

Report To

# The Mississippi Legislature



## A MANAGEMENT REVIEW OF JACKSON COUNTY'S PURCHASE OF A GARBAGE TRUCK

April 20, 1989

PEER concluded that Jackson County personnel made a good-faith attempt to purchase a garbage truck in accordance with the letter and intent of state purchasing laws. With the exception of improperly developed bid specifications for the twenty-five cubic yard hi-compaction rear loading refuse collection body, Jackson County personnel's actions in this matter met the statutory requirements.

Subsequent to the preparation of this report, the Jackson County Board of Supervisors voted to conduct a cost analysis to determine whether the county should once again contract with a private firm for the collection of county garbage.

The PEER Committee

## **PEER: The Mississippi Legislature's Oversight Agency**

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

**A MANAGEMENT REVIEW OF JACKSON COUNTY'S  
PURCHASE OF A GARBAGE TRUCK**

April 20, 1989

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**PEER Committee**



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April 20, 1989

Honorable Ray Mabus, Governor  
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Honorable Tim Ford, Speaker of the House  
Members of the Mississippi State Legislature

At its meeting of April 20, 1989, the PEER Committee authorized release of its report entitled A Management Review of Jackson County's Purchase of a Garbage Truck.

  
REPRESENTATIVE J. P. COMPRETTE, CHAIRMAN

This report does not recommend increased  
funding or additional staff.

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A MANAGEMENT REVIEW OF JACKSON COUNTY'S  
PURCHASE OF A GARBAGE TRUCK

INTRODUCTION

Authority

The PEER Committee authorized this investigation at its January 18, 1989, meeting in response to a legislative request. The Committee conducted the investigation pursuant to MISS. CODE ANN. Section 5-3-51.

Scope

The investigation sought to determine if the Jackson County Board of Supervisors complied with the statutes in the purchase of a garbage truck consisting of two components, i.e., a truck and a rear loading refuse collection body. PEER focused on two questions:

1. Did the purchase process comply with the letter of the statutory provisions?
2. Did the involved county personnel comply with the intent of the statutory purchasing provisions, i.e., the competitive purchase of the garbage truck from the company with the lowest and best bid which met the operational requirements as outlined in the Invitation for Bids (IFB) including non-proprietary bid specifications for the two component units?

Methodology

While conducting this investigation, PEER performed the following tasks:

1. Reviewed applicable statutes, The Purchasing Policy and Procedural Manual for Jackson County, The Mississippi Procurement Manual, and applicable correspondence;
2. Examined and tested the file documentation for the purchase against the provisions of the Mississippi purchasing laws as amended by House Bill No. 4 (1988 First Extraordinary Session);
3. Interviewed the Jackson County Board of Supervisors, the Board Attorney, the Purchasing Agent, the Director of the Sanitation Department, the Chief Mechanic of the Sanitation Department, and sales representatives of bidding truck companies and the manufacturers of rear loading refuse collection bodies;
4. Obtained and compared specifications from various major manufacturers with the published IFB specifications for a twenty-five cubic yard hi-compaction rear loading refuse collection body; and,

5. Surveyed representatives of five bidders concerning the nature of the IFB specifications for the twenty-five cubic yard hi-compaction rear loading refuse collection body.

### History of the Jackson County Sanitation Department

After approximately fifteen years of using contract garbage collection, the Jackson County Board of Supervisors re-established an in-house Sanitation Department in February 1985. The concept was to operate the department with both county employees and county prisoners under the oversight of a Director of Sanitation who would be accountable to the Board of Supervisors. The department's personnel would perform all the administrative, maintenance, management, and operational duties and responsibilities.

The implementation plan for this action called for the initial purchase of six garbage trucks in FY 1985 and a subsequent purchase of one additional garbage truck in each of the next four fiscal years. This amount of equipment was designed to meet the garbage collection requirements of the county and to have an effective preventive maintenance program for the equipment fleet. The phase-in schedule for the equipment resources was designed to meet both the existing workload and anticipated growth.

In 1984, the Jackson County Board of Supervisors implemented its plan of action. The board bought six Ford garbage trucks with the Pak-Mor R225 rear loading refuse collection body (rated as medium heavy-duty garbage trucks) through the statutory competitive bid process. In 1986, the board bought one additional garbage truck through the competitive bid process which was the same brand as the original six units. In 1987, the board made no garbage truck purchases due to budgetary restrictions.

### Agency Action to Correct Use of Proprietary Specifications

According to the Board Attorney, the Jackson County Board of Supervisors voted to cancel its purchase transaction with Jackson Mack Sales Inc. of Gulfport at the February 21, 1989, meeting. This action was possible since the garbage truck was still on order with the vendor. The county will re-advertise the garbage truck using non-proprietary specifications which will be developed at a pre-bid conference open to all interested bidders. The Jackson County Board of Supervisors will provide PEER with all documentation of this re-advertised purchasing action.



