

**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.*