

AUDITOR UPDATE

Presented by
Mississippi Office of the State Auditor
MAS Mid-Winter Conference 2023
Refuge

Shad White
Mississippi State Auditor



Modernization Act of 2018 Distribution of Funds to Counties

- House Bill 1 of the First Extraordinary Session of 2018 provides for a portion of total use tax collections received by the Department of Revenue (DOR) to be distributed to counties for assistance in paying costs associated with the repair, maintenance and/or reconstruction of roads, streets and bridges in counties and/or as a pledge to pay all or a portion of debt service on debt issued by a county for such purposes. Funds began to be distributed biannually in the months of July and January beginning in the month of July, 2020.

Shad White

Mississippi State Auditor



Modernization Act of 2018 Distribution of Funds to Counties

- The maximum amount of these funds that may be distributed to the county during a year shall not exceed the amount of county funds expended by the county during the previous county fiscal year for the repair, maintenance and/or reconstruction of roads, streets and bridges in the county. This does not include the expenditure of proceeds of bonds issued by the county to pay costs associated with the repair, maintenance and/or reconstruction of roads, streets and bridges. Bond proceeds used in this manner shall not be considered when determining the amount of county funds expended by the county during the previous county fiscal year.

Shad White

Mississippi State Auditor



Modernization Act of 2018 Distribution of Funds to Counties

- Funds available to counties under the Modernization Act of 2018 are as follows:
- 12 month period ending July 2020 – 3.75% of the total statewide use tax collections
- 12 month period ending July 2021 – 7.5% of the total statewide use tax collections
- 12 month period ending July 2022 – 11.25% of the total statewide use tax collections
- 12 month period ending July 2023 – 15% of the total statewide use tax collections



Modernization Act of 2018 Distribution of Funds to Counties

- The maximum amount available to the county will be based on the following:
- 1/3 of the funds available will be distributed to all counties equally
- 1/3 of the funds available will be distributed to the counties based on the proportion of the county's rural road miles compared to the sum of all counties' rural road miles
- 1/3 of the funds available will be distributed to the counties based on the proportion of the county's rural population compared to the sum of all counties' rural population

Shad White

Mississippi State Auditor



Modernization Act of 2018 Distribution of Funds to Counties

- NOTE: Counties must complete and return the DOR worksheet by May 15 of each year, showing the actual qualified expenditures of the county from the prior year in order to receive the funds provided for under the Modernization Act of 2018.

Shad White

Mississippi State Auditor



UPDATED Modernization Expenditure Report for Counties

COUNTY _____ FISCAL YEAR END _____

CONTACT PERSON _____ CONTACT NUMBER _____

Counties are eligible to receive funds twice during each year with payments made in July and January pursuant to House Bill 1 of the 2018 Extraordinary Session. The funds are to assist counties in this state in paying cost associated with the repair, maintenance and/or construction of roads, streets and bridges in counties.

The maximum amount of funds that may be distributed to the county each year shall not exceed the amount of funds expended by the county during the previous county fiscal year for the repair, maintenance and/or construction of roads, streets and bridges in the county. Proceeds of bonds used to pay costs associated with the repair, maintenance and/or construction of roads, streets and bridges shall not be considered when determining the amount of county funds expended by the county during the previous county fiscal year.

ENTER BELOW THE TOTAL AMOUNT OF FUNDS (EXCLUDING BOND PROCEEDS) USED TO PAY FOR THE REPAIR, MAINTENANCE AND/OR CONSTRUCTION OF ROADS, STREETS AND BRIDGES IN THE COUNTY DURING THE COUNTY'S PRIOR FISCAL YEAR ENDING IN 2019.

NOTE: Any county failing to submit this completed form by May 15, 2020, will forfeit the July 2020 distribution of funds.

