

By: Representative Wallace

To: Appropriations

HOUSE BILL NO. 911

1 AN ACT TO REQUIRE ENTITIES THAT ENTER CONTRACTS WITH THE  
 2 STATE OR POLITICAL SUBDIVISIONS OF THE STATE FOR MORE THAN  
 3 \$100,000.00 OF BUSINESS IN ANY FISCAL YEAR TO FILE A  
 4 SUBCONTRACTING PLAN WITH THE STATE OUTLINING HOW THE ENTITY PLANS  
 5 TO UTILIZE MINORITY-OWNED BUSINESSES IN THE BUSINESS TO BE  
 6 CONDUCTED WITH THE STATE OR POLITICAL SUBDIVISION; TO PROHIBIT THE  
 7 STATE AND POLITICAL SUBDIVISIONS FROM CONDUCTING ANY BUSINESS  
 8 UNDER ANY SUCH CONTRACT UNTIL THE ENTITY HAS FILED THE REQUIRED  
 9 PLAN; TO AMEND SECTIONS 25-53-5, 25-53-125, 31-7-12, 31-7-13 AND  
 10 31-7-38, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE  
 11 PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** (1) Each individual, corporation, partnership,  
 14 association, organization or other entity that enters a new  
 15 contract or renews an existing contract to conduct business with  
 16 the State of Mississippi or any agency, department, institution or  
 17 political subdivision of the state, in an amount that will or is  
 18 reasonably anticipated to exceed One Hundred Thousand Dollars  
 19 (\$100,000.00) in any fiscal year of the state or the political  
 20 subdivision with which the business is to be conducted, shall file  
 21 with the Department of Finance and Administration in the case a  
 22 contract with the state or with the State Auditor in the case a  
 23 contract with a political subdivision, a subcontracting plan that  
 24 outlines the manner in which the entity plans to utilize the  
 25 services of minority-owned businesses in the business to be  
 26 conducted with the state or political subdivision, and that  
 27 includes a goal for the utilization of the services of  
 28 minority-owned businesses expressed as a percentage of the total  
 29 business to be conducted under the contract. The entity shall  
 30 file the plan required by this section before it may conduct any  
 31 business under the contract with the state or political



32 subdivision with which the entity has the contract. The state and  
33 each political subdivision of the state having a contract with an  
34 entity for which the plan required by this section must be filed  
35 shall be prohibited from conducting any business under the  
36 contract until the entity has filed the plan.

37 (2) For the purposes of this section, the term  
38 "minority-owned business" means a business that is owned by a  
39 majority of persons who are United States citizens or permanent  
40 resident aliens (as defined by the Immigration and Naturalization  
41 Service) of the United States and who are:

42 (a) Asian, which means persons having origins in any of  
43 the original people of the Far East, Southeast Asia, the Indian  
44 subcontinent, or the Pacific Islands;

45 (b) Black, which means persons having origins in any  
46 black racial group of Africa;

47 (c) Hispanic, which means persons of Spanish or  
48 Portuguese culture with origins in Mexico, South or Central  
49 America, or the Caribbean Islands, regardless of race;

50 (d) Native American, which means persons having origins  
51 in any of the original people of North America, including American  
52 Indians, Eskimos and Aleuts;

53 (e) Female; or

54 (f) Any combination of the persons listed in paragraphs  
55 (a) through (e) of this subsection.

56 **SECTION 2.** Section 25-53-5, Mississippi Code of 1972, is  
57 amended as follows:

58 25-53-5. The authority shall have the following powers,  
59 duties, and responsibilities:

60 (a) The authority shall provide for the development of  
61 plans for the efficient acquisition and utilization of computer  
62 equipment and services by all agencies of state government, and  
63 provide for their implementation. In so doing, the authority may  
64 use the MDITS staff, at the discretion of the executive director



65 of the authority, or the authority may contract for the services  
66 of qualified consulting firms in the field of information  
67 technology and utilize the service of such consultants as may be  
68 necessary for such purposes.

69 (b) The authority shall immediately institute  
70 procedures for carrying out the purposes of this chapter and  
71 supervise the efficient execution of the powers and duties of the  
72 office of executive director of the authority. In the execution  
73 of its functions under this chapter, the authority shall maintain  
74 as a paramount consideration the successful internal organization  
75 and operation of the several agencies so that efficiency existing  
76 therein shall not be adversely affected or impaired. In executing  
77 its functions in relation to the institutions of higher learning  
78 and junior colleges in the state, the authority shall take into  
79 consideration the special needs of such institutions in relation  
80 to the fields of teaching and scientific research.