## OVERVIEW OF THE PURCHASE PROCESS

After the one-year suspension of acquiring the needed equipment, the Board of Supervisors budgeted the purchase of one additional garbage truck in FY 1989. The purchasing process consisted of two different bid solicitations and openings by county personnel--on October 24, 1988, and December 5, 1988. The second bid solicitation was necessary because the Board of Supervisors rejected all bids submitted on October 24 in accordance with the recommendation of the Board Attorney. According to county personnel, the board took this action, which was in accordance with the provisions of the IFB, in order to consider buying an extended warranty on the truck component of the garbage truck and use the length and cost of the warranty in determining the lowest and best bid. However, this item was not a provision of the IFB and therefore could not be considered legally.

### October 1988 Bid Solicitation Process

This bid solicitation process began in the summer of 1988 when the Director of Sanitation was asked to develop bid specifications for the two component units of the garbage truck. After the specifications were reviewed and agreed to by the Jackson County Purchasing Agent, the county advertised the required public notices of the IFB in The Mississippi Press Register on October 10 and 17, 1988. Additionally, the Purchasing Agent mailed or hand delivered the IFB, including the bid specifications, to eleven potential bidders. When the specifications for the truck component were modified in order to obtain a heavy-duty truck (October 13, 1988), all known potential bidders were mailed or given the revised specifications.

According to the minutes of the weekly meeting on October 24, 1988, the Board of Supervisors opened, considered, and rejected the bids for the garbage truck in order to consider the purchase of an extended warranty. Subsequent to this action, the Board of Supervisors received a letter, dated October 26, 1988, from a sales representative whose rear loading refuse collection body had been bid by several truck companies. This letter requested a rejection of all bids and re-advertisement of the garbage truck since the various vendors at the bid opening were convinced, because of discussions of one vendor with county personnel, that the county wanted to purchase a hi-compaction rear loading refuse collection unit although the bid specifications for this component were for a non-hi-compaction unit. The board did not respond to the sales representative's letter.

### December 1988 Bid Solicitation Process

This bid solicitation process began immediately after the bid rejection action of the Board of Supervisors. The IFB was changed to incorporate bid specifications for a hi-compaction rear loading refuse collection unit in conjunction with the modified truck component specifications from the first IFB. Prior to issuing the IFB, the previously mentioned sales representative submitted proposed changes to the specifications for the rear loading body component of the

garbage truck in order to eliminate their proprietary nature (i.e., being tailored to fit a specific product's specifications). County personnel rejected the proposed changes due to their belief that two or more manufacturers could meet these specifications and to interpersonal relationship difficulties between the sales representative and the Sanitation Department personnel.

After the specifications were reviewed and agreed to by the Jackson County Purchasing Agent, the county published public notices of the IFB in The Mississippi Press Register on November 21 and 28, 1988. Additionally, the Jackson County Purchasing Agent mailed and/or hand delivered the IFB including the bid specifications to fifteen potential bidders, including the eleven original companies. According to the minutes of the December 5, 1988, meeting, the Board of Supervisors opened, considered, and took under advisement the ten bids for the garbage truck which were submitted by six different companies. Subsequent to this action, the Board of Supervisors received two letters from the previously mentioned sales representative.

1. The letter of December 6, 1988, stated *"The published specifications for the subject bid were precise specifications of the Pak-Mor Series 300 Rear Loader. We listed each specification, and directly below it indicated whether we complied, exceeded, or gave an explanation of any exception we had to take. A copy of this sheet is attached for your ready reference, and it is readily evident that the [deleted product name] exceeds the Pak-Mor 300 Series in every important or significant category - even though the [deleted product name] price is \$1,500.00 lower"*.
2. The letter of December 14, 1988, alleged that county personnel reported experiencing wear and distortion problems on the hopper floors of the present equipment. It further stated that the hopper steel specified in the subject bid for the hopper floor and sides was precisely the same thickness as their present equipment.

After considering the only two bids which met both components' specifications, the Board of Supervisors awarded the bid to Jackson Mack Sales Inc. of Gulfport (the second low bidder) at its weekly board meeting on January 3, 1989. As required by the statutes, the minutes of this board meeting contained a detailed narrative summary stating why the accepted bid was determined to be the lowest and best bid; the dollar amounts of the accepted bid and the lowest bid; and, detailed calculations for all submitted bids. The successful bid item was a Mack truck with a Pak-Mor R325 Rear Loading Refuse Collection Body at a cost of \$80,450.00, i.e., \$1,631.00 more than the low bid from Estabrook Ford for a Ford truck with a Pak-Mor R325 Rear Loading Refuse Collection Body. The Mack truck bid was deemed the lowest and best because it included a five-year or 500,000 mile extended warranty on the truck component for \$1,100.00 versus the three-year or 300,000 mile extended warranty on the truck component for \$1,400.00 of the lowest bid. Thus, the second lowest bid provided extended warranty coverage during the two-year period when truck maintenance requirements could become a significant cost. The purchase order (#25182) was issued to the successful bidder on January 4, 1989.

