

# The Alcoholic Beverage Control Division's Compliance with Senate Bill 2844

A Report to the Mississippi Legislature  
Report #691  
October 3, 2023



# PEER Committee

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Charles Younger, Vice-Chair  
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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.



# Joint Legislative Committee on Performance Evaluation and Expenditure Review

PEER Committee

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October 3, 2023

Honorable Tate Reeves, Governor

Honorable Delbert Hosemann, Lieutenant Governor

Honorable Philip Gunn, Speaker of the House

Members of the Mississippi State Legislature

On October 3, 2023, the PEER Committee authorized release of the report titled *The Alcoholic Beverage Control Division's Compliance with Senate Bill 2844*.

## Senators

Charles Younger  
Vice Chair

Sollie Norwood  
Secretary

Kevin Blackwell

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Representative Jerry Turner, Chair

## Executive Director

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This report does not recommend increased funding or additional staff.

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**CONCLUSION:** Senate Bill 2844, 2022 Regular Session, required DOR to enter a contract with a third-party operator for the operations of its warehouse and distribution system. PEER determined DOR's contract with Ruan Transport Corporation (Ruan) complies with S.B. 2844. Although the DOR-Ruan contract established recommended key performance indicators, the contract did not identify performance minimums or establish penalties for non-performance.



## BACKGROUND

MISS. CODE ANN. § 67-1-19 (1972) created the Alcoholic Beverage Control (ABC) Division within DOR. ABC splits responsibilities between two separate units: ABC Administrative and Warehouse (ABC warehouse) and ABC enforcement. The ABC warehouse is responsible for the taxing, warehousing, and distribution of distilled spirits and wine, while ABC enforcement is responsible for regulating the sale of distilled spirits, wine, beer, light wine, light spirits, and medical cannabis.

### Order Volume and Product Variety

In FY 2022, DOR reported licensed permittees submitted approximately 42,200 orders, ordering approximately 4.42 million cases containing 12,211 different stock keeping units (SKUs). DOR reported that the top 1,400 items represented 80% of case volume ordered. In contrast, DOR reported shipping 10 or fewer cases of 5,092 items, and 50 or fewer cases of 7,575 items.

### Existing Warehouse

ABC currently utilizes a 211,000 square-foot warehouse that was built in 1983 and expanded in 2003. The ABC warehouse has an additional 24,200 square feet of office space used for ABC administrative staff and Ruan staff assigned to the ABC contract.

ABC shipped 3.71 million cases in FY 2023, an 11% decline from the 4.17 million cases shipped in FY 2021.

## Impacts of S.B. 2844 on ABC

- **S.B. 2844 took effect on July 1, 2022. It covered the warehousing and distribution of alcoholic beverages for Mississippi.**  
S.B. 2844 mandated DOR contract out the operations of the ABC warehouse to a third-party operator, established a Warehouse Improvement Fund for the existing (and future warehouse), and established a mechanism for constructing a new ABC warehouse.
- **As required under S.B. 2844, DOR issued a Request for Proposals (RFP) for a third-party operator to operate the ABC warehouse.**  
After evaluating the four proposals received, DOR determined that Ruan Transport Corporation (Ruan) submitted the best and most responsive proposal. Ruan's initial 4-year contract term began March 1, 2023. Ruan officially began operating the ABC warehouse June 19, 2023.
- **S.B. 2844 required some operations to remain in place.**  
S.B. 2844 required DOR's existing shipping contracts (with M&J Transport, Inc., and Douglass Express Delivery, LLC) to remain in place until they expire (June 30, 2024). At that time, it is up to DOR to determine the optimal shipping method. S.B. 2844 also required DOR to remain responsible for purchasing and selling alcoholic beverages, including all financial transactions with vendors and permittees.

## Compliance with S.B. 2844

PEER determined DOR's contract with Ruan complies with S.B. 2844.

### Assessment of vendor's capability to carry out the contract during the procurement process:

- **Workforce:** Ruan responsible for hiring/paying warehouse staff.
- **Term:** 4-year term with option of two 4-year renewals.
- **Payment is on a per-case fee basis:**
  - The per-case fee DOR pays Ruan per case shipped increases each year, starting at \$2.22 per case in year 1 and increasing to \$2.64 per case in year 4.
  - The contract has no cost cap.
- **Protections for the state:**
  - Liability insurance – \$10,000,000.
  - Performance bond – \$4,930,992 in year 1 (increases 3% per year).

## Building a New Warehouse

S.B. 2844 established DFA as the lead for procuring land (if necessary) and constructing a new ABC warehouse, but states that this shall be done in consultation with DOR and the chosen third-party operator of the ABC warehouse (Ruan).

S.B. 2844 directs DFA to select a suitable site within 50 miles of the new state capitol building for the construction of a new ABC warehouse. A site must be selected prior to DFA developing an RFP to procure a design-build contractor. According to DFA, a new warehouse site had not been determined as of July 20, 2023.

S.B. 2844 also requires that the contract for design and construction aim to fill demand for the next 25 years. DFA stated its goal is for the new warehouse to support demand for the next 50 years, noting the current warehouse will be at least 45 years-old at the time the state transitions to a new warehouse.

S.B. 2844 authorized the expenditure of \$55,000,000 to build a new ABC warehouse. Per S.B. 2844, Section 7 (2) (a), this includes any costs associated with land acquisition and the design, construction, furnishing and equipping of a new ABC warehouse.

DFA and DOR chose to seek a consultant to assist in identifying the criteria and specifications for a new warehouse, including projecting demand over the next 50 years, determining the size of the warehouse, the optimal warehouse layout, and to what extent the warehouse should utilize an automated model or a labor-intensive model.

## Compliance with S.B. 2844 (cont'd)

DOR remains responsible for building exterior, grounds, and utilities.

DOR established Warehouse Improvement Fund – up to \$90,000 – for “items of maintenance, repairs, upgrades or other improvements for the warehouse or its equipment that are not performed on a monthly basis.”

DOR has drafted a draft resumption of control plan, but has not submitted it to the Governor, Lieutenant Governor, and members of the Legislature as required per SB 2844. DOR maintains 4 full-time ABC managers in the event that the contract is terminated, and DOR must resume ABC warehouse operations.

### Efforts by DOR and Ruan to Track Performance

S.B. 2844 created the position of contract compliance officer to be located on-site at the ABC warehouse and report on at least an annual basis to the Legislature.

Although the DOR-Ruan contract established recommended key performance indicators, the contract did not identify performance minimums or establish penalties for non-performance. Since the start of the contract, DOR and Ruan have worked to refine the key performance indicators. At their first monthly performance meeting in August, the Contract Compliance Officer and Ruan identified four initial priority metrics upon which Ruan’s performance will initially be based. Milestones for the four metrics are to be set at the September performance meeting.



## RECOMMENDATIONS/SUMMARY OF RECOMMENDATIONS

1. DOR should establish formal performance metrics with measurable milestones to utilize in assessing Ruan’s performance. Upon completion of these metrics, provide to the PEER Committee monthly a copy of the current performance metrics, targeted milestones, and applicable performance data. The PEER Committee shall conduct a follow-up review one year after the release of the report.
2. As required by S.B. 2844, Section 4, DOR shall complete the resumption of control plan in the event DOR shall have to resume control of operating the ABC warehouse upon terminating the third-party warehouse operator contract.
3. DOR and Ruan should track order items that were cancelled due to the product being out-of-stock in the DOR warehouse. Additionally, DOR should consider revising its policies to retain a permittees unfilled order items until the item is filled, unless DOR no longer lists the unfilled item as a bailment item or a special-order item.
4. The Legislature should amend sub-section 6, paragraph 1, Chapter 483, Laws of 2022, by including the following language at the end of paragraph 1:

*Of the amounts deposited to the ABC Warehouse Construction Fund established by this subsection, no funds shall be expended for any purchase associated with land acquisition for, and the design, construction, furnishing, and equipping of, a new ABC warehouse, unless the Department of Revenue and the Department of Finance and Administration have determined that the total project can be completed for the amount set out in Subsection 7, paragraph 4 of this section. This restriction shall not apply to expenditures for activities related to pre-planning for the warehouse project.*



# The Alcoholic Beverage Control Division's Compliance with Senate Bill 2844

## Introduction

### Authority, Scope, and Purpose

The PEER Committee, under its authority found in MISS. CODE ANN. Section 5-3-51 (1972) et seq., conducted a compliance review of the Mississippi Department of Revenue's (DOR) Alcohol Beverage Control Division (ABC) current contract(s) for the operations of its warehouse and distribution system. Senate Bill 2844, 2022 Regular Session, required DOR to enter a contract with a third-party operator for the operations of its warehouse and distribution system. PEER also sought to determine the status of efforts to construct a new ABC warehouse, as authorized under S.B. 2844.

### Method

#### To conduct this analysis, PEER:

- Reviewed S.B. 2844;
- Reviewed procurement documents related to DOR's efforts to procure a third-party operator for the ABC warehouse, including the contract entered into between DOR and the selected third-party operator Ruan Transport Corporation (Ruan);<sup>1</sup>
- Interviewed DOR staff;
- Interviewed the newly established compliance officer tasked with monitoring the performance of the third-party operator;
- Interviewed the Ruan leadership team related to the ABC contract;
- Reviewed procurement documents as it relates to the Department of Finance and Administration (DFA) and DOR's efforts to seek a consultant to aid in determining the specifications for a new ABC warehouse; and,
- Interviewed DFA and DOR staff as it relates to efforts to construct a new ABC warehouse.

### Scope Limitations

Given DOR's contract with Ruan had recently commenced at the start of the PEER review<sup>2</sup> and that the contract did not include specified performance metrics, PEER limited the review of the Ruan contract to compliance with S.B. 2844 and efforts by DOR, in conjunction with Ruan, to establish metrics for future performance assessment.

<sup>1</sup> A third-party warehousing and logistics company based in Des Moines, Iowa. Ruan also contracts with Iowa to operate Iowa's alcohol distribution warehouse, including shipping of product to permittees, but for spirits only.

<sup>2</sup> Ruan commenced operating the ABC warehouse June 19, 2023.

# Background

This chapter seeks to answer the following:

- What is ABC?
- How did the passage of S.B. 2844 impact ABC?

## What is ABC?

**ABC is the division within DOR that is charged with regulating, taxing, and distributing alcoholic beverages (distilled spirits and wine) within Mississippi.**

ABC warehouse: Responsible for the taxing, warehousing, and distribution of distilled spirits and wine only.

ABC enforcement: Responsible for regulating the sale of distilled spirits and wine as well as beer, light wine, light spirits, and medical cannabis.

MISS. CODE ANN. § 67-1-19 (1972) created the Alcoholic Beverage Control (ABC) Division within DOR. ABC splits responsibilities between two separate units: ABC Administrative and Warehouse (ABC warehouse) and ABC enforcement. The ABC warehouse is responsible for the taxing, warehousing, and distribution of distilled spirits and wine, while ABC enforcement is responsible for regulating the sale of distilled spirits, wine, beer, light wine, light spirits, and medical cannabis. DOR handles tax collections from the sale of alcoholic beverages.