81 (c) Title of whatever nature of all computer equipment  
82 now vested in any agency of the State of Mississippi is hereby  
83 vested in the authority, and no such equipment shall be disposed  
84 of in any manner except in accordance with the direction of the  
85 authority or under the provisions of such rules and regulations as  
86 may hereafter be adopted by the authority in relation thereto.

87 (d) The authority shall adopt rules, regulations, and  
88 procedures governing the acquisition of computer and  
89 telecommunications equipment and services which shall, to the  
90 fullest extent practicable, insure the maximum of competition  
91 between all manufacturers of supplies or equipment or services.  
92 In the writing of specifications, in the making of contracts  
93 relating to the acquisition of such equipment and services, and in  
94 the performance of its other duties the authority shall provide  
95 for the maximum compatibility of all information systems hereafter  
96 installed or utilized by all state agencies and may require the  
97 use of common computer languages where necessary to accomplish the



98 purposes of this chapter. The authority may establish by  
99 regulation and charge reasonable fees on a nondiscriminatory basis  
100 for the furnishing to bidders of copies of bid specifications and  
101 other documents issued by the authority.

102 (e) The authority shall adopt rules and regulations  
103 governing the sharing with, or the sale or lease of information  
104 technology services to any nonstate agency or person. Such  
105 regulations shall provide that any such sharing, sale, or lease  
106 shall be restricted in that same shall be accomplished only where  
107 such services are not readily available otherwise within the  
108 state, and then only at a charge to the user not less than the  
109 prevailing rate of charge for similar services by private  
110 enterprise within this state.

111 (f) The authority may, in its discretion, establish a  
112 special technical advisory committee or committees to study and  
113 make recommendations on technology matters within the competence  
114 of the authority as the authority may see fit. Persons serving on  
115 the Information Resource Council, its task forces, or any such  
116 technical advisory committees shall be entitled to receive their  
117 actual and necessary expenses actually incurred in the performance  
118 of such duties, together with mileage as provided by law for state  
119 employees, provided the same has been authorized by a resolution  
120 duly adopted by the authority and entered on its minutes prior to  
121 the performance of such duties.

122 (g) The authority may provide for the development and  
123 require the adoption of standardized computer programs and may  
124 provide for the dissemination of information to and the  
125 establishment of training programs for the personnel of the  
126 various information technology centers of state agencies and  
127 personnel of the agencies utilizing the services thereof.

128 (h) The authority shall adopt reasonable rules and  
129 regulations requiring the reporting to the authority through the  
130 office of executive director of such information as may be



131 required for carrying out the purposes of this chapter and may  
132 also establish such reasonable procedures to be followed in the  
133 presentation of bills for payment under the terms of all contracts  
134 for the acquisition of computer equipment and services now or  
135 hereafter in force as may be required by the authority or by the  
136 executive director in the execution of their powers and duties.

137 (i) The authority shall require such adequate  
138 documentation of information technology procedures utilized by the  
139 various state agencies and may require the establishment of such  
140 organizational structures within state agencies relating to  
141 information technology operations as may be necessary to  
142 effectuate the purposes of this chapter.

143 (j) The authority may adopt such further reasonable  
144 rules and regulations as may be necessary to fully implement the  
145 purposes of this chapter. All rules and regulations adopted by  
146 the authority shall be published and disseminated in readily  
147 accessible form to all affected state agencies, and to all current  
148 suppliers of computer equipment and services to the state, and to  
149 all prospective suppliers requesting the same. Such rules and  
150 regulations shall be kept current, be periodically revised, and  
151 copies thereof shall be available at all times for inspection by  
152 the public at reasonable hours in the offices of the authority.  
153 Whenever possible no rule, regulation or any proposed amendment to  
154 such rules and regulations shall be finally adopted or enforced  
155 until copies of said proposed rules and regulations have been  
156 furnished to all interested parties for their comment and  
157 suggestions.

158 (k) The authority shall establish rules and regulations  
159 which shall provide for the submission of all contracts proposed  
160 to be executed by the executive director for computer equipment or  
161 services to the authority for approval before final execution, and  
162 the authority may provide that such contracts involving the  
163 expenditure of less than such specified amount as may be



164 established by the authority may be finally executed by the  
165 executive director without first obtaining such approval by the  
166 authority.

