



**Carmage Walls**  
**Commentary Prize**

**2018 Entry Form**

**Name of Author(s):** Wyatt Emmerich

**Author's Title (editor, columnist, etc.):** Publisher

**Newspaper:** Northside Sun

**Address:** 246 Briarwood Drive

**City:** Jackson

**State:** MS

**ZIP:** 39206

**Phone:** 601-573-7890

**Fax:** 601-957-1533

**E-Mail:**  
wyatt@northsidesun.com

**Submitted by:**

**Title of Person Submitting:** Wyatt Emmerich

**Phone Number:** 601-573-7890

**E-mail Address:** wyatt@northsidesun.com

**What is the subject/title of the entry?** Mississippi's bidding laws

**Date(s) of publication?** May 4, 2017, July 20, 2017, November 16, 2017

**Is your newspaper under 50,000 circulation or above 50,000 circulation?** Under

**Please give a brief explanation of issues discussed and the results achieved. (This space will expand as you type in your comments.)**

**When the Mississippi prison commissioner Chris Epps was convicted of bidding bribery for a private prison contract, the Northside Sun launched a multi-year investigation into Mississippi's bidding laws, exposing them as some of the worst in the nation. My commentary on this issued helped lead to the passage of comprehensive procurement law reform. The state senator and representative who introduced these new laws publicly acknowledged the role of the Northside Sun in generating public outrage that led to the passage of the reforms.**

# from the publisher



By  
**WYATT  
EMMERICH**

## *Real progress in fight for good state government*

MISSISSIPPI HAS MADE a huge step in the right direction. Gov. Phil Bryant has signed into law significant reform of our bidding and procurement laws.

State Rep. Jerry Turner, chairman of the House committee on Accountability, Efficiency and Transparency, rated the new laws a "10 on a scale of 1 to 10."

Turner has been fighting this fight for 15 years. If he says it's a "10," we have cause for celebration.

This is no small potatoes. Including special purpose funds and federal grants, the total state budget of Mississippi is \$20 billion. Much of this money is allocated through the bidding and procurement process.

Over the years, I have watched in dismay as crony contracts have wasted billions in state tax dollars. Mississippi bidding and procurement laws have been some of the worst in the nation. Graft has run rampant.

It frustrated me. It frustrated anyone who was in a position to know the score. It frustrated Turner, a Baldwin businessman, who fought for years with minimal success to reform the system.

Good government is huge. Corruption is enormously expensive, robbing people of a high standard of living and discouraging

entrepreneurs. Nobody wants to play when the game is rigged. Progress in Mississippi is dependent on reform.

Now we see progress. We have campaign finance reform. We have bidding and procurement reform. We are moving forward.

As a journalist, I spend a lot of time criticizing government. It is a great relief to be able to say, "Job well done." This is how government is supposed to work. I'm proud of my state.

Don't get me wrong. There is still much to be done. But Turner's bill was a huge step in the right direction. What is more encouraging was the teamwork that came together, from the governor's special task force, John Polk in the Senate, our governor, the speaker, the lieutenant governor, all down the line. There was minimal opposition, which is, quite frankly, amazing.

We are now going to have an independent Public Procurement Review Board. In the past, this board was run by the very agency heads it was supposed to oversee. This new consolidated, independent board will have enhanced power to adopt regulations to ensure competitive bidding throughout the state.

Here are some other positives:

- New broad language stating that online bidding "reverse auction" procedures are to be the standard way of procuring public goods and services in Mississippi. In a reverse auction, the buyers (the government in this case) allow sellers (contractors) to bid on the lowest price until a specific time period.
- Power for the new Public Procurement Review Board to oversee counties, cities and other governing authorities when they bid out contracts in excess of \$50,000.
- Any governmental authority, including cities and counties, deviating from reverse auction bidding procedures must get approval from the new state public procurement board for an alternative procedure.
- Extensive regulations on the Request for Proposal (RFP) procedures to ensure transparency and competition for government service contracts.
- Requiring reverse auctions to be done online and transparently.

**GOVERNMENT** procurement and bid-

ding reform has been one of my editorial crusades for more than a decade. I have read dozens of statutes from different states. I have talked to the authors of the model procurement laws written by the American Bar Association.