MISS. CODE ANN. § 67-1-41 (1972) grants DOR sole authority to regulate and wholesale alcoholic beverages throughout the state. MISS. CODE ANN. § 67-1-5 (1972) defines an alcoholic beverage as containing more than 5% alcohol by weight and excludes light wine, light spirits, and beer. Although beer, light wine, and light spirits contain alcohol, because state law does not consider these to be “alcoholic beverages,” Mississippi regulates them separately from distilled spirits and wine.

### What model does Mississippi utilize to regulate alcoholic beverages?

States typically utilize one of two models to regulate alcoholic beverages: control or licensing. Control states license vendors and retailers and collect taxes on alcoholic beverages; however, they also exercise control by acting as the wholesaler, retailer, or both. Licensing states regulate alcoholic beverages by requiring vendors, wholesalers, and retailers to be licensed through the state and by collecting taxes on alcoholic beverages.

Mississippi is a control state, which means it regulates alcoholic beverages through licensing of vendors and retailers, taxation at wholesale and retail levels, and wholesaling both distilled spirits and wine throughout the state. Alabama is also a control state. Mississippi’s other contiguous states use the license model.

### How does the state administer alcoholic beverage control?

ABC regulates and wholesales alcoholic beverages throughout Mississippi to licensed ABC permittees.<sup>3</sup> The ABC warehouse operates on a bailment system, which allows vendors of alcoholic beverages to store their products in the state’s warehouse without the state having to purchase the product. The ABC warehouse processes orders through each permittee’s Taxpayer Access Point (TAP) account. Once orders are placed and processed, the ABC warehouse utilizes two contracted shipping companies to transport product to permittees.<sup>4</sup>

MISS. CODE ANN. § 67-1-41 (1972) gives DOR the authority to serve as the state’s wholesale distributor and seller of alcoholic beverages. It also grants DOR the sole right of importation and sale of alcoholic beverages at the wholesale level, except as provided by law for native wines and native spirits. ABC operates a single wholesale and distribution warehouse for alcoholic beverages for the entire state of Mississippi.

### How many cases does ABC ship per year?

DOR reported ABC shipped 3,708,689 cases in FY 2023. This includes 3,420,429 bailment cases; 149,950 non-allocated special-order cases; 64,491 allocated special-order cases; and 73,819 delisted cases. Exhibit 1 on page 3 list the number of cases shipped, by case type, from FY 2020 to FY 2023.

ABC shipped 3.71 million cases in FY 2023, an 11% decline from the 4.17 million cases shipped in FY 2021.

### **Exhibit 1: Cases Shipped by ABC Warehouse, FY 2020 to FY 2023**

Fiscal Year	Bailment Cases	Special Order: Non-Allocated Cases <sup>1</sup>	Special Order: Allocated Cases <sup>2</sup>	Delisted Cases <sup>3</sup>	Total Cases
2020	3,295,699	66,569	27,181	318,608	3,708,057
2021	3,729,069	93,866	36,575	306,277	4,165,787
2022	3,683,503	112,862	53,370	188,035	4,037,770
2023	3,420,429	149,950	64,491	73,819	3,708,689

1. Product that is available for purchase by any retail permittee, on a first-come, first-serve basis.
2. Product pre-sold by the vendor or broker prior to entering the ABC warehouse. Allocated product should generally be reserved for rare or high-demand items.
3. Product that DOR ABC initially shipped to a licensed permittee as a bailment item or special-order item but had been delisted (i.e., no longer listed as an item available for purchase by a licensed permittee) at the time DOR reported the information to PEER.

**SOURCE:** Department of Revenue’s response to PEER’s initial information request.

<sup>3</sup> As of July 1, 2023, there were 2,351 active ABC permittees in Mississippi.

<sup>4</sup> M&J Transport and Douglass Express Delivery.

In FY 2022, DOR reported licensed permittees submitted approximately 42,200 orders, ordering approximately 4.42 million cases containing 12,211 different stock keeping units (SKUs). Each product has its own SKU number; this includes separate SKU numbers if the product is offered in more than one size (e.g., 750 ml, 1.5L) or variety (e.g., Cathead Raspberry Vodka, Cathead Honeysuckle Vodka). Appendix A on page 27 includes a list of products that were available for order via traypack<sup>5</sup> through the ABC warehouse as of August 18, 2023. Appendix B on page 30 includes a list of private label products that were available for order through the ABC warehouse as of August 18, 2023.

DOR reported that the top 1,400 items represented 80% of case volume ordered. In contrast, DOR reported shipping 10 or fewer cases of 5,092 items, and 50 or fewer cases of 7,575 items.

## How did the passage of S.B. 2844 impact ABC?

**S.B. 2844 mandated DOR contract out the operations of the ABC warehouse to a third-party operator, established a Warehouse Improvement Fund for the existing (and future warehouse), and established a mechanism for constructing a new ABC warehouse.**

S.B. 2844 which took effect on July 1, 2022. It covered the warehousing and distribution of alcoholic beverages for Mississippi. As signed into law, S.B. 2844 mandates:

- DOR shall contract with an operator for warehouse and distribution operations. This operator contract is to begin as soon as possible in the existing ABC warehouse with future transition to the new warehouse after construction is completed.
- A new warehouse facility for alcoholic beverages will be constructed in the Jackson, Mississippi area, within 50 miles of the new state capitol building. Components for funding the construction are contained within the legislation. A list of qualifications for construction contractors is also included in the legislation. This construction will be overseen by DFA with reasonable consultation with DOR and the competitively selected third-party operator for the ABC warehouse.

Prior to contracting out the operations of the ABC warehouse to a third-party operator, as mandated by S.B. 2844, ABC operated the ABC warehouse. State employees were responsible for the receipt, storage, warehousing, and picking/loading of alcoholic beverages within the ABC warehouse. Under DOR, the ABC warehouse typically operated on a four-day schedule, with two operating shifts:

- 1st (Day) shift – 6 A.M. until 5 P.M.; and,
- 2nd (Night) Shift – 4 P.M. until 2:30 A.M. (or until shipping loading is complete).

Ruan, as the new warehouse operator, has slightly modified shift times to reduce overlap between first shift and second shift. First shift ends at 4:30 P.M., and second shift starts and ends one hour later (5:30 P.M.). Ruan staff stated its ability to adjust the shift times was limited. On occasion,

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<sup>5</sup> To procure a product utilizing the traypack method, the vendor must purchase a full pallet of the product.

issues or equipment malfunctions that occur during the night shift carry over and affect the day shift. Ruan adjusted the shift schedule in an attempt to avoid these situations.

#### **Operations Kept in Place by S.B. 2844**

Although S.B. 2844 required DOR contract out the operations of the ABC warehouse to a third-party, S.B. 2844 required some DOR ABC warehouse-related functions to remain in-house. DOR's contract with Ruan Transport excludes certain functions related to supplying licensed permittees with product, including the shipping/delivery of the product from the warehouse to licensed permittees and DOR's role as it relates to purchasing and selling alcoholic beverages.

Per S.B. 2844, notwithstanding the contract for warehouse and distribution operations under Section 3 of this act, DOR ABC shall remain responsible for purchasing and selling alcoholic beverages. DOR ABC shall sell alcoholic beverages at uniform prices throughout the state. Additional language was added to state that "pricing for all alcoholic beverages shall be set by the addition of the markup and taxes to the price at which the beverages were purchased by the department." ABC remains over the process of listing/delisting items as bailment items and adding items as special order items.

Per S.B. 2844, Section 8 (5), a permittee's order shall qualify for shipping when it includes the minimum number of cases of alcoholic beverages as set by DOR ABC. DOR ABC shall place qualifying orders in a queue for shipment in the order in which the orders are made. This is known as the First In, First Out (FIFO) order fulfillment method. Per S.B. 2844, Section 8 (5), an order of fewer than the minimum number of cases, and special orders, shall be added to the permittee's next qualified shipment. DOR ABC must give sufficient notice of any change in the minimum number of cases for shipping and shall allow the opportunity for comment.

Additionally, S.B. 2844, Section 3 (1), required the existing shipping contract(s) in effect on July 1, 2022, to remain in effect until the expiration of their terms. As a result, the two shipping vendors delivering products to permittees has not changed since the enacting of S.B. 2844. DOR ABC contracts out shipping operations to two third-party shipping companies for delivery from the ABC warehouse to the permittee locations throughout the state. At the time of the passage of S.B. 2844, DOR had existing contracts with two shipping vendors: M&J Transport, Inc., for distribution in Hinds, Rankin, and the southern portion of Madison County (excludes the municipal limits of the cities of Canton and Flora), and Douglas Express Delivery, LLC, for statewide distribution, excluding Hinds, Rankin, and the southern portion of Madison County. Both shipping contracts end June 30, 2024.

# DOR Efforts to Procure a Third-party Warehouse Operator and Compliance with S.B. 2844

## This chapter discusses:

- DOR's efforts to procure a third-party ABC warehouse operator;
- compliance of the Ruan contract with S.B. 2844; and,
- efforts by DOR and Ruan to track performance.

## DOR's Efforts to Procure a Third-party ABC Warehouse Operator

As required under S.B. 2844, DOR issued a Request for Proposals (RFP) for a third-party operator to operate the ABC warehouse. After evaluating the four proposals received, DOR determined that Ruan Transport Corporation (Ruan) submitted the best and most responsive proposal.

S.B. 2844, Section 3 (1), directed DOR to procure a vendor to operate the state's Liquor Distribution Center (i.e., the ABC warehouse).

### Efforts to Obtain Assistance to Develop RFP for Third-Party Warehouse Operator

Prior to issuing a Request for Proposals (RFP) for a third-party operator to operate the ABC warehouse, DOR entered an emergency contract with Hy-Tek Material Handling, LLC. - Johnson Stephens Consulting division (Johnson Stephens), to assist DOR prepare an RFP for a third-party warehouse operator. Tasks included:

- conducting on-site visits to the ABC warehouse to review DOR's day-to-day actions and meeting with key DOR personnel to discuss requirements that may be necessary to include in the RFP;
- developing the RFP for a third-party warehouse operator;<sup>6</sup> including,
  - developing the minimum qualifications for a third-party warehouse operator to use in the RFP;
  - developing the third-party warehouse operator scope of work and responsibilities to use in the RFP; and,
  - determining the weights for each evaluation factor (i.e., within certain parameters; at least 35% of score based on cost);
- assisting to identify vendors who may wish to participate in the RFP process;

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<sup>6</sup> Subject to Public Procurement Review Board rules as well as any DOR requirements.

- providing support to DOR during on-site meetings and throughout the questions and answer period; and,
- providing support as a non-voting member in the scoring process.

DOR agreed to pay Johnson Stephens \$74,200 for professional services provided during the period June 15, 2022, through May 31, 2023, as well as reimbursement for actual travel expenses up to \$14,480. According to data posted to Transparency Mississippi (i.e., the website created to promote transparency in government and spending), DOR paid Johnson Stephens a total of \$79,893.78 under the emergency agreement.