Total Expenditure for the prior fiscal year ending in 2019 \$ _____

Shad White
Mississippi State Auditor



Purchase Law Changes

- Senate Bill 2371 & 2806 (Effective July 1, 2022)
- SB2371 amends Section 31-7-13 to increase the amount a purchase has to be to require advertising for bids from \$50,000 to \$75,000.
- SB2371 also amends Section 31-7-13 to allow a purchasing entity to use reverse auctions for term bids at its discretion.
- SB2371 also allows schools to use RFQ's which promote open competition and meet the requirements of DFA when purchasing copyrighted educational supplemental and software as a service product.
- SB2806 amends Section 31-7-13 to not allow reverse auctions to be used for any public contract for the design, construction, improvement, repair, or remodeling of any public facilities, including the purchase of materials, supplies, equipment, or goods for same and including buildings, roads, bridges.

Shad White

Mississippi State Auditor



§ 19-11-27. Limitation of certain expenditures

- No board of supervisors of any county shall expend from, or contract an obligation against, the budget estimates for road and bridge construction, maintenance and equipment, made and published by it during the last year of the term of office of such board, between the first day of October and the first day of the following January, a sum exceeding one-fourth ($\frac{1}{4}$) of such item of the budget made and published by it, except in cases of emergency. The clerk of any county is prohibited from issuing any warrant contrary to the provisions of this section. No board of supervisors nor any member thereof shall buy any machinery or equipment in the last six (6) months of their or his term unless or until he has been elected at the general election of that year. The provisions of this section shall not apply to (i) projects of any type that receive monies from the Local System Bridge Replacement and Rehabilitation Program, the Emergency Road and Bridge Repair Fund, the 2018 Transportation and Infrastructure Improvement Fund or the Gulf Coast Restoration Fund and (ii) to expenditures on deficient bridges in the State Aid Road System or the Local System Road Program that have been deemed to be a deficient bridge as defined in [Section 65-37-3](#) or to a contract, lease or lease-purchase contract executed pursuant to the bidding requirements in [Section 31-7-13](#) and approved by a unanimous vote of the board. Such unanimous vote shall include a statement indicating the board's proclamation that the award of the contract is essential to the efficiency and economy of the operation of the county government.

Shad White

Mississippi State Auditor



§ 19-13-17. Road equipment purchases

- **<With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:>**A board of supervisors purchasing tractors, trucks and other machinery or equipment for constructing, reconstructing and maintaining the public roads may provide for the payment of all or any portion of the price thereof over the useful life of the property as determined according to the most recent asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines; provided, however, that no installment contract described in this sentence may be executed by the board during the last year of the board's term of office.

Shad White

Mississippi State Auditor



§ 19-13-17. Road equipment purchases (Continued)

- <With regard to any county that is exempt from the provisions of Section 19-2-3 this section shall read as follows:>A board of supervisors purchasing tractors, trucks and other machinery or equipment for constructing, reconstructing and maintaining the public roads shall not pay, or agree or contract to pay, more therefor than the then prevailing manufacturer's retail list price at the factory, plus freight and sales tax, any federal excise tax, and a reasonable service and assembly charge. The board may provide for the payment of all or any portion of such price over the useful life of the property as determined according to the most recent asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines; provided, however, that no installment contract described in this sentence may be executed by the board during the last year of the board's term of office.

Shad White

Mississippi State Auditor



§ 19-13-21. Road equipment repairs

- The board of supervisors of any county which owns any tractor, truck, or other road machinery or equipment, or any district of which owns any such machinery or equipment, may at any time have the same repaired, or purchase necessary repair parts therefor, where it is necessary to use the machinery or equipment in constructing, reconstructing or maintaining the public roads, whether or not there is then a sufficient amount in the fund out of which the cost thereof must be paid to pay the same. The claim for the repairs or repair parts shall be allowed in due course when filed, and be paid in its proper order as other claims. However, if any repairs herein permitted to be made after the first day of July of the last year of the term of office of the members of the board making such repairs shall exceed the sum of Five Thousand Dollars (\$5,000.00), the repairs shall not be made unless and until the board of supervisors, or a majority of the members thereof, shall have authorized the making of the repairs at a regular meeting of the board, or a special meeting called for that purpose.