My newspapers have reported innumerable bidding scandals and corrupt contracts. It occurs throughout the state at every level of government. It has been depressing to watch, highlighted by the Chris Epps bribery scandal at the Mississippi Department of Corrections.

I know something about this subject. I have carefully read House Bill 1106 and 1109. It's real reform. Both these bills can be viewed online at the state Legislature's website.

Here's an example: Over the last few decades competitive sealed bidding has given way to "Requests for Proposals." Unfortunately, there were almost no regulations on the procedures involved with RFPs. Governing authorities were basically free to do whatever they wanted.

Here in Jackson, for instance, the city could issue an RFP and then negotiate with only one party, excluding the rest. The RFP process had become the antithesis of competitive bidding. It gave governing authorities free rein to play favorites, especially with service contracts.

House Bill 1109 ends the party, setting up strict procedures for the RFP process with full oversight by an independent, central state procurement review board. Much, much better.

There is still more to be done. There are exemptions, such as institutions of higher learning. Our procurement statutes are still fragmented and need to be consolidated in one section of the code. "Lowest and best" still appears in certain sections of the code instead of "lowest responsive bid."

Presumably, once we have a truly independent centralized procurement review board up and running, it can serve as an agent for further improvement to our laws.

Jerry Turner is the real hero here. This man almost single-handedly made this happen. It was a two-decade struggle. I recall years when he was discouraged. When I talked to him this week, he was a happy camper.

"I'm very pleased with the legislation we passed this year. I feel like it's almost com-

prehensive."

"You know it started back in 2005 when I was looking at the agricultural land lease program at Parchman and it went on into the commissary contracts with the MDOC. It's just been a never-ending deal."

Turner gave a lot of credit to state Sen. John Polk, chairman of the Senate Accountability, Efficiency and Transparency Committee. "He brought a wealth of help to this program."

Also credit goes to the governor's task force on procurement reform: co-chairman Andy Taggart and Robert Gibbs, along with Bill Crawford, Mike Moore and Constance Slaughter-Harvey.

James Barber, head of PEER, and Laura Jackson, head of the governor's Department of Finance and Administration, both played important roles, as did Erin King, counsel for the House Accountability Committee. There were many more who made this happen.

Turner said, "We went to NASPO (the National Association of State Procurement Officials) and we picked the best practices that were in the United States of America. We took the best from different states and compiled this into some policy for the state of Mississippi."

I hesitate to include one comment from Turner because it seems like self-promotion. But in this age of fake news, Facebook and struggling newspapers, people need to realize the contribution of professional journalists at traditional newspapers. The money saved by improved bidding laws in Mississippi will be greater than the cost of all the newspaper subscriptions in this state in perpetuity.

Here's the first thing Turner said to me and I quote:

"I've got to give you credit in this because without your investigative reporting some of this would have never come to light and we would never have gotten this passed."

"Your reporting really made a difference and got the attention of the governor and some other people who might not have been as enthused about this as I have been since 2012. Once they were made aware by good reporting of the existence of what was going on out there, I got a lot of support from it and I want to thank you for it. Thank you."

# from the publisher



By  
WYATT  
EMMERICH

## State senator Polk leading the charge for bidding reform

MISSISSIPPI state senator John Polk is one of the good guys helping to improve our state.

As a young boy, he saw the potential in his parents' retirement project of preparing hickory smoked meats. Today, you can see the modern Polk Meats facility on the south side of Highway 49 in Magee. They distribute all over the country.

Sen. Polk is just what you want in a state senator. Having retired after building up a successful business, he decided he was bored "of picking up pine cones" and chose a second career in public service. He is now using his business experience to lead the charge on procurement reform.

Mississippi has a statewide GDP of something like \$80 billion. A fourth of that is government – a whopping \$20 billion a

year. Billions of dollars in government contracts are awarded each year.

Procurement reform is an attempt to make sure these billions in contracts are handled above board, so that the public is protected from sweetheart deals and cronyism. Mississippi has a long way to go. Our procurement laws are some of the laxest in the nation. John Polk, as chairman of the State Senate Committee on Accountability, Efficiency, Transparency, is trying to change that.