### **Release of RFP for Third-Party Warehouse Operator**

DOR issued RFP #3120002542 (3rd Party Operation of the Alcoholic Beverage Control Division) on October 11, 2022. Four vendors submitted proposals by the November 22, 2022, (12:00 P.M.) deadline for submitting proposals, including:

- Ruan Transport Corporation – Des Moines, Iowa;
- Southern Glazer’s Leasing, LLC – Miami, Florida;
- Mitchell Beverage Meridian, Inc. – Meridian, Mississippi; and,
- Republic National Distributing Co. – Madison, Mississippi.

Each of the four proposals were evaluated and deemed responsive to the criteria stated in the RFP. DOR evaluated proposals utilizing the following three categories to award points:

- Technical Factor – 34 possible points;
- Project Management Factor – 30 possible points; and,
- Cost Factor – 36 possible points (awarded on a prorated basis).

In total, proposals could receive up to 100 possible points.

Appendix C on page 33 summarizes the RFP scoring process.

After evaluating the four proposals received, DOR determined that Ruan submitted the best and most responsive proposal (i.e., 88 points). On March 1, 2023, DOR entered a contract with Ruan to take over the operations of the ABC warehouse in Gluckstadt, Mississippi. The Public Procurement Review Board (PPRB) approved DOR’s award of the third-party operation contract to Ruan at its March 2023 meeting for a four-year initial term. The contract may be renewed twice, each time for a period of four years.

## **Compliance of Ruan’s Contract with S.B. 2844**

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### **PEER determined DOR’s contract with Ruan complies with S.B. 2844.**

PEER reviewed DOR ABC contract with the third-party warehouse operator Ruan for compliance with S.B. 2844. PEER determined DOR’s contract with Ruan complies with the requirements put in place under S.B. 2844.

## Duration of Contract

As required by S.B. 2844, the initial term of the Ruan contract shall commence upon approval by PPRB for a maximum four-year initial term with an option of two four-year renewals. As required by S.B. 2844, the Ruan cannot exceed 12 years in duration.

DOR's contract with Ruan commences upon PPRB approval for a maximum term of four years and the option of two four-year renewals.

Additionally, in accordance with S.B. 2844, the initial term of the Ruan contract will terminate on the earlier of four years from the contract commencement date or the last day of use of the warehouse that is in service on July 1, 2022. At the end of the initial term, DOR will either renew the existing contract or award the contract to a vendor after completing an RFP process.<sup>7</sup>

## Costs

Under S.B. 2844, DOR must "pay the third-party operator cost-plus," utilizing a set dollar amount per case of wine and distilled spirits sold (e.g., \$2.22 per case in year 1). Additionally, S.B. 2844 established an avenue for providing the operating reimbursement for funding occasional improvements, utilizing the Warehouse Improvement Fund established in S.B. 2844. The DOR's contract with Ruan does not incorporate shipping. If in the future it were amended to incorporate shipping, S.B. 2844 requires shipping costs be based on a set dollar amount per case of alcoholic beverages shipped from the warehouse to the permittee's premises. DOR remains responsible for paying for regular maintenance expenses.

### Payment on a Per-Case Fee Basis

The DOR's contract with Ruan complies with S.B. 2844, Section 3 (a), since Ruan is paid for its services on a per-case basis. The per-case fee DOR pays Ruan per case shipped increases each year, starting at \$2.22 per case in year 1 and increasing to \$2.64 per case in year 4.

### Establishment of ABC Warehouse Improvements Fund

As required per S.B. 2844, Section 3 (b), DOR allotted Ruan a monthly spending limit for occasional improvements, the amount of which is set by DOR at its sole discretion. S.B. 2844 defined occasional improvements as "items of maintenance, repairs, upgrades or other improvements for the warehouse or its equipment that are not performed on a monthly basis." Per DOR's contract with Ruan, this shall include, but not be limited to, purchases of new material handling equipment and warehouse management system upgrades that meet the definition of occasional improvement. Any equipment purchased using these funds will be the property of DOR.

According to DOR's contract with Ruan, the monthly spending limit for occasional improvements shall be \$90,000. However, the contract states that figure is based on current shipping projections and is subject to change depending on funding level in the ABC Warehouse Improvement Fund. Established as part of S.B. 2844, the ABC Warehouse Improvement Fund is a special fund funded by a new 25 cents per case charge on all alcoholic beverages (wine and distilled spirits only) shipped.

At no time shall the set limit be above \$90,000 unless approved for that month by DOR. As required by S.B. 2844, DOR's contract with Ruan requires the operator receive prior

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<sup>7</sup> Subject to Public Procurement Review Board approval.



approval from an authorized DOR representative before it may spend any amounts above the monthly allotment. Additionally, as required by S.B. 2844, DOR's contract with Ruan requires the operator pay out of pocket, in which case the state will reimburse the operator monthly out of monies in the ABC Warehouse Improvement Fund.

To date, Ruan reported spending approximately \$600,000 to purchase new equipment including reach pickers, stock pickers, and forklifts. Ruan stated they would like to have at least a portion of that amount covered by the Warehouse Improvement Fund and is discussing with DOR how that may be done. The contract language limits Warehouse Improvement Fund expenditures to \$90,000 each month, unless authorized by DOR to exceed such amount in any given month.

#### Responsibility for Regular Maintenance and Utilities Remains with DOR

As required by S.B. 2844, Section 3 (2), DOR agrees to pay regular maintenance expenses incurred at the ABC warehouse. DOR's contract with Ruan defines "regular maintenance" as:

*monthly overhead expenses, including but not limited to, utilities, facility shell (e.g., the roof), exterior cleaning services, and lawn care. Utilities include costs for electric, natural gas, and water/sewer.*

DOR's contract with Ruan requires Ruan provide security 24-hours per day, seven days per week, including adequately securing the facility to prevent pilferage, theft, break-in, or damage. Additionally, DOR's contract with Ruan requires Ruan provide and maintain the required lift truck equipment, mobile equipment, and equipment batteries for warehouse operations.

#### Workforce is Responsibility of Contractor

S.B. 2844, Section 3 (5), requires that all employees needed for operations shall be employees of the third-party operator. Ruan reported utilizing three different hiring services to assist in hiring both full-time and temporary staff positions for the ABC warehouse. As of August 2, 2023, Ruan stated it had a target of hiring 98 full-time employees to operate the ABC warehouse, including 47 full-time, first-shift employees and 51 full-time, second-shift employees.

Ruan offers a higher wage than DOR offered,<sup>8</sup> with entry-level warehouse positions starting at \$14.50 per hour for first shift and a 15% shift bonus (additional \$2.17 per hour) for working second shift. Ruan pays ABC employees on a weekly basis; under DOR, ABC employees were paid monthly. Ruan also offers a benefits package that includes paid leave, life insurance, a 401K with employer contribution,<sup>9</sup> and access to a tiered health insurance plan.<sup>10</sup>

#### Interfacing with DOR's Taxpayer Access Point System

Per S.B. 2844, Section 3 (3) (d), DOR and the operator may provide for the operator's software to interface with DOR's Taxpayer Access Point (TAP) system in a manner allowing for information

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<sup>8</sup> DOR paid an entry level wage of approximately \$13.50 per in 2023, a \$2.50 per hour increase from the \$11 per hour DOR paid entry level warehouse workers in 2020.

<sup>9</sup> Employee contributes up to 6%. Ruan contributes up to 3%. Vest 20% after 2 years. Vest percentage increases in 20% increments per year until 100% after 6 years.

<sup>10</sup> Ruan offers a four-tier health insurance and pharmacy benefit plan, with employees having the option to choose which tier to enroll. Additionally, Ruan offers dental and vision insurance.

sharing in furtherance of efficient operations while also protecting the security of the TAP system. Each ABC permittee has a TAP account. Through this TAP account, permittees have electronic access to place orders, make payments, and receive notifications from the ABC administration. When permittees log into their TAP accounts to place orders, they are able to see a real-time status inventory of which products are available, how much of each product is available, and if special discount pricing is being offered on an item.

DOR's contract with Ruan states Ruan will at least initially utilize DOR's Mississippi Automated Revenue System (MARS) system<sup>11</sup> to the extent required to provide services under the contract. Should the parties determine that it is in the best interest of the state to implement Ruan's warehouse management system with MARS, Ruan agrees to maintain and produce reports to ABC on request at no additional fee to include but not limited to the following, including all documentation required by federal and state laws:

- annual financial audit including management letter;
- annual inventory reports;
- out-of-stock/low stock reports and over stock/under stock reports;
- cases shipped/extra loads reports; and,
- monthly shipments and comparison reports.

#### Ruan's Planned Implementation of Blue Yonder

Ruan plans to begin implementing its warehouse management system in the second quarter of FY 2024 (i.e., October – December 2023) and have it fully operational by the third quarter of 2024 (i.e., January – March 2024). Ruan stated its warehouse management system – an off-the-shelf system called Blue Yonder – will integrate with DOR's system and provide additional metrics to assess performance. Ruan stated it will utilize its own in-house team to work with DOR to integrate Blue Yonder with MARS.

Ruan stated (and DOR agreed) that MARS is not a warehouse management system and has limitations. Per DOR, MARS is an in-house IT system that was originally developed as tax software but has since been expanded to support warehouse operations. However, there are limits to what MARS can do (e.g., the current MARS system does not effectively count what inventory is on-hand). Blue Yonder will be able to track inventory, cycle counting, and manage directed pick.<sup>12</sup>

#### Protections for the State

S.B. 2844, Section 3 (7) (a), requires the contractor (in this case, Ruan) to provide fire and casualty insurance as well as at least \$10,000,000 of liability insurance. The liability insurance must be issued by an insurance company with a rating of at least an A- according to AM Best Standards.<sup>13</sup>

S.B. 2844, Section 3 (7) (d), requires the contractor to post a performance bond to assure the operator's faithful performance of the specifications and conditions of the contract. Ruan posted a performance bond with Federal Insurance Company for \$4,930,992 for year 1 of the contract, with

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<sup>11</sup> The computer system utilized by DOR for order management, inventory, route planning, and invoicing permittees.

<sup>12</sup> Use of technology to direct a warehouse worker to pick items needed for an order, including directing them to the location of the items.

<sup>13</sup> AM Best is a credit rating agency focused exclusively on the worldwide insurance industry.

the amount representing the cost for warehouse staff.<sup>14</sup> The performance bond amount is expected to increase 3% each year of the contract, assuming a 3% increase in labor costs.

A performance bond is required throughout the term of the contract.

### **Assessment of Vendor's Capability to Carry out the Contract**

S.B. 2844, Section 3 (6), states the contract for warehouse and distribution operations shall not be entered into unless the operator has demonstrated the qualifications, experience, and management personnel necessary to carry out the terms of the contract. As part of the procurement process, each vendor was required to submit technical proposals as part of the technical factor of the scoring process. Additionally, as part of the programmatic component of the scoring process, vendors were evaluated based on each vendor's history of providing the type of services requested in the RFP, each vendor's ability to document efforts to hire a qualified warehouse workforce, the experience of key vendor personnel directly related to the RFP, and the vendor's financial capacity to meet obligations within the RFP.