167 (l) The authority is authorized to purchase, lease, or  
168 rent computer equipment or services and to operate said equipment  
169 and utilize said services in providing services to one or more  
170 state agencies when in its opinion such operation will provide  
171 maximum efficiency and economy in the functions of any such agency  
172 or agencies.

173 (m) The authority shall assist political subdivisions  
174 and instrumentalities in their development of plans for the  
175 efficient acquisition and utilization of computer equipment and  
176 services. An appropriate fee shall be charged the political  
177 subdivision by the authority for such assistance.

178 (n) The authority shall adopt rules and regulations  
179 governing the protest procedures to be followed by any actual or  
180 prospective bidder, offerer or contractor who is aggrieved in  
181 connection with the solicitation or award of a contract for the  
182 acquisition of computer equipment or services. Such rules and  
183 regulations shall prescribe the manner, time and procedure for  
184 making protests and may provide that a protest not timely filed  
185 shall be summarily denied. The authority may require the  
186 protesting party, at the time of filing the protest, to post a  
187 bond, payable to the state, in an amount that the authority  
188 determines sufficient to cover any expense or loss incurred by the  
189 state, the authority or any state agency as a result of the  
190 protest if the protest subsequently is determined by a court of  
191 competent jurisdiction to have been filed without any substantial  
192 basis or reasonable expectation to believe that the protest was  
193 meritorious; however, in no event may the amount of the bond  
194 required exceed a reasonable estimate of the total project cost.  
195 The authority, in its discretion, also may prohibit any  
196 prospective bidder, offerer or contractor who is a party to any



197 litigation involving any such contract with the state, the  
198 authority or any agency of the state to participate in any other  
199 such bid, offer or contract, or to be awarded any such contract,  
200 during the pendency of the litigation.

201 (o) The authority shall make a report in writing to the  
202 Legislature each year in the month of January. Such report shall  
203 contain a full and detailed account of the work of the authority  
204 for the preceding year as specified in Section 25-53-29(3).

205 All acquisitions of computer equipment and services involving  
206 the expenditure of funds in excess of the dollar amount  
207 established in Section 31-7-13(c), or rentals or leases in excess  
208 of the dollar amount established in Section 31-7-13(c) for the  
209 term of the contract, shall be based upon competitive and open  
210 specifications, and contracts therefor shall be entered into only  
211 after advertisements for bids are published in one or more daily  
212 newspapers having a general circulation in the state not less than  
213 fourteen (14) days prior to receiving sealed bids therefor. The  
214 authority may reserve the right to reject any or all bids, and if  
215 all bids are rejected, the authority may negotiate a contract  
216 within the limitations of the specifications so long as the terms  
217 of any such negotiated contract are equal to or better than the  
218 comparable terms submitted by the lowest and best bidder, and so  
219 long as the total cost to the State of Mississippi does not exceed  
220 the lowest bid. If the authority accepts one (1) of such bids, it  
221 shall be that which is the lowest and best.

222 Contracts for the acquisition of computer equipment and  
223 services shall be subject to the provisions of Section 1 of this  
224 act.

225 (p) When applicable, the authority may procure  
226 equipment, systems and related services in accordance with the law  
227 or regulations, or both, which govern the Bureau of Purchasing of  
228 the Office of General Services or which govern the Mississippi



229 Department of Information Technology Services procurement of  
230 telecommunications equipment, software and services.

231 (q) The authority is authorized to purchase, lease, or  
232 rent information technology and services for the purpose of  
233 establishing pilot projects to investigate emerging technologies.  
234 These acquisitions shall be limited to new technologies and shall  
235 be limited to an amount set by annual appropriation of the  
236 Legislature. These acquisitions shall be exempt from the  
237 advertising and bidding requirement.

238 (r) All fees collected by the Mississippi Department of  
239 Information Technology Services shall be deposited into the  
240 Mississippi Department of Information Technology Services  
241 Revolving Fund unless otherwise specified by the Legislature.

242 **SECTION 3.** Section 25-53-125, Mississippi Code of 1972, is  
243 amended as follows:

244 25-53-125. The following general provisions shall apply to  
245 all procurements under Sections 25-53-101 through 25-53-125:

246 (a) No contracts entered into hereunder shall have an  
247 initial effective date earlier than the date on which such  
248 contract receives approval as required herein.

249 (b) All changes, modifications and amendments to any  
250 contract hereunder shall be approved in advance by the bureau, in  
251 addition to any other approvals required by law.