Polk's ally is another retired businessman, Jerry Turner, who is chairman of the Committee on Accountability, Efficiency, Transparency in the Mississippi House of Representatives.

Working together, Polk and Turner made some real progress in the last legislative session, passing a law mandating reverse auctions to be used for commodity purchases throughout the state.

Polk learned about reverse auctions while bidding for meat contracts outside Mississippi. He was impressed by their efficiency and fairness.

Monitored by third-party software vendors, reverse auctions allow all parties to continue bidding for government contracts until a certain time, at which point the lowest outstanding bidder wins. It is the modern-day equivalent of competitive sealed bids in writing.

Not everybody is happy about reverse auctions. I received an email from Hastings Puckett, president of Jackson's Puckett Machinery, who believes the process adds unnecessary fees and leaves money on the table. Puckett believes a one-shot sealed bid process will get the absolute lowest price because nobody knows what their competitors are bidding. Research on reverse auc-

tions versus one-time sealed bids is mixed.

To me, the issue is not that one bidding process is better than the next, but that bidding is done in the first place. More and more, contractors are using exemptions to avoid bidding at all. Polk and Turner's reforms are getting us back to a legitimate process rather than back room deals. That's a good thing.

Another big reform is Polk and Turner's new laws on RFPs (Request for Proposals). Over the last couple of decades, bidding has been replaced with an RFP process that allows too much discretion. The new reforms create rules and regulations on the RFP process to ensure fairness.

Starting next year, state agencies will have to follow these new RFP rules. Hopefully, cities and counties will eventually be required to follow these procedures as well. A newly-centralized statewide independent Procurement Review Board will referee.

Other reforms are needed: Current bidding laws need to be consolidated in one section of the code. We need to end exemptions for the Institutions of Higher Learning, the Department of Transportation and many other powerful agencies.

"Lowest and best" needs to be replaced with "lowest responsive bidder" used by the most progressive states in our country. And so on.

Polk believes Mississippi could save hundreds of millions of dollars a year with procurement reform. It's tough slogging going against the status quo. "It's like eating an elephant. You have to do it one bite at a time."

"When I started on this road as chairman, a person I respect a lot told me they suspected there were two to three hundred mil-

lion a year being wasted in government contracts. I thought the person was exaggerating terribly, but the longer I have delved into this the last few years, I am becoming completely convinced that this individual is absolutely correct and may be undershooting a little bit. That money could be used in areas where we desperately need funds."

"One contract that bothered me was the delivery of spirits and wine. There was a difference of \$23 million between the high bidder and the low bidder and it was a \$70 million contract."

Polk has encountered "substantial" opposition to his reform attempts. He was not surprised.

"When you are talking about a \$100 million contract and people are used to getting those contracts one simple procurement way and they have built relationships, when you start messing with those contracts and moving their cheese, they don't like it."

"If you look at all the exemptions we had to put in the new law, you can see that it is a politically hard job to get anything passed. We were lucky to get what we got through the Legislature right now. You would not have believed the calls I got from professions, associations, from contractors, from DOT, from ITS. I didn't want to exempt anyone but the fact is if you don't exempt certain groups, it's not gonna pass through the Legislature."

All you have to do is look at some countries in Africa to see the huge negative effect of government corruption on prosperity. If Mississippi wants to get off the bottom, we can start with clean government and that means procurement reform. Thank goodness we have some good folks leading the charge.



# from the publisher



By  
WYATT  
EMMERICH

## *We need to stand firm on bid reform*

AS THE DEADLINE for procurement reform looms, local governments and contractors are pushing back. It would be a huge mistake if the Legislature caves.

With two retired businessmen heading the Mississippi House and Senate transparency and efficiency committees, the Mississippi Legislature miraculously passed sweeping procurement reforms this year. We need to stay the course.

Procurement is a huge deal. Including federal grants and special purpose entities, the total Mississippi budget is about \$20 billion. If you include local governments, it's billions more. Much of this work is contracted out to private companies through the procurement process.

Mississippi's procurement laws are a mess, residing in dozens of statutes scattered throughout our state code. Loopholes abound. Oversight is fragmented. Rules are

lax compared to more progressive states.