### **DOR Compliance with Requirements to Retain Existing ABC Shipping Contracts**

S.B. 2844, Section 3 (1) required the existing shipping contract(s) in effect on July 1, 2022, to remain in effect until the expiration of their terms. Therefore, the two shipping vendors delivering products to permittees have not changed since the enacting of S.B. 2844. DOR ABC contracts out shipping operations to two third-party shipping companies for delivery from the ABC warehouse to the permittee locations throughout the state. At the time of the passage of S.B. 2844, DOR had existing contracts with two shipping vendors, both of which run through June 30, 2024:

- M&J Transport, Inc., for distribution in Hinds, Rankin, and the southern portion of Madison County (excludes the municipal limits of the cities of Canton and Flora); and,
- Douglas Express Delivery, LLC, for statewide distribution, excluding Hinds, Rankin, and the southern portion of Madison County.

Each carrier agrees to deliver each workday Tuesday through Friday (as well as Monday as requested).<sup>15</sup> Neither shipping contract includes an option to renew the contract.

Prior to the expiration of the shipping contracts on June 30, 2024, DOR will have to competitively bid for a new shipping vendor(s) to replace the two current vendors. It would be up to DOR at that time to decide whether to seek one or more shipping vendor(s) to deliver alcohol in the state. Because the first four-year term of the Ruan contract for the warehouse will not end until February 28, 2027 (i.e., for another 32 months), the next shipping contract(s) would have to be procured separately from the warehouse contract.

It is possible that in the future DOR may seek to combine both the warehouse operations and shipping contracts under one vendor (e.g., Ruan, DHL). Under such a scenario, S.B. 2844, Section 3 (3) (c) states shipping costs, where the contract encompasses shipping, shall be based on a set dollar amount per case of alcoholic beverages shipped from the warehouse to the permittee's premises.

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<sup>14</sup> Excludes administrative staff and costs for rental equipment. <sup>15</sup> Excludes the following six holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

<sup>15</sup> Excludes the following six holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

## Resumption of Control upon State Contract Termination

S.B. 2844, Section 4, requires DOR to develop a plan, which must be certified by the DOR Commissioner, that demonstrates the method by which the state would resume control of the ABC warehouse upon termination of the contract for operations. The plan must be submitted for review and comment to the Governor, the Lieutenant Governor, the Speaker of the House, the Chairmen of the Senate Finance Committee and the House Ways and Means Committee, and the Joint Legislative Committee on Performance Evaluation and Expenditure Review.

As of August 2, 2023, DOR reported it had developed what it described as a high-level, draft plan. DOR stated the plan had not been approved by the Commissioner, and would likely need to be amended in the future to accommodate any changes related to Ruan's rollout of its warehouse management system. The plan is based on three components:

DOR maintains 4 full-time ABC managers in the event the contract is terminated, and DOR must resume ABC warehouse operations.

- The retention of full-time ABC managers;
- The drafting of several emergency contracts that could be enacted if necessary; and,
- Existing language in DOR's contract with Ruan that requires Ruan to provide all necessary information and assistance to facilitate the transfer of operations.

Prior to the Ruan transition, the ABC Director created an ABC Retention Plan to retain tenured employees, ensuring the knowledge and expertise is kept with the state in the event the third-party logistics operator contract is terminated. These four employees included the Operations Manager, the Inventory Manager, the Receiving Manager, and the Resolutions Manager. These four employees remain full-time with ABC for the purpose of immediately assuming their previous responsibilities until a new third-party logistics operator is selected and in place.

Exhibit 2 on page 13 summarizes the new roles of the DOR ABC managers employed by ABC. Their new roles relate to oversight of Ruan, vendors not included under the Ruan contract (e.g., shipping), and coordinating with suppliers to get wine and distilled spirits product in the warehouse. Additionally, DOR ABC remains over managing and processing the financial transactions associated with the procurement, sale, and distribution of alcohol.

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## **Exhibit 2: Roles of Management Positions Retained by DOR ABC**

Four DOR ABC staff management positions remain with the state after contracting out the operations of the ABC warehouse to a third-party operator. The positions and their job functions are listed below.

### **Operations Manager (former Warehouse Supervisor)**

- Oversees all DOR ABC related warehouse positions.
- Manages day-to-day communications with warehouse vendors, including Ruan, trucking companies, and contracts (e.g., equipment and maintenance).
- Assists with compiling new ABC standard operating procedures.
- Disseminates documentation with appropriate Ruan contacts.
- Verifies the product that needs to be drop shipped is loaded and shipped.
- Oversees returns to retailers and vendors, including verifying Ruan processed the returns (i.e., the physical labor associated with accepting returns from returns from retailers or returning product to vendors) and ABC staff processed the financial transactions associated with the returns.

### **Inventory Manager**

- Conducts internal inventory audits.
- Conducts spot checks (compares to Ruan's cycle counts [i.e., doing inventory weekly]).
- Conducts external inventory audits (by request).
- Resolves product issues (e.g., poor packaging, defects).
- Processes enforcement seizures.

### **Receiving Manager (former Day Shift Supervisor)**

- Appointment scheduling – scheduling with shipping companies and vendors for the receiving and shipping of product.
- Bailment coordination.
- Score-carding (data entry) – the process by which DOR ABC evaluates supplier deliveries to the ABC warehouse (e.g., on-time delivery, cancellations, overstock or understock inventory).

### **Resolution Manager (former Night Shift Supervisor)**

- Resolves items in hold.
- Processes returns to vendors.
- Manages delisting pick-ups.

**SOURCE:** DOR's response to PEER's initial information request and interviews with DOR staff.

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# Efforts by DOR and Ruan to Track Performance

Although the DOR-Ruan contract established recommended key performance indicators, the contract did not identify performance minimums or establish penalties for non-performance. Since the start of the contract, DOR and Ruan have worked to refine the key performance indicators. At their first monthly performance meeting in August, the Contract Compliance Officer and Ruan identified four initial priority metrics upon which Ruan’s performance will initially be based. Milestones for the four metrics are to be set at the September performance meeting.

## Permittees’ Concerns as It Relates to ABC Performance

Permittees’ primary concern is the ability to receive product in a timely manner, and to receive their order as they ordered it. However, permittees have voiced concerns since the onset of the pandemic over a delay in receiving their orders. Permittees interviewed by PEER voiced concerns regarding a continual three-week delay in receiving their order that has occurred since the pandemic, well prior to Ruan commencing warehouse operations. This delay can be referred to as order cycle time (i.e., the time it takes for a permittee to get their order after ordering). The delay can be attributed to the 175,000-case backlog that Ruan inherited when it commenced operating the ABC warehouse. Although the case backlog rose to approximately 215,000 in the first three weeks of Ruan operating the ABC warehouse,<sup>16</sup> the case backlog since declined to approximately 160,000 cases through nine weeks.

Permittees voiced concerns about the three-week delay in receiving product, and the high percentage of unfilled items for each order.

A second problem voiced by permittees pertains to the fill rate (i.e., the percentage of the order a permittee receives). Ruan’s overall fill rate has ranged between 70% and 80%. This leads to permittees regularly reporting having between 20 to 30% of their order cancelled.<sup>17</sup> If DOR is unable to fill an item ordered, the item will be added to the next day’s fulfillment list. If DOR is unable to fill the item the next day, the order for the item is cancelled. As a result, the permittee will have to reorder the item and wait an additional two to three weeks to potentially receive any items not received as part of the order that was filled.

To compensate for the delay in receiving product and the high cancellation rate, permittees interviewed by PEER reported over-ordering and maintaining higher levels of inventory. One permittee reported maintaining three times the amount of inventory (e.g., \$300,000 worth of inventory versus typically \$100,000 worth of inventory) to attempt to ensure they maintain available product to fill customer orders.

## Establishment of Contract Compliance Officer to Monitor ABC Warehouse Contract

S.B. 2844, Section 5, established the position of contract compliance officer to monitor the third-party ABC warehouse operator contract and assess its

S.B. 2844 mandates the contract compliance officer report at least annually (or as requested) to the Governor or the Legislature.

<sup>16</sup> The ABC warehouse was closed July 4, 2023. As a result, the ABC warehouse operated three days instead of the typical four days that week.

<sup>17</sup> May vary by items ordered, quantity of each item ordered, and location of the permittee.

performance. S.B. 2844, Section 5, authorized DOR Commissioner to

*designate an employee of the department as a contract compliance officer within the department who shall monitor the contract between the state and the operator for warehouse and distribution operations and shall assure operator compliance with its performance work statement.*

The DOR Commissioner appointed the Chief Compliance Officer.

The contract compliance officer shall be responsible for monitoring all aspects of the warehouse. S.B. 2844, Section 5 (2), mandates the contract compliance officer have an on-site work area, be on site daily, and have access to all areas of the warehouse and staff at all times. Additionally, the contracted operator must provide access to data, reports, and other materials that the contract compliance officer determines are necessary to carry out monitoring responsibilities.

### **Operational Monitoring Efforts**

As part of DOR's contract with Ruan, Ruan agreed to compile and maintain performance metrics. Performance will be measured by key performance indicators for service, cost, and exceptions. However, the contract did not identify performance minimums or establish penalties for non-performance.

Instead, the contract included recommended key performance indicators. DOR stated this was for two reasons. First, DOR's existing warehouse management system enabled it to track some indicators, but not all indicators it was interested in tracking under the contract, particularly areas related to inventory. Second, DOR had not entered a contract for a third-party ABC warehouse operator before, and therefore chose to move forward utilizing an iterative approach with the contractor where key performance indicators may be established and built upon after the contract commenced. The key performance indicators adopted by DOR as of August 3, 2023, may be found in Appendix D on page 35.

Ruan does, as required by the contract, provide DOR and the Contract Compliance Officer weekly results. This includes a daily report for the following:

- case backlog;
- the number of cases sent to Ruan to ship each night;
- order cycle time (i.e., the measure of time between when a permittee submits an order and when it is shipped);
- the fill rate, including number of cases shipped and number of cases marked out;
- number of mis-picks (i.e., the number of cases picked incorrectly by staff);
- number of cases broken;
- number of special orders;
- number of inbound cases and inbound trucks; and,
- number of cases included in drop shipments.

These and any other issues (e.g., equipment delays, safety incidences) that may arise are discussed at a weekly meeting between the Contract Compliance Officer and Ruan management.

### Establishment of Performance Monitoring Efforts

The Contract Compliance Officer established priority performance metrics in August 2023. Priority metrics are the metrics that DOR will utilize to assess Ruan's performance. The Chief Compliance Officer identified the following as the four initial priority metrics:

- number of cases shipped weekly;
- fulfillment rate (i.e., the percentage of cases DOR filled for an order versus the number of cases a permittee ordered);
- number of mis-picks (i.e., the number of cases picked incorrectly by staff); and,
- order cycle time (i.e., the measure of time between when a permittee submits an order and when it is shipped).

Following the monthly August performance meeting,<sup>18</sup> Ruan must provide DOR and the Chief Compliance Officer milestones for each priority metric, including when Ruan plans on reaching its milestones. The Chief Compliance Officer then plans to review Ruan's performance at one month, three months, six months, and then every six months after that.