## ANALYSIS OF PURCHASE BY JACKSON COUNTY

PEER reviewed the purchase procedures and actions of involved county personnel for compliance with both the letter and intent of the statutory requirements governing county purchasing. In order to make a determination on these matters, PEER reviewed the appropriate Board of Supervisors' meeting minutes, the required purchasing documentation for the two bid solicitations, and available correspondence dealing with this purchase action. Further, PEER conducted extensive interviews with the involved county personnel, sales representatives, and other appropriate state personnel. Finally, PEER obtained equipment specifications from five major manufacturers of twenty-five cubic yard hi-compaction rear loading refuse collection bodies and compared them to this component's specifications in the IFB to determine their proprietary nature.

PEER concluded that county personnel made a good-faith attempt to purchase the garbage truck in accordance with the letter and intent of MISS. CODE ANN. Sections 31-7-13, 31-7-38, 31-7-55, and 31-7-57 which were amended by House Bill #4 (1988 First Extraordinary Session). County personnel's actions in this matter met the statutory requirements except with regards to the bid specifications for the twenty-five cubic yard hi-compaction rear loading refuse collection body.

### Bid Specifications

In violation of MISS. CODE ANN. Section 31-7-13, the Jackson County Board of Supervisors failed to design, issue, and use non-proprietary bid specifications for the twenty-five cubic yard hi-compaction rear loading refuse collection body.

PEER reviewed the bid specifications for the rear loading refuse collection body which were used in both IFBs to determine compliance with MISS. CODE ANN. Section 31-7-13, as amended, (1972). This section states in part:

*Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. Provided, however, that should valid justification be presented, the Governor's Office of General Services or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. . . .Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job.*

In order to determine whether the bid specifications met the statutory requirements, PEER matched comparable specifications for five major manufacturers of this item to the bid specifications for the December 5, 1988, IFB and checked the board minutes for approval to use the Pak-Mor R325 specifications for the bid solicitation. As depicted in Exhibit 1, page 8, this analytical method clearly demonstrated that the only manufacturer which could

meet the published bid specifications without re-designing its equipment was Pak-Mor. The other four manufacturers failed to meet a minimum of seven and a maximum of ten bid specifications. No board approval to use the Pak-Mor specifications was documented in the board minutes.

These proprietary specifications were used for the IFB and bid award because of the following factors.

1. Since the newly employed Director of Sanitation lacked technical expertise in sanitation operations, especially with unique and complex equipment, he and the Chief Mechanic developed a set of tentative specifications using Pak-Mor specifications. He used this manufacturer's specifications due to his approximate six-month experience with the department's Pak-Mor R225 Rear Loading Refuse Collection Body. Through the Pak-Mor distributor, he obtained the names and mailing addresses of other manufacturers' sales representatives and requested the equipment information for their models comparable to the Pak-Mor R325 Rear Loading Refuse Collection Body. He also reviewed available industry literature as another source of other manufacturers' equipment specifications.

After the information was collected and reviewed, the Director and Chief Mechanic reached a joint decision that more than one company could meet these tentative specifications although some companies might have to change their standard configuration for their comparable model. Other significant factors in this decision were a relatively close maintenance location and an excellent customer service reputation of the Pak-Mor Distributor. (He is located approximately forty minutes from the Sanitation Department's complex and has provided excellent maintenance and customer service since 1985 to the department.) Therefore, the Director and Chief Mechanic submitted the tentative specifications as the bid specifications to the Purchasing Agent. The decision-making process of the department's personnel did not include any written comparison of specifications such as Exhibit 1.

2. Although the Purchasing Agent discussed in detail the importance of non-proprietary specifications with the Director of Sanitation and questioned the possible proprietary nature of some individual specifications, she ultimately accepted their undocumented assertion concerning the non-proprietary nature. Thus, she used them as the IFB specifications.
3. While the Jackson County Board of Supervisors has expressed the obligation and responsibility of the Purchasing Agent to reject or change any suspected proprietary bid specifications, the board has no published policy which spells out this authority. Thus, the Purchasing Agent must rely on her interpersonal skills to convince department heads to revise their suspected potential proprietary specifications. She was not successful in this instance.