State Sen. John Polk and House Rep. Jerry Turner are turning this around with the help of the legislative leadership. But push back is welling up and cities and counties are intimidated by the changes.

Nobody likes change, but procurement reform in Mississippi is long overdue. Think about the Epps scandal in the Department of Corrections. That was directly linked to Mississippi's lax procurement laws. It doesn't need to happen again.

Most Mississippians think government work is bid out to the lowest bidder. But over the years, bids have been replaced by Request for Proposals (RFP) and Request for Qualifications (RFQ) where price is not the criteria. This allows for high bidders to get the government contracts if they have the right political connections. It should not be so.

The new legislation regulates the RFP and RFQ process to allow more fairness and more competition. We don't need to back down on this.

In addition, the new legislation requires computerized reverse auction software to be used when governments procure commodities. Computerized reverse auctions are the wave of the future and are increasingly used throughout the country. We need to use this process in Mississippi.

For one thing, reverse auctions are more transparent. Outside software is used with built-in checks and balances. It prevents home cooking and buddy-buddy deals.

Mississippi is struggling economically. Tax revenues have declined. We need to watch every penny. Sen. Polk believes procurement reform will save at least \$200 million a year.

A reverse auction is just like any on-line auction that you see on E-bay and other websites. Vendors bid for government commodity purchasing contracts in real time. The lowest price wins. Everything is documented. Everything is transparent. It is a

controlled process.

This is a big change from the status quo in which local counties and cities can conduct their bids (or lack thereof) as they see fit.

Bear in mind, this process is only required for contracts in excess of \$50,000. There are exemptions for small cities and counties.

There's another big change: The new legislation creates a new independent statewide Public Procurement Review Board. Cities and counties that request exemptions to the reverse auctions process will have to make their case to this new board. This is much needed oversight.

The federal government has been doing this for decades through the Office of Federal Procurement Policy. This federal office sets standards for procurement and all federal agencies must comply with the standards. It has gone a long way toward reducing corruption. We need to adopt similar standards and review in Mississippi.

These new state reforms are a big deal affecting billions of dollars and impacting thousands of companies. Lots of money is on the line. Expect a fight.

**SEN. POLK CALLED** me a while back warning me of the push back. He asked my support in rallying public opinion not to backtrack on the reforms. I will do my best.

I have fought for open and transparent government all my life. Open meetings and open records are crucial to our state. But open, fair procurement processes are even more important because so much money is on the line.

Lax procurement policies lay the groundwork for corruption. Corruption is one of the biggest impediments to economic growth. As Mississippi stagnates, we need to consider if our lax procurement laws are holding us back.

I have read procurement laws from over a dozen other states. When compared to Mississippi, it's like night and day. Most states have procurement laws codified in one statute so the standards and procedures can

be clearly understood.

Not so in Mississippi. Our procurement laws are like a Tower of Babel, buried here and there throughout dozens of strewn out statutes making manipulation child's play.

Before the Epps scandal, some of the very legislators who went to jail were able to exempt the Department of Corrections from what meager procurement laws we had. Nobody noticed because it was buried in a hidden section of our state code.

Even with the reforms, the Department of Transportation and the Institutions of Higher Learning and technology purchases are still exempt. Why? What possible reason is there for the exemption? These institutions should be subject to the same regulations of all our other agencies and subject to review by the new Public Procurement Review Board.

There is still so much more to be done. We don't need to lose the ground we have already made.

For instance, cities and counties are exempt from the new RFP and RFQ requirements imposed on state agencies. Why is this? Politics, according to Polk. This needs to be fixed.

We need to consolidate all our procurement laws in one clear section of the code. No more burying laws where no one can find them.

Progressive states employ the concept of "lowest responsive bidder." That means you respond to the specification of the bid and you have the lowest price. But not so in Mississippi. We use the concept "lowest and best." But what is "best"? Such a vague term eviscerates what meager laws we have.

And we still have exemptions for service contracts, emergencies, sole source bidders and the like. More home cooking. No wonder Mississippi is considered the most corrupt state in the nation.

We are making progress but this won't be easy. Educated citizens are the key.