As required by the contract, Ruan will meet with DOR and the Contract Compliance Officer to review the performance metrics listed above and the results. The monthly review should be utilized for a general evaluation of the operator performance, issue resolution, and vetting of improvement opportunities. At each monthly review, there will be discussions of the active key performance indicators, with improvement plans for performance below acceptable levels and recognition noted for exceeding requirements.

However, while performance metrics track case backlog and order cycle time, permittees voiced concerns that priority is placed on number of cases shipped and not number of orders filled. DOR does not track or have a priority preference for tracking number of orders filled. Permittees voiced concerns that this resulted in DOR placing a greater priority on filling larger orders (e.g., utilization of bulk order process and drop shipments) or items sold in larger quantity than completing orders as they are submitted (i.e., the First in First Out order fulfillment process referenced in statute).

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<sup>18</sup> Tuesday, August 9, 2023. Monthly performance meetings are planned for the second Tuesday of each month.



# Efforts to Build a New ABC Warehouse

This chapter discusses:

- the existing ABC warehouse;
- authorization to build a new ABC warehouse; and,
- the status of efforts by DFA (and DOR) to plan for a new warehouse.

## The Existing ABC Warehouse

ABC currently utilizes a 211,000 square-foot warehouse that was built in 1983 and expanded in 2003. The ABC warehouse also houses the offices of ABC administrative staff and Ruan office staff assigned to the ABC contract. The current warehouse has six docking/receiving bays.

### Dimensions of the Existing ABC Warehouse

DOR utilizes a central state-owned warehouse facility<sup>19</sup> to receive, warehouse, and distribute distilled spirits and wine to licensed permittees within the state. According to the RFP for a third-party operator and interviews with DOR ABC staff, the existing warehouse is approximately 211,000 square feet. The current warehouse also has six docking bays for receiving product and loading distribution trucks. Exhibit 3 on page 18 provides the details of the current warehouse space, by area, square footage, ceiling height (as applicable), and year built.

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<sup>19</sup> Located at 1286 Gluckstadt Road in Gluckstadt, Mississippi.

**Exhibit 3: Existing ABC Warehouse**

Area	Square Footage	Ceiling Height	Year Built
Non-climate-controlled warehouse space	171,500	24' 8"	1983
Climate-controlled warehouse space	35,000	28' 0"	2003
Additional storage space	5,450		1983
Conveyor, pick modules, and automated storage system			2003
<b>Total warehouse space</b>	<b>211,000</b>		
DOR administrative office space – first floor	18,000		1983
Ruan office space – second floor	6,200		1983
<b>Total administrative office space</b>	<b>24,200</b>		
<b>Total combined space</b>	<b>235,200</b>		

**SOURCE:** PEER analysis of Proposal Form for Third Party Warehouse Operator (RFP 3120002542) and interview with DOR staff.

When the ABC warehouse facility was built in 1983, it initially consisted of the current non-climate-controlled 171,150 square foot space and the administrative office space. The state expanded the ABC warehouse in 2003 to add a climate-controlled warehouse for storing wine. DOR ABC also installed the pick modules, conveyor, and automated sortation system in 2003 to support the picking and loading of product.

**Limitations of the Current ABC Warehouse**

The current ABC warehouse has the three primary limitations. According to DOR staff, as the conveyor system has aged, its operating or throughput capacity (i.e., its ability to move X number of cases through the conveyor system each night), has declined. DOR staff reported currently utilizing the conveyor system to ship a maximum of approximately 20,000 cases per night. Both DOR and DFA have stated the current conveyor system will be retired when DOR transitions to the new ABC warehouse.

Ruan stated there have been equipment issues (e.g., conveyor breaking down in the middle of shift). However, Ruan stated it knew the legacy ABC equipment was old and therefore expected some issues due to equipment malfunction or breakdown. Ruan reports a list of incidents, including safety issues, equipment delays, and shipping delays to the Chief Compliance Officer. For the period June 19, 2023, to August 23, 2023, Ruan reported 20 delays related to equipment failure and seven delays related to waiting for a shipping company. Of the equipment-related delays:

- 6 delays were under 20 minutes;

- 9 delays were at least 20 minutes, but less than 1 hour;
- 4 delays were 1 hour to 2 hours; and,
- 1 delay was approximately four hours.

Additionally, the current inventory levels have exceeded warehouse capacity. Ruan estimated that the warehouse had 70,000 more cases in the warehouse than space permitted. This is a combination of an increase in the number of different products the ABC warehouse now distributes, and the increased demand for product. The current warehouse height, particularly for the main non-climate-controlled portion, is lower (24'8"), limiting the ability to modify racking and place taller racking for more optimal space utilization.

## Authorization to Build a New ABC Warehouse

**S.B. 2844 established DFA as the lead for procuring land (if necessary) and constructing a new ABC warehouse, but states that this shall be done in consultation with DOR and the chosen third-party operator of the ABC warehouse (Ruan). S.B. 2844 authorized the expenditure of \$55,000,000 to build a new ABC warehouse.**

S.B. 2844 directs DFA to purchase land for and provide for the design and construction of a new ABC warehouse "in the most expedient and cost-effective manner as possible, as determined by the Executive Director of DFA." To fund such efforts, the Legislature, per S.B. 2844 Section 6 (1), directs DFA to utilize the funds available in the ABC Warehouse Construction Fund and any additional funds that the Legislature may make available.

### Determining a Site for the New ABC Warehouse

S.B. 2844 directs DFA to select a suitable site within 50 miles of the new state capitol building for the construction of a new ABC warehouse. A site must be selected prior to DFA developing an RFP

A new warehouse site has not been determined. The site must be within 50 miles of the new state capitol building.

to procure a design-build contractor. This is in part because MISS. CODE ANN. § 31-7-13.1 (2) (1972) requires the RFP's scope of work statement include, at minimum, the "location and nature of proposed site(s) that include preliminary geotechnical information from borings as well as survey drawings that show topography, adjacent buildings and utilities."

According to DFA, a new warehouse site had not been determined as of July 20, 2023. DFA stated the state expects to have to procure property to build a new ABC warehouse. DFA stated it is seeking a site that is flat, adjacent or easily accessible to at least one major thoroughfare (e.g., I-55, I-20, Highway 49), and has good existing infrastructure.

In selecting a suitable site, DFA, per S.B. 2844, shall consider the feasibility of selecting state-owned land by comparing the cost of preparing the state-owned land for construction to the cost of acquiring other land and preparing such other land for construction. According to DFA Deputy Executive Director over Bureau of Building, Grounds, and Real Property Management (among other functions), DFA identified two pieces of state property (one in Rankin County, one in Hinds County). However, DFA stated neither are large enough to accommodate a new ABC warehouse.

DFA added the Hinds County property (located off Elton Road) is also hilly and would require significant dirt work to clear the land to build a large warehouse. DFA Deputy Executive Director noted that some of the state's properties that would have had potential for building a new ABC warehouse site (i.e., significant acreage located in proximity to a major highway such as I-55, I-20, or Highway 49) are more likely to be sold off because of the value and demand for such properties.

### Constructing a New ABC Warehouse

In addition to requiring DFA construct a warehouse within 50 miles of the state capitol, S.B. 2844 requires that the contract for design and construction aim to fill demand for the next 25 years. DFA stated its goal is for the new warehouse to support demand for the next 50 years, noting the current warehouse will be at least 45 years-old at the time the state transitions to a new warehouse.

A new warehouse must aim to meet demand for the next 25 years. DFA's stated goal is to support demand for the next 50 years.

DFA believes the new warehouse should be a one-story building<sup>20</sup> with taller ceilings to accommodate taller racking. However, DFA has not determined how big the facility should be, or how tall it should be. DFA estimates the potential square footage of a new ABC warehouse to range from 350,000 square feet minimum to 500,000 plus square feet (i.e., more than double the square footage of the existing warehouse). Elements to be considered include but are not limited to:

- amount of cooled/airconditioned warehouse space;
- amount of non-cooled warehouse space;
- amount of office space, including number of offices, office layout, and accommodation of separate spaces for DOR and the third-party contractor;
- level (and design) of automation to be utilized in the warehouse;
- optimal height, length, and width of the building;
- optimal traffic flow to ensure efficient utilization of warehouse space and labor; and,
- amount of dock space and number of receiving/loading bays.

### Choosing a Contractor

S.B. 2844 states a contract for warehouse construction shall not be entered unless the construction contractor has demonstrated:

- the qualifications, experience, and management personnel necessary to carry out the terms of the contract;
- the ability to comply with applicable federal and state laws; and,
- the ability to expedite the design and construction of facilities comparable to the warehouse.

S.B. 2844 states that the contract for design and construction of the ABC warehouse shall provide that the operator be consulted so that the warehouse may, so far as possible, suit the preferences of the operator (i.e., Ruan) to assist in ensuring effective operations.

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<sup>20</sup> The existing warehouse is primarily one-story, excluding some administrative office space on the second level.

There are two methods DFA could utilize in order to construct the ABC warehouse: the design-build method and the design-bid-build method. Although S.B. 2844 does not explicitly state that DFA must utilize the design-build method, DFA has interpreted the use of the phrasing “contract for design and construction” and “expedite the design and construction” to mean DFA should utilize its authority under MISS. CODE ANN § 31-7-13.1 (1972) to utilize the design-build method to procure a vendor to design and construct the new ABC warehouse.

What is the Design-Build Method of Construction?

The design-build method of construction contracting is an alternative method wherein the contractor and architect or engineer are procured as a team under a single contract. According to MISS. CODE ANN § 31-7-13.1, to utilize the design-build method, DFA must determine that the design-build method provides a savings in time or cost over traditional methods, and that the size and type of the project is suitable for design-build. Although not the sole factor in determining the winning proposal, cost must be given the highest criteria weighting and at least 35% out of the 100% total weight.

This contrasts with the design-bid-build method for construction procurements typically required under Mississippi Code. Under the design-bid-build method, the architect or engineer is procured first; once the architect/engineer develops the specification and construction bid documents, the contractors bid based solely on price. Exhibit 4 on page 21 compares the design-build method to the design-bid-build method.

**Exhibit 4: Design-Build Method versus Design-Bid-Build Method**

Design-Build Method	Design-Bid-Build Method
Qualifications considered in award decision	Award to lowest responsible bidder
Architect/engineer part of construction contract – works for Contractor	Architect/engineer represents and defends building owner
Budget-driven	Cost-driven
Collaborative	Adversarial
Iterative process	Linear process
Flexible	Inflexible
Not suitable/permitted for all types of construction	Can be used on any type of construction

**SOURCE:** Department of Finance and Administration Bureau of Building, Grounds and Real Property Management (BOB).

## Funding a New ABC Warehouse

Per S.B. 2844, Section 7 (4) (a), the Legislature committed \$55,000,000 for the construction and equipping of a new ABC warehouse. Per S.B. 2844, Section 7 (2) (a), this includes any costs associated with land acquisition and the design, construction, furnishing and equipping of a new ABC warehouse.

The Legislature committed \$55,000,000 for the construction and equipping of a new warehouse.

