractor wishing to be on the "Hire Mississippi" list may certify to the utility that is a "Resident Contractor" as defined in Section 101 above by any means the utility deems reasonable. Upon such certification, the utility shall add said contractor to the "Hire Mississippi" list.

To ease public access to information provided through this rule, the Commission may administer a "Hire Mississippi" web portal, accessible through its website that compiles, among other things, the "Hire Mississippi" lists of utilities subject to this rule, information regarding contracting requirements and procedures, notice of upcoming opportunities, and marketing literature.

104 Unbundling of Contract Goods and Services

When efficient or cost-effective, the utility shall unbundle and separate scopes and specifications to accommodate the inclusion of resident contractors in sourcing activities.

105 Publication of Competitive Bidding

In addition to the publication requirements of Section 103 above and Miss. Code Ann. § 77-3-16, the utility is encouraged to pursue any additional means of publication in trade journals, local newspapers, social media, or any other avenue available.

Resident contractors who operate within the area in which the scope of goods or services will be performed under the applicable contracts and who furnish the goods and services sought, at a minimum of once per calendar year, shall be notified of any known upcoming bids for contracts containing scopes of goods or services furnished by the resident contractor via U.S. mail or electronic means, if available.

No contract shall be awarded to any prime contractor without the utility first providing the prime contractor the utility's "Hire Mississippi" list for consideration of awarding subcontracts arising out of the prime contract.

106 Applicability to Other Filings

In any filing before the Commission requesting approval of a contract specified in Miss. Code Ann. § 77-3-16, the utility shall include all relevant information addressing compliance with this rule in the procurement process. In cases where nonresident contractors are used, the utility shall provide a brief explanation of why the nonresident contractor was chosen over a resident contractor. However, utility shall not be required to provide confidential competitive advantage or proprietary information in these disclosures. Such explanation shall not disclose the identity of the resident contractor not chosen or the nonresident contractor in order to not harm the reputation of the resident contractor. The Commission and/or the utility reserves the right to request such information be filed confidentially when deemed necessary to fulfill the goals of this Rule or to comply with contractual confidentiality obligations.

107 Resident Contractor Bid Feedback

In any case in which a resident contractor is unsuccessful in a bid on a contract which is awarded to a nonresident contractor, the utility shall, at the request of any unsuccessful resident contractor bidder, and only after the contract has been executed, provide general, non-confidential information concerning the overall evaluation process between the resident contractor's bid as contrasted with the successful bid. Information on additional selection criteria, such as warranty periods, maintenance costs, and delivery capability, shall be provided under confidentiality protections when requested if disclosure would not violate the proprietary nature of the specific contract element or otherwise violate contractual obligations of confidentiality.

108 Annual Report Requirements

On March 1 of each year, the utility shall file a report with the Commission addressing compliance with this rule. The report shall include relevant and material information from the prior year, including proofs of publication, a copy of the utility's most recent "Hire Mississippi" list, a listing of all student outreach event opportunities afforded by the utility, and the number of bid feedback requests received pursuant to Section 107.

Additionally, the utility shall report the total number of contracts awarded by the utility in the previous year pursuant to Miss. Code Ann. § 77-3-16, a breakdown of how many of those contracts were awarded to resident contractors and how many to nonresident contractors, and a brief description of each contract's scope of work or supply.

The report shall specify the percentage of that contractor's employees that are Mississippi residents to the extent reported to the utility by the contractor. If within the reporting period seventy five

percent (75%) of those employed pursuant to resident contractor contracts are Mississippi residents, the Commission shall award a certificate to the utility naming it a “Mississippi Champion.”

The utilities shall also summarize any outreach efforts undertaken pursuant to Section 102 above, including the response to and perceived impact of such efforts.

109 Hearing on Annual Report Requirements

Upon request of the utility or by order of the Commission, a public hearing for discussion of the annual report may be held after it has been issued by the utility. The public hearing should protect confidential information including but not limited to the identity of the contractors and costs. Notice shall be provided in a manner consistent with current Commission procedural rules.

110 Cost Recovery

The utilities shall be allowed to recover all prudently incurred incremental costs associated with compliance with this rule.