4. The Jackson County Board of Supervisors did not use standard public procurement practices for this unique complex equipment purchase which would have prevented the development of proprietary specifications:
  - A. *A pre-bid conference with interested sales representatives from the various manufacturers.* Such a conference would have quickly identified the proprietary nature of the bid specifications.
  - B. *A detailed written bid evaluation comparison with the bid specifications prior to bid award.* This would produce a document similar to Exhibit 1 and would substantiate the non-proprietary nature of the IFB specifications.
  - C. *The definition and specific criteria which would be used to determine whether a manufacturer had submitted an "Or Equal" bid in spite of not meeting all IFB specifications.* When this information was not included in the IFB, the "Or Equal" provision was either defined automatically to mean the meeting or exceeding of all IFB specifications or made moot.
  - D. *The primary use of performance specifications instead of design specifications.* Performance specifications would have addressed Operational concerns such as pounds of packed garbage, pre-crushing capability, maintainability, and equipment reliability instead of specific equipment design features (design specifications) which were emphasized in the actual bid specifications.

EXHIBIT

MANUFACTURERS' SPECIFICATION EXCEPTIONS VERSUS JACKSON COUNTY BID SPECIFICATIONS  
FOR TWENTY-FIVE CUBIC YARD HI-COMPACTION REAR LOADING REFUSE COLLECTION BODY

Specifications

Dempster  
Systems

Leach 2-RII E-2 Pak  
Packmaster Goliath

Heil  
5000

Pak-Mor  
R325B

1.	25 Cubic Yard Capacity Exclusive of Tailgate Hopper				
2.	Minimum 3.0 Cubic Yards Hopper Capacity				
3.	Mechanical Controls				
4.	Minimum 78" Hopper Opening Width				
5.	Minimum 67" Hopper Opening Height	55	53	64	55
6.	35 Seconds Complete Cycle Time	27-30	28	28-30	28-32
7.	15 Seconds Reload Cycle Time	12-14	N/A	10-12	9-11
8.	Air Throttle Control Device				
9.	Hopper Floor of Minimum 1/4" Hi-Tensile Steel				
10.	Hopper Sides of Minimum 3/16" Hi-Tensile Steel				
11.	Hydraulic Pump with Minimum 48 Gallions Per Minute	32	42	30	26
12.	Minimum 6" Bore Packing Cylinders	5"			5.5"
13.	Minimum 6" Bore Sweep Cylinders		5"	4"	5"
14.	5 1/4" Bore Telescopic Ejection Cylinder Capable of Full Body Ejection with One Stroke	7"	5"	9.75"	7.5"
15.	Tailgate Lift Cylinders with Minimum 3 1/2" Bore				
16.	12,000 Lb. Capacity Hydraulic Container Winch with Cable, Hook, and Lost Motion Device				
17.	11 Gauge Body Sides and Roof Braced with Steel Channels				
18.	Body Floor of Minimum 10 Gauge Hi-Tensile Steel		11 G		
19.	Ejector Panel with 10 Gauge Hi-Tensile Steel Face Plate				11 G
20.	Sweep Blade with Minimum 1/4" Hi-Tensile Steel Face Plate				3/16"
21.	Body Height Above Frame Not To Exceed 93"	95		97.75"	97.5"
22.	Minimum Body Weight of 14,000 Lbs.	13,400	11,530		
23.	Heavy Duty Air Shift Two Gear Power Take Off				
24.	Back-Up Alarm				
25.	7" Round Rear Center Mounted Stop Light				
26.	D.O.T. Lights				
27.	Painted Green				
28.	Installation by Factory Authorized Mounting Station				
29.	Delivery and Demonstration to Jackson County				
30.	Provision of All Extended Warranty Information				
31.	Provision of Maintenance Facility Location (No Travel Time or Distance Requirement)				

SOURCE: PEER review of manufacturer's equipment specification information in company brochures and Waste Age magazine.

## RECOMMENDATIONS

1. The Jackson County Board of Supervisors should define those purchases which it deems to be significant dollar, unique, and/or complex equipment purchases, and adopt the following actions as standard written policy for such purchases.
  - A. The use of a pre-bid conference with written minutes including attendees and their firms.
  - B. A written comparison of available major manufacturers' equipment specifications and the IFB specifications prior to issuing the IFB.
  - C. A detailed written bid evaluation comparison with the bid specifications prior to bid award.
  - D. The definition and specific criteria which would be used to determine whether a manufacturer had submitted an "Or Equal" bid in spite of not meeting all IFB specifications.
  - E. The primary use of performance specifications instead of design specifications.
2. The Jackson County Board of Supervisors should give the Purchasing Agent written authority to require department heads to change or revise proposed bid specifications which either appear to be or are proprietary in nature.
3. The Jackson County Board of Supervisors or the Board Attorney should review the purchase file documentation for all competitive bid purchases of significant dollar, unique, and/or complex equipment prior to the bid award board meeting.