S.B. 2844 directs DFA—utilizing the funds available in the ABC Warehouse Construction Fund created by S.B. 2844, Section 6 (1), and other funds that the Legislature may make available—to purchase land for and provide for the design and construction of a new ABC warehouse in the most expedient and cost-effective manner practicable as determined by the DFA Executive Director. As part of S.B. 2844, the Legislature authorized the issuance of revenue bonds in an amount up to, but not to exceed, \$55,000,000 for constructing and equipping a new ABC warehouse.

### S.B. 2844 Establishes the ABC Warehouse Construction Fund

The "ABC Warehouse Construction Fund" is a special fund created within the State Treasury. It shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Per S.B. 2844, the ABC Warehouse Construction Fund shall be used to:

- assist DFA in paying the costs associated with land acquisition for, and the design, construction, furnishing and equipping of, a new ABC warehouse; and,
- pay the costs of relocating inventory to the new warehouse from the existing ABC warehouse.

To fund the "ABC Warehouse Construction Fund," the state plans to issue revenue bonds. The revenue bonds will be backed by the existing 27.5% markup tax imposed on all alcoholic beverages.<sup>21</sup> Per S.B. 2844, Section 7 (3), a separate bond sinking fund<sup>22</sup> will be set up in the State Treasury for the purpose of providing for the payment of the principal of and interest upon bonds issued for the construction of a new warehouse.

The special bond sinking fund shall consist of such amounts as may be paid into such fund under S.B. 2844, by appropriation, or by other authorization by the Legislature. This includes funding from a new bailment fee of \$1.00 per case.<sup>23</sup> Per S.B. 2844, Section 8 (7), DOR shall charge manufacturers a bailment fee of \$1.00 per case of alcoholic beverages stored in the warehouse to be deposited to the credit of the bond sinking fund. DOR reported shipping 3,420,429 bailment cases in FY 2023. Using FY 2023 as a baseline, the \$1 bailment fee could generate approximately \$34 million in 10 years and \$68 million in 20 years.

<sup>21</sup> Effectively 24.5%, after excluding the 3% that is directly allocated to the "Mental Health Programs Fund" setup in the State Treasury under MISS. CODE ANN. § 27-71-7 (1972).

<sup>22</sup> A bond sinking fund is an account containing money set aside to pay off a debt or a bond.

<sup>23</sup> DOR ABC Division policy defines bailment products as the wine products that generate at least \$9,000 in annual sales and spirit (liquor) products that generate at least \$11,000 in annual sales.

The Commissioner of Revenue shall transfer the deficit amount to the bond sinking fund from revenue derived from the 27.5% markup provided for in MISS. CODE ANN. § 27-71-11 (1972) if the special bond sinking fund has a balance below the lesser of:

- the minimum amount specified in the resolution providing for the issuance of the revenue bonds; or,
- 1.5 times the amount needed to pay the annual debt obligations related to the revenue bonds issued for the ABC warehouse under S.B. 2844.

## Status of Efforts by DFA (and DOR) to Plan for a New ABC Warehouse

**DFA and DOR chose to seek a consultant to assist in identifying the criteria and specifications for a new warehouse, including projecting demand over the next 50 years, determining the size of the warehouse, the optimal warehouse layout, and to what extent the warehouse should utilize an automated model or a labor-intensive model.**

### Efforts to Seek a Consultant to Assist in Developing Specifications for New ABC Warehouse

Since the enactment of S.B. 2844, DFA and DOR have met to discuss the criteria and specifications for building a new warehouse. Because it has been 40 years since the state last constructed an alcohol distribution warehouse (1983) and 20 years since the expansion of the current warehouse (2003), DFA and DOR opted to seek a design and planning consultant to aid in developing specifications for a new warehouse.

As of August 31, 2023, DFA stated DFA and DOR had chosen a consultant, but the contract still needed to be finalized and signed by both parties.

DFA, in conjunction with DOR, issued a Request for Qualifications (RFQ) on June 27, 2023, to find “a design and planning consultant for the design and construction of a liquor distribution center consultant” to:

- assist the state in developing an RFP for the construction of a new ABC warehouse;
- aid in determining the specifications for a warehouse and property needed to accommodate an ABC warehouse for the next 50 years; and,
- aid in determining the extent warehouse operations should be labor-intensive versus automated, and what is needed for either option to occur.

Per the RFQ:

*the Consultant shall develop the minimum requirements for logistics functions, including warehouse technical requirements and design parameters, guidelines for material handling and the Warehouse Management System (WMS), Warehouse Control System, and the Center’s construction scope of work and contractor responsibilities.*

To be eligible, the RFQ requires the consultant “have at least five years of documented relevant experience developing RFPs for Alcoholic Beverage Distribution Warehouses and advising clients

during throughout the procurement process.” Additionally, the consultant must agree to provide a minimum of \$1,000,000 of professional liability insurance per occurrence and \$3,000,000 in annual aggregate professional liability insurance. This liability insurance:

*covers any damages caused by an error, omission, breach of duty, misleading statements, claims resulting from the performance or non-performance of professional services, or any negligent acts related to the services to be provided under the consultant contract.*

Responses to the RFQ were due by 12:00 P.M., July 18, 2023. DFA and DOR reported receiving four proposals in response to the RFQ for a design and planning consultant. DFA met with DOR in August to review the responses, and score proposals. As of August 17, 2023, DFA notified PEER a consultant had been selected and DFA was in the process of awarding and executing a contract with the vendor, but a contract had not yet been signed.

The RFQ states the consultant contract will be for an initial three-year term, two optional one-year renewals. The RFQ also stated that price will not be the primary consideration for the award of the consultant contract but will be evaluated for cost reasonableness.

DFA estimated that the consultant, in conjunction with DFA and DOR, would have approximately 30 to 60 days to identify the requirements for property for the new warehouse, the specifications for a new warehouse, and draft a Request for Proposals (RFP) to procure a vendor to construct a new warehouse.

#### **Timeline for Building a New ABC Warehouse**

DFA stated its intended goal is to issue an RFP for a design-build vendor to design and construct a new ABC warehouse and choose a vendor by the end of December 2023. DFA also intends to have chosen, and if necessary, procured, a site for the new ABC warehouse by the end of December 2023.

Once DFA procures a design-build team, DFA and DOR estimates it will take approximately 18 to 24 months to construct a new ABC warehouse facility. DFA estimates timeline for completion for a new warehouse to be July 1 to December 31, 2025. However, DFA stated such is subject to change depending on the following:

- ability of DFA and DOR to acquire a consultant;
- ability of DFA, DOR, and consultant to determine a design and specifications for the ABC warehouse and property;
- ability to acquire property for the new ABC warehouse; and,
- ability to obtain authority for any additional funding DFA and DOR determine to be needed to acquire property, build a warehouse, and equip the new warehouse.

Although the specifications for a new warehouse have not been finalized, DFA estimates that the cost of building and equipping a new ABC warehouse will exceed the \$55,000,000 budget established in S.B. 2844.

#### **Timeline for Transitioning from the Existing Warehouse to the New ABC Warehouse**

PEER also inquired with DOR about its timeline and plan for transitioning the existing ABC warehouse to a new ABC warehouse. DOR stated it has not determined a transition timeline yet, in



part because it is still undetermined what the design of the warehouse will be. Three of the primary hurdles will be:

- when and how to transition inventory from the existing warehouse to the new warehouse;<sup>24</sup>
- when and how to transition labor from the existing warehouse to the new warehouse; and,
- as applicable, how to train the workforce on new equipment related to the new warehouse.

One question still to be determined is to what extent the new warehouse will be automated versus labor dependent, utilizing manual processes to prepare and distribute orders. DOR and DFA do not expect any of the existing equipment or racking systems (i.e., shelving for product inventory) will transfer to the new facility.

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<sup>24</sup> This includes when to have product (and what product) shipped to the new warehouse, and when to stop having product shipped to the existing warehouse.

# Recommendations

1. DOR should establish formal performance metrics with measurable milestones to utilize in assessing Ruan's performance. Upon completion of these metrics, provide to the PEER Committee monthly a copy of the current performance metrics, targeted milestones, and applicable performance data. The PEER Committee shall conduct a follow-up review one year after the release of the report.
2. As required by S.B. 2844, Section 4, DOR shall complete the resumption of control plan in the event DOR shall have to resume control of operating the ABC warehouse upon terminating the third-party warehouse operator contract. Items that should be included in a resumption of control plan include:
  - a. the responsibilities of the third-party warehouse operator and DOR upon the termination of the contract;
  - b. timeline and tasks required to procure a new third-party warehouse operator;
  - c. the retention of and/or hiring of new staff, and the challenges related to such; and,
  - d. any potential gap that may occur in the distribution of product to permittees during the transition and efforts planned to minimize such gap.

DOR shall modify the resumption of control plan upon any significant change in operation of the ABC warehouse (e.g., implementation of a new warehouse management system).

3. DOR and Ruan should track order items that were cancelled due to the product being out-of-stock in the DOR warehouse. Additionally, DOR should consider revising its policies to retain a permittees unfilled order items until the item is filled, unless DOR no longer lists the unfilled item as a bailment item or a special-order item.
4. The Legislature should amend sub-section 6, paragraph 1, Chapter 483, Laws of 2022, by including the following language at the end of paragraph 1:

*Of the amounts deposited to the ABC Warehouse Construction Fund established by this subsection, no funds shall be expended for any purchase associated with land acquisition for, and the design, construction, furnishing, and equipping of, a new ABC warehouse, unless the Department of Revenue and the Department of Finance and Administration have determined that the total project can be completed for the amount set out in Subsection 7, paragraph 4 of this section. This restriction shall not apply to expenditures for activities related to pre-planning for the warehouse project.*

## Appendix A: Products Available for Order via Traypack through the ABC Warehouse as of August 18, 2023

As of August 18, 2023, DOR reported 76 different products available for procurement as traypack through ABC. To procure a product utilizing the traypack method, the vendor must purchase a full pallet of the product. Traypack product enters the DOR warehouse as a full pallet of one product, remains wrapped, and is loaded back on a truck for delivery to the next vendor.

Costco private label products (i.e., Kirkland Signature brand) comprise 45 of the 76 products offered through traypack. Sam's Club private label products (i.e., Member's Mark brand) comprise 19 of the 76 products offered through traypack.

12 products offered through traypack (e.g., Dough Ball Cookie Dough Whiskey, Malibu's pineapple rum) do not have a clear tie to a permittee retailer.