Shad White

Mississippi State Auditor



§ 23-15-881. Excess highway workers

- It shall be unlawful for the Mississippi Transportation Commission or any member of the Mississippi Transportation Commission, or the board of supervisors of any county or any member of the board of supervisors of such county, to employ, during the months of May, June, July and August of any year in which a general primary election is held for the nomination and election of members of the Mississippi Transportation Commission and members of the boards of supervisors, a greater number of persons to work and maintain the state highways, in any highway district, or the public roads, in any supervisors district of the county, as the case may be, than the average number of persons employed for similar purposes in such highway district or supervisors district, as the case may be, during the months of May, June, July and August of the three (3) years immediately preceding the year in which such general primary election is held. It shall be unlawful for the Mississippi Transportation Commission, or the board of supervisors of any county, to expend out of the state highway funds, or the road funds of the county or any supervisors district thereof, as the case may be, in the payment of wages or other compensation for labor performed in working and maintaining the highways of any highway district, or the public roads of any supervisors district of the county, as the case may be, during the months of May, June, July and August of such election year, a total amount in excess of the average total amount expended for such labor, in such highway district or supervisors district, as the case may be, during the corresponding four-month period of the three (3) years immediately preceding.

Shad White

Mississippi State Auditor



§ 23-15-881. Excess highway workers (Continued)

- It shall be the duty of the Mississippi Transportation Commission and the board of supervisors of each county, respectively, to keep sufficient records of the numbers of employees and expenditures made for labor on the state highways of each highway district, and the public roads of each supervisors district, for the months of May, June, July and August of each year, to show the number of persons employed for such work in each highway district and each supervisors district, as the case may be, during said four-month period, and the total amount expended in the payment of salaries and other compensation to such employees, so that it may be ascertained, from an examination of such records, whether or not the provisions of this chapter have been violated.

Shad White

Mississippi State Auditor



§ 23-15-883. Exceptions regarding highway workers

- The restriction imposed upon the Mississippi Transportation Commission and the boards of supervisors of the several counties in the employment of labor to work and maintain the state highways and the public roads of the several supervisors' districts of the county, as provided in Section 23-15-881, shall not apply to road contractors or bridge contractors engaged in the construction or maintenance of state highways or county roads under contracts awarded by the Mississippi Transportation Commission, or the board of supervisors, as the case may be, where such contracts shall have been awarded to the lowest responsible bidder, after legal advertisement, as provided by law; nor shall the restriction imposed in Section 23-15-881 apply to the labor employed by such road contractors or bridge contractors in carrying out such contracts. Nor shall the provisions of this chapter apply to the employment by the Mississippi Transportation Commission, or the board of supervisors, as the case may be, of extra labor employed to make repairs upon the state highways or highway bridges, or upon the county roads or bridges, in cases where such state highways or highway bridges, or such county roads or bridges, have been damaged or destroyed by severe storms, floods or other unforeseen disasters.

Shad White

Mississippi State Auditor



§ 65-7-95. Construction and maintenance methods

- The methods of constructing, reconstructing and maintaining the public roads and bridges in this state, other than those under the actual charge of the State Highway Department, shall be as follows:
- Any county may purchase implements and material through its central purchase system; may employ labor; may work, construct, reconstruct and maintain the public roads; may build bridges; and may do any and all things necessary to be done to work, construct, reconstruct and maintain the public roads and to build bridges as herein provided. If, in the opinion of the board of supervisors, any part of the work necessary to be done in working, constructing, reconstructing and maintaining the public roads and in building bridges in such county, or any part or parts thereof, can best be done by awarding contracts therefor, the board of supervisors may advertise for bids and make contracts therefor in accordance with the provisions of [Section 31-7-13](#); and the board of supervisors may, in its discretion, use any funds heretofore or hereafter raised by bond issue or otherwise for working, constructing, reconstructing, maintaining and improving the public roads and for building bridges as herein provided. Except for contracts exempt from the provisions of [Section 19-11-27](#), no contract provided above shall be awarded that shall extend beyond thirty (30) days from the termination and end of the term of office of the members of the boards of supervisors awarding same.

Shad White

Mississippi State Auditor



QUESTIONS

Shad White
Mississippi State Auditor