252 (c) The bureau shall promulgate rules and regulations  
253 in accordance with the Administrative Procedure Act, Section  
254 25-43-1, et seq., Mississippi Code of 1972, for the establishment  
255 of contract format.

256 (d) Where written proposals or bids are submitted by  
257 vendors, the proposal or bid of the successful vendor shall be  
258 incorporated into the final contract consummated with that vendor.

259 (e) The provisions of Sections 25-53-101 through  
260 25-53-125 shall, with respect to the procurement of  
261 telecommunications equipment, systems or related services,





262 supersede specifications of any contradictory or conflicting  
263 provisions of Chapter 7, Title 31, Mississippi Code of 1972, and  
264 other laws with respect to awarding public contracts.

265 (f) Contracts for the procurement of telecommunications  
266 equipment, systems or related services shall be subject to the  
267 provisions of Section 1 of this act.

268 **SECTION 4.** Section 31-7-12, Mississippi Code of 1972, is  
269 amended as follows:

270 31-7-12. (1) Except in regard to purchases of unmarked  
271 vehicles made in accordance with purchasing regulations adopted by  
272 the Department of Finance and Administration pursuant to Section  
273 31-7-9(2), all agencies shall purchase commodities at the state  
274 contract price from the approved source, unless approval is  
275 granted by the Department of Finance and Administration to solicit  
276 purchases outside the terms of the contracts. However, prices  
277 accepted by an agency shall be less than the prices set by the  
278 state contract. Prices accepted by an agency shall be obtained in  
279 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It  
280 shall be the responsibility of the Department of Finance and  
281 Administration to ascertain that the resulting prices shall  
282 provide a cost effective alternative to the established state  
283 contract.

284 (2) Governing authorities may purchase commodities approved  
285 by the Department of Finance and Administration from the state  
286 contract vendor, or from any source offering the identical  
287 commodity, at a price not exceeding the state contract price  
288 established by the Department of Finance and Administration for  
289 such commodity, without obtaining or advertising for competitive  
290 bids. Governing authorities that do not exercise the option to  
291 purchase such commodities from the state contract vendor or from  
292 another source offering the identical commodity at a price not  
293 exceeding the state contract price established by the Department  
294 of Finance and Administration shall make such purchases pursuant



295 to the provisions of Section 31-7-13 without regard to state  
296 contract prices established by the Department of Finance and  
297 Administration, unless such purchases are authorized to be made  
298 under subsection (5) of this section.

299 (3) Nothing in this section shall prohibit governing  
300 authorities from purchasing, pursuant to subsection (2) of this  
301 section, commodities approved by the Department of Finance and  
302 Administration at a price not exceeding the state contract price  
303 established by the Department of Finance and Administration.

304 (4) The Department of Finance and Administration shall  
305 ensure that the prices of all commodities on the state contract  
306 are the lowest and best prices available from any source offering  
307 that commodity at the same level of quality or service, utilizing  
308 the reasonable standards established therefor by the Department of  
309 Finance and Administration. If the Department of Finance and  
310 Administration does not list an approved price for the particular  
311 item involved, purchase shall be made according to statutory  
312 bidding and licensing requirements. To encourage prudent  
313 purchasing practices, the Department of Finance and Administration  
314 shall be authorized and empowered to exempt certain commodities  
315 from the requirement that the lowest and best price be approved by  
316 order placed on its minutes. Contracts between the Department of  
317 Finance and Administration and state contract vendors shall be  
318 subject to the provisions of Section 1 of this act.

319 (5) Any school district may purchase commodities from  
320 vendors with which any levying authority of the school district,  
321 as defined in Section 37-57-1, has contracted through competitive  
322 bidding procedures pursuant to Section 31-7-13 for purchases of  
323 the same commodities. Purchases authorized by this subsection may  
324 be made by a school district without obtaining or advertising for  
325 competitive bids, and such purchases shall be made at the same  
326 prices and under the same conditions as purchases of the same



327 commodities are to be made by the levying authority of the school  
328 district under the contract with the vendor.

329 **SECTION 5.** Section 31-7-13, Mississippi Code of 1972, is  
330 amended as follows:

331 31-7-13. All agencies and governing authorities shall  
332 purchase their commodities and printing; contract for garbage  
333 collection or disposal; contract for solid waste collection or  
334 disposal; contract for sewage collection or disposal; contract for  
335 public construction; and contract for rentals as herein provided.