Product Name	ID Number	Number of Cases per Traypack	Size	Supplier Name
12 DAYS OF CAB	906019	120	375ml	WEBSTER BARNES LLC
DOUGH BALL COOKIE DOUGH WHISKEY	85965	64	1L	MPL BRANDS NV, INC
FINCA BACARA 3015 MONASTRELL ORG18	911614	53	750ml	INTERNATIONAL WINES INC
LA GIOIOSA PROSECCO ROSE BRUT DOC	906884	50	750ml	ETHICA WINES
LAMURA PINOT GRIS TERRE SICILIANE IGT OR	960180	60	750ml	ETHICA WINES
MAKER'S MARK PRIVATE SELECT TRIPACK	101907	60	375ml	JIM BEAM BRANDS CO
MAKER'S MARK TRI-PK	100855	72	375ml	JIM BEAM BRANDS CO
MALIBU RUM W/PINEAPPLE JUICE MIR	1838	52	1.75L	PERNOD RICARD USA LLC
POINT VARIETY PACK #2 VODKA	101469	30	50ml	PARK STREET IMPORTS
SEGURA VIUDAS BRUT RESERVA	733239	52	1.5L	FREIXENET MIONETTO USA
SHOTTYS TROPICAL PACK 24	101869	144	500ml	PARK STREET IMPORTS
WINE VOYAGE	918766	120	375ml	WEBSTER BARNES LLC
<b>Kirkland Signature (Costco)</b>				
12 Y/O BLEND SCOTCH	907371	42	1.75L	MISA IMPORTS, INC
3 Y/O BLENDED SCOTCH	907369	44	1.75L	MISA IMPORTS, INC
6X AMERICAN VODKA	36600	60	1.75L	LEVECKE CORPORATION

ALEX VLY CAB SAUV	479401	56	750ml	MACH FLYNT, INC
BLANCO TEQUILA	907029	39	1.75L	MPL BRANDS NV, INC
CALI CAB SAUV	479404	52	3L	MACH FLYNT, INC
CALI CAB SAUV	479403	72	1.5L	MACH FLYNT, INC
CALI PINOT GRIGIO	581706	52	3L	MACH FLYNT, INC
CANADIAN WHISKEY	8806	36	1.75L	SAZERAC COMPANY
CARN PINOT NOIR	479415	56	750ml	MACH FLYNT, INC
CHAMPAGNE BRUT	709020	50	750ml	MACH FLYNT, INC
CHARDONNAY CALI	581707	52	3L	MACH FLYNT, INC
CHARDONNAY RRV	581704	44	750ml	MACH FLYNT, INC
CHARDONNAY	581702	72	1.5L	MACH FLYNT, INC
CHIANTI RISERVA	342377	60	750ml	ETHICA WINES
COGNAC XO	907366	72	750ml	MISA IMPORTS, INC
COL VLY CAB SAUV	479407	56	750ml	MACH FLYNT, INC
COTE DE PROV ROSE	907356	44	750ml	MISA IMPORTS, INC
COTES DU RHONE VILL	908831	56	750ml	MACH FLYNT, INC
EGG NOG	62095	45	1.75L	LEVECKE CORPORATION
FRENCH VODKA	907374	51	1.75L	MISA IMPORTS, INC
IRISH CREAM LIQUEUR	907370	48	1.75L	MISA IMPORTS, INC
IRISH WHISKEY	907372	44	1.75L	MISA IMPORTS, INC
LONDON DRY GIN	30746	48	1.75L	MACH FLYNT, INC
MENDOZA MALBEC	414376	64	750ml	MACH FLYNT, INC
NAPA CAB SAUV	479409	56	750ml	MACH FLYNT, INC
NAPA RED BLEND	910730	56	750ml	MACH FLYNT, INC
OAKVILLE CAB SAUV	479411	56	750ml	MACH FLYNT, INC
PEACH MARGARITA	905769	60	1.5L	INTERNATIONAL WINES INC
PINOT GRIGIO	907362	68	750ml	MISA IMPORTS, INC
PINOT NOIR RRV	479417	56	750ml	MACH FLYNT, INC
PROSECCO ASOLO	907368	50	750ml	MISA IMPORTS, INC
PROSECCO ROSE	916170	50	750ml	ETHICA WINES
REPOSADO TEQUILA	907741	44	1L	MPL BRANDS NV, INC
RIOJA RESERVA	978345	56	750ml	QUINTESSENTIAL LLC
RTD GLDN MARG	62094	60	1.75L	LEVECKE CORPORATION
RUTHERFORD CAB SAUV	479405	56	750ml	MACH FLYNT, INC
SILVER TEQUILA	87940	56	1.75L	SAZERAC COMPANY
SMALL BATCH BOURBON	19217	66	1L	SAZERAC COMPANY
SONOMA CHARDONNAY	964589	56	750ml	PRECEPT BRAND LLC
SONOMA ZINFANDEL	479398	56	750ml	MACH FLYNT, INC
SPICED RUM	44650	48	1.75L	SAZERAC COMPANY
STRAWBERRY MARG	62093	45	1.75L	LEVECKE CORPORATION
TI POINT SAUV BLANC	414378	56	750ml	MACH FLYNT, INC
TN BOURBON 7 Y/O	19216	36	1L	MACH FLYNT, INC
<b>Member's Mark (Sam's Club)</b>				
CANADIAN WHISKY	11070	44	1.75L	SAZERAC COMPANY

COCKTAIL POPS VARIETY	919238	50	100ml	SLIM CHILLERS INC.
DIDIER DUMOND BRUT	710475	48	750ml	MACK & SCHUHLE, INC
EGG NOG	62477	39	1.75L	SAZERAC COMPANY
FRENCH VODKA	37276	32	1.75L	SAZERAC COMPANY
GOLDEN MARGARITA RTD	62476	48	1.75L	SAZERAC COMPANY
LONDON DRY GIN	31246	52	1.75L	SAZERAC COMPANY
MALBEC	418504	70	750ml	MACK & SCHUHLE, INC
PINOT GRIGIO	588612	72	1.5L	MACK & SCHUHLE, INC
PROSECCO	904582	50	750ml	PRESTIGE
RED BLEND	485428	64	1.5L	THE WINE GROUP LTD
RIESLING	908372	75	1.5L	MACK & SCHUHLE, INC
SAUVI BLANC MARLBOROUGH	418506	60	750ml	MACK & SCHUHLE, INC
SILVER RUM	100013	52	1.75L	SAZERAC COMPANY
SPICED RUM	46574	48	1.75L	SAZERAC COMPANY
SPICY MARGARITA	62475	48	1.75L	SAZERAC COMPANY
TEQUILA	88063	48	1.75L	SAZERAC COMPANY
VODKA	36859	64	1.75L	SAZERAC COMPANY
TAP 3 MARGARITA BOX	916820	140	3L	USA WINE WEST LLC

- 1) DOR was in the process of delisting products at the time of providing the list. Given such, this list may not be the same as what is currently available for retailer procurement via DOR's online ordering system.

**SOURCE:** Products available for order via traypack as of August 18, 2023. Department of Revenue.

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## Appendix B: Private Label Products Available through the ABC Warehouse as of August 18, 2023

As of August 18, 2023, DOR reported 81 different private label products available for procurement through ABC.

Costco private label products (i.e., Kirkland Signature brand) comprise 66 of the 81 private label products offered through ABC. Sam's Club private label products (i.e., Member's Mark brand) comprise 15 of the 81 products offered through private label products offered through ABC.

Product Name <sup>1</sup>	ID Number	Order Quantity (Cases)	Size	Supplier Name
<b>Kirkland Signature (Costco)</b>				
BARTON 1792 MASTER DS BIB	16445		1L	SAZERAC COMPANY
BARTON 1792 MASTER DS SB	19218		1L	SAZERAC COMPANY
10 Y/O PORTO	90388		750ml	KOBRAND CORP
12 Y/O BLEND SCOTCH	907371	42	1.75L	MISA IMPORTS, INC
15 Y/O BARREL AGED RUM	909141		750ml	MISA IMPORTS, INC
23 Y/O SPEYSIDE SINGLE MALT	991077		750ml	MISA IMPORTS, INC
24 Y/O SPEYSIDE SINGLE MALT	953550		750ml	MISA IMPORTS, INC
3 Y/O BLENDED SCOTCH	907369	44	1.75L	MISA IMPORTS, INC
6X AMERICAN VODKA	36600	60	1.75L	LEVECKE CORPORATION
ALEX VLY CAB SAUV	479401	56	750ml	MACH FLYNT, INC
ANEJO TEQUILA	904372		1L	MPL BRANDS NV, INC
BAROLO SERRALUNGA	367665		750ml	ETHICA WINES
BLANCO TEQUILA	907029	39	1.75L	MPL BRANDS NV, INC
BORDEAUX SUPERIEUR	991080		750ml	MISA IMPORTS, INC
CALI CAB SAUV	479403	72	1.5L	MACH FLYNT, INC
CALI CAB SAUV	479404	52	3L	MACH FLYNT, INC
CALI PINOT GRIGIO	581706	52	3L	MACH FLYNT, INC
CANADIAN WHISKEY	8806	36	1.75L	SAZERAC COMPANY
CARN PINOT NOIR	479415	56	750ml	MACH FLYNT, INC
CHABLIS 1ER CRU	991079		750ml	MISA IMPORTS, INC
CHAMPAGNE BRUT	709020	50	750ml	MACH FLYNT, INC
CHARDONNAY	581702	72	1.5L	MACH FLYNT, INC
CHARDONNAY CALI	581707	52	3L	MACH FLYNT, INC
CHARDONNAY RRV	581704	44	750ml	MACH FLYNT, INC
CHATEAUNEUF DU PAPE	948282		750ml	MISA IMPORTS, INC
CHIANTI RISERVA	342377	60	750ml	ETHICA WINES
COGNAC XO	907366	72	750ml	MISA IMPORTS, INC
COL VLY CAB SAUV	479407	56	750ml	MACH FLYNT, INC
COLUMBIA VALLEY RED	948280		750ml	MISA IMPORTS, INC
COTE DE PROV ROSE	907356	44	750ml	MISA IMPORTS, INC

COTES DU RHONE VILL	908831	56	750ml	MACH FLYNT, INC
EGG NOG	62095	45	1.75L	LEVECKE CORPORATION
FRENCH VODKA	907374	51	1.75L	MISA IMPORTS, INC
GIGONDAS	991078		750ml	MISA IMPORTS, INC
IRISH CREAM LIQUEUR	907370	48	1.75L	MISA IMPORTS, INC
IRISH WHISKEY	907372	44	1.75L	MISA IMPORTS, INC
ISLAY SNGL MALT SCOTCH WSKY	908674		750ml	MISA IMPORTS, INC
ISLAY SNGL MALT SCOTCH WSKY	912538		750ml	MISA IMPORTS, INC
LONDON DRY GIN	30746	48	1.75L	MACH FLYNT, INC
MENDOZA MALBEC	414376	64	750ml	MACH FLYNT, INC
NAPA CAB SAUV	479409	56	750ml	MACH FLYNT, INC
NAPA RED BLEND	910730	56	750ml	MACH FLYNT, INC
OAKVILLE CAB SAUV	479411	56	750ml	MACH FLYNT, INC
PEACH MARGARITA	905769	60	1.5L	INTERNATIONAL WINES INC
PINOT GRIGIO	907362	68	750ml	MISA IMPORTS, INC
PINOT NOIR RRV	479417	56	750ml	MACH FLYNT, INC
PROSECCO ASOLO	907368	50	750ml	MISA IMPORTS, INC
REPOSADO TEQUILA	907741	44	1L	MPL BRANDS NV, INC
RIBERA DEL DUERO	906062		750ml	MISA IMPORTS, INC
RIOJA RESERVA	978345	56	750ml	QUINTESSENTIAL LLC
RTD GLDN MARG	62094	60	1.75L	LEVECKE CORPORATION
RUTHERFORD CAB SAUV	479405	56	750ml	MACH FLYNT, INC
SANCERRE	991071		750ml	MISA IMPORTS, INC
SILVER TEQUILA	87940	56	1.75L	SAZERAC COMPANY
SMALL BATCH BOURBON	19217	66	1L	SAZERAC COMPANY
SONOMA CHARDONNAY	964589	56	750ml	PRECEPT BRAND LLC
SONOMA ZINFANDEL	479398	56	750ml	MACH FLYNT, INC
SPEYSIDE SCOTCH 20 Y/O	901522		750ml	MISA IMPORTS, INC
SPICED RUM	44650	48	1.75L	SAZERAC COMPANY
STAGS LEAP CAB SAUV	479413		750ml	MACH FLYNT, INC
STRAWBERRY MARG	62093	45	1.75L	LEVECKE CORPORATION
SUSCOL CAB SAUV NAPA	479416		750ml	MACH FLYNT, INC
TI POINT SAUV BLANC	414378	56	750ml	MACH FLYNT, INC
TN BOURBON 7 Y/O	19216	36	1L	MACH FLYNT, INC
TOSCANA	953551		750ml	MISA IMPORTS, INC
TOUR OF SCOTLAND	959657		200ml	MISA IMPORTS, INC
<b>Member's Mark (Sam's Club)</b>				
CAB-MERLOT BORDEAUX RED	904580		750ml	PRESTIGE
CABERNET SAUV CENTRAL COAST	485438		750ml	FRANCIS COPPOLA WINERY LLC
CANADIAN WHISKY	11070	44	1.75L	SAZERAC COMPANY
EGG NOG	62477	39	1.75L	SAZERAC COMPANY
FRENCH VODKA	37276	32	1.75L	SAZERAC COMPANY

GOLDEN MARGARITA RTD	62476	48	1.75L	SAZERAC COMPANY
LONDON DRY GIN	31246	52	1.75L	SAZERAC COMPANY
PROSECCO	904582	50	750ml	PRESTIGE
RED BLEND	485428	64	1.5L	THE WINE GROUP LTD
SANGRIA	418502		1.5L	PRESTIGE BEVERAGE GROUP
SILVER RUM	100013	52	1.75L	SAZERAC COMPANY
SPICED RUM	46574	48	1.75L	SAZERAC COMPANY
SPICY MARGARITA	62475	48	1.75L	SAZERAC COMPANY
VODKA	36859	64	1.75L	SAZERAC COMPANY
2020 PINOT NOIR PRIVATE RESERVE RRV	911215		750ml	PACIFIC RIM WINE MERCHANTS DBA CAL WINE TRADING

- 1) DOR was in the process of delisting products at the time of providing the list. Given such, this list may not be the same as what is currently available for retailer procurement via DOR's online ordering system.

**SOURCE:** Private label product options, available as of August 18, 2023. Department of Revenue.

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## Appendix C: Summary of the Scoring of RFP for Third-Party Operator for ABC Warehouse

DOR evaluated proposals utilizing the following three categories to award points:

- Technical Factor – 34 possible points
- Project Management Factor – 30 possible points
- Cost – 36 possible points (awarded on a prorated basis)
- Total possible points – 100.

### Technical Factor

Technical factors accounted for 34% of each vendor's score. Scored blindly,<sup>25</sup> vendors were evaluated based on:

- the quality of each vendor's proposed plan for order processing, inventory management, warehouse facility management, performance reporting, implementation plan, etc., and,
- the vendor's ability to perform such services as reflected by the completion of the technical proposal and review of the redacted resumes submitted by each vendor.

### Project Management Factor

Management factors accounted for 30% of each vendor's score. Scored with knowledge of the identity of the vendor, vendors were evaluated based on each vendor's history of providing the type of services requested in the RFP; each vendor's ability to document efforts to hire a qualified warehouse workforce; the experience of key vendor personnel directly related to the RFP; and the vendor's financial capacity to meet obligations required within the RFP.

### Cost Factor

Per Senate Bill 2844, Section 3(3)(a) provides that DOR shall pay the operator cost-plus on operations at a set dollar amount per case of alcoholic beverages sold. Cost-plus is defined in the RFP as *the amount set by the vendor that covers all costs associated with providing services under this RFP, including any fixed costs, as well as any profit*. Such should be considered by the vendor when submitting its per-case fee.<sup>26</sup> A case is considered sold when it is shipped. The following estimated number of cases to be shipped were provided to bidders to use in determining the total cost of the initial term of the contract.

- Year 1 – 4,423,127 cases shipped;
- Year 2 – 4,555,821 cases shipped;
- Year 3 – 4,692,495 cases shipped; and,
- Year 4 – 4,833,270 cases shipped.

The vendor had an option to increase the fee on a yearly basis, either by stating the fee for each of the four years or by setting the annual percentage rate increase in the per-case fee. Additionally,

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<sup>25</sup> Without knowledge of who each vendor is at the time of scoring each proposal.

<sup>26</sup> A case is considered sold when it is shipped.

if the vendor wished to charge an additional monthly fee, such had to be detailed by the vendor. Exhibit C1 on page 34 illustrates how Ruan’s bid was calculated.

**Exhibit C1: Calculation of Ruan’s Bid**

Year	DOR Case Number Estimate	Ruan Per-Case Fee (\$)	Estimated Cost Per Year (\$)
1	4,423,127	2.22	9,819,341.94
2	4,555,821	2.35	10,471,179.35
3	4,692,495	2.49	11,684,312.55
4	4,833,270	2.64	12,759,832.8
<b>Total</b>			<b>\$44,734,666.64</b>

SOURCE: PEER Analysis of Proposal Form for Third Party Warehouse Operator (RFP 3120002542) and Interview with DOR staff.

After evaluating the four proposals received, DOR determined that Ruan Transport Corporation (Ruan) submitted the best and most responsive proposal. Exhibit C2 on page 34 summarizes the scores the four vendors received, by evaluation factor. Ruan submitted the lowest cost proposal and scored the highest of the four vendors in the project management category. Southern Glazer received the best score for the technical proposal submitted by the vendors.

**Exhibit C2: Summary of Scoring for RFP for Third-Party ABC Warehouse Operator**

Factor	Points Available	Southern Glazer’s Leasing, LLC	Ruan Transport Corporation	Mitchell Beverage Meridian, Inc.	Republic National Distributing Co.
Technical	34	32	25	23	22
Project Management	30	19	27	22	18
Cost	36	30	36	32	29
<b>Total</b>	<b>100</b>	<b>81</b>	<b>88</b>	<b>77</b>	<b>69</b>

SOURCE: Proposal Tabulation Sheet for Third Party Warehouse Operator (RFP 3120002542).

# Appendix D: Key Performance Indicators Identified by the Contract Compliance Officer to Monitor ABC Warehouse Operations

The Contract Compliance Officer identified fifteen key performance indicators to monitor ABC warehouse operations.

Order Management
<b>Picking Accuracy</b> – Measures how accurately items are picked from the warehouse for customer orders.
<b>Picking Productivity</b> – Records the number of cases picked per hour for each pick zone in the warehouse. Tracked either by pick zone or shift.
<b>Shagging Efficiency</b> – Tracks the cases that did not get picked from the pick zone and must be shagged (i.e., separately pulled by Ruan staff), scanned, and loaded on to the trailer manually.
<b>Total Order Cycle Time</b> – Measures the average time it takes ship an order, starting from the moment the customer places the order.
<ul style="list-style-type: none"> <li>Permittees voiced concerns about the length of time (upwards of 20 calendar days) between submitting an order and receiving an order.</li> </ul>
<b>Fulfillment Accuracy Rate</b> – Calculates the number of cases that were successfully fulfilled from start to finish, out of the total number of customer cases ordered.
<ul style="list-style-type: none"> <li>This can be impacted by sending the wrong product (see rate of return next) or out-of-stock product. DOR/Ruan do not currently have a metric in place to specifically track cancellations due to product being out-of-stock in the warehouse at the time of fulfillment.</li> <li>Permittees voiced concerns about the lower fulfillment rates (70 to 80% range) that have resulted in 20 to 30% of a permittee’s order not being filled.</li> </ul>
<b>Rate of Returns</b> – Determines the rate in which product is returned due to issues under DOR/Ruan’s control, such as damaged products, incorrect items sent, or late delivery.
Inventory
<b>Inventory Accuracy</b> – Refers to the match between the amount of inventory that has been tracked in the warehouse management system and the amount that is physically present in a warehouse.
<ul style="list-style-type: none"> <li>Inventory tracking is typically done automatically using a warehouse management system or inventory management system, but this number does not always match the quantity of inventory that is physically present in the warehouse. This could be due to theft, damage, miscalculations, or supplier shortages.</li> </ul>
<b>Shrinkage</b> – Measures the excess inventory that is recorded in accounting but is no longer physically available due to theft, damage, miscalculations, etc.
<ul style="list-style-type: none"> <li>Intended to show the value of inventory that is missing from the warehouse due to shrinkage.</li> </ul>
<b>Damage</b> – Tracks the amount of damaged product in comparison to overall inventory.
<b>Warehouse Capacity Utilization</b> – Measures the efficiency with which the warehouse uses its inventory storage capacity.
<ul style="list-style-type: none"> <li><b>Potential Storage Area Size</b> – Sum of all storage areas, as measured in cubic feet.</li> <li><b>Space Utilization</b> – Measures the amount of space used for storage of product (measured in cubic feet) divided by the total potential storage area size.</li> </ul>

<ul style="list-style-type: none"> <li>• <b>Warehouse Capacity Utilization</b> – Analyzes the potential storage area size as it compares to the total warehouse size to determine if there is sufficient space for workers to operate.</li> </ul>
<b>Receiving</b>
<b>Receiving Accuracy</b> – Measures the percentage of cases received correctly.
<b>Put Away</b>
<b>Accuracy Rate</b> – Measures the proportion of items that were put away correctly the first time.
<b>Stocking</b>
<b>Recorded Location</b> – Records how many products have an assigned pick location. All bailment products should have an assigned pick location.
<b>Safety</b>
<b>Accidents Per Year</b> – Tracks how many notable accidents have cost time and money during a year.
<b>Time Since Last Accident</b> – Tracks the number of days without a workplace injury.

**SOURCE:** Updated key performance indicators for DOR-Ruan third-party warehouse operations contract, as provided by Contract Compliance Officer. August 3, 2023.

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## Agency Response

Both the Mississippi Department of Revenue and the Department of Finance and Administration reviewed the report. Both agencies elected not to provide a formal agency response.

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**James F. (Ted) Booth, Executive Director**

Reapportionment

Ben Collins

Administration

Kirby Arinder

Stephanie Harris

Gale Taylor

Quality Assurance and Reporting

Tracy Bobo

Hannah Jane Costilow

Performance Evaluation

Lonnie Edgar, Deputy Director

Jennifer Sebren, Deputy Director

Drew Allen

Emily Cloys

Kim Cummins

Matthew Dry

Matthew Holmes

Drew Johnson

Billy Loper

Debra Monroe-Lax

Taylor Mullins

Meri Clare Ringer

Sarah Williamson

Julie Winkeljohn

Ray Wright