336 (a) **Bidding procedure for purchases not over \$3,500.00.**  
337 Purchases which do not involve an expenditure of more than Three  
338 Thousand Five Hundred Dollars (\$3,500.00), exclusive of freight or  
339 shipping charges, may be made without advertising or otherwise  
340 requesting competitive bids. Provided, however, that nothing  
341 contained in this paragraph (a) shall be construed to prohibit any  
342 agency or governing authority from establishing procedures which  
343 require competitive bids on purchases of Three Thousand Five  
344 Hundred Dollars (\$3,500.00) or less.

345 (b) **Bidding procedure for purchases over \$3,500.00 but**  
346 **not over \$15,000.00.** Purchases which involve an expenditure of  
347 more than Three Thousand Five Hundred Dollars (\$3,500.00) but not  
348 more than Fifteen Thousand Dollars (\$15,000.00), exclusive of  
349 freight and shipping charges may be made from the lowest and best  
350 bidder without publishing or posting advertisement for bids,  
351 provided at least two (2) competitive written bids have been  
352 obtained. Any governing authority purchasing commodities pursuant  
353 to this paragraph (b) may authorize its purchasing agent, or his  
354 designee, with regard to governing authorities other than  
355 counties, or its purchase clerk, or his designee, with regard to  
356 counties, to accept the lowest and best competitive written bid.  
357 Such authorization shall be made in writing by the governing  
358 authority and shall be maintained on file in the primary office of  
359 the agency and recorded in the official minutes of the governing



360 authority, as appropriate. The purchasing agent or the purchase  
361 clerk, or their designee, as the case may be, and not the  
362 governing authority, shall be liable for any penalties and/or  
363 damages as may be imposed by law for any act or omission of the  
364 purchasing agent or purchase clerk, or their designee,  
365 constituting a violation of law in accepting any bid without  
366 approval by the governing authority. The term "competitive  
367 written bid" shall mean a bid submitted on a bid form furnished by  
368 the buying agency or governing authority and signed by authorized  
369 personnel representing the vendor, or a bid submitted on a  
370 vendor's letterhead or identifiable bid form and signed by  
371 authorized personnel representing the vendor. Bids may be  
372 submitted by facsimile, electronic mail or other generally  
373 accepted method of information distribution. Bids submitted by  
374 electronic transmission shall not require the signature of the  
375 vendor's representative unless required by agencies or governing  
376 authorities.

377 (c) **Bidding procedure for purchases over \$15,000.00.**

378 (i) **Publication requirement.** Purchases which  
379 involve an expenditure of more than Fifteen Thousand Dollars  
380 (\$15,000.00), exclusive of freight and shipping charges may be  
381 made from the lowest and best bidder after advertising for  
382 competitive sealed bids once each week for two (2) consecutive  
383 weeks in a regular newspaper published in the county or  
384 municipality in which such agency or governing authority is  
385 located. The date as published for the bid opening shall not be  
386 less than seven (7) working days after the last published notice;  
387 however, if the purchase involves a construction project in which  
388 the estimated cost is in excess of Fifteen Thousand Dollars  
389 (\$15,000.00), such bids shall not be opened in less than fifteen  
390 (15) working days after the last notice is published and the  
391 notice for the purchase of such construction shall be published  
392 once each week for two (2) consecutive weeks. The notice of



393 intention to let contracts or purchase equipment shall state the  
394 time and place at which bids shall be received, list the contracts  
395 to be made or types of equipment or supplies to be purchased, and,  
396 if all plans and/or specifications are not published, refer to the  
397 plans and/or specifications on file. If there is no newspaper  
398 published in the county or municipality, then such notice shall be  
399 given by posting same at the courthouse, or for municipalities at  
400 the city hall, and at two (2) other public places in the county or  
401 municipality, and also by publication once each week for two (2)  
402 consecutive weeks in some newspaper having a general circulation  
403 in the county or municipality in the above provided manner. On  
404 the same date that the notice is submitted to the newspaper for  
405 publication, the agency or governing authority involved shall mail  
406 written notice to, or provide electronic notification to the main  
407 office of the Mississippi Contract Procurement Center that  
408 contains the same information as that in the published notice.

409           (ii) **Bidding process amendment procedure.** If all  
410 plans and/or specifications are published in the notification,  
411 then the plans and/or specifications may not be amended. If all  
412 plans and/or specifications are not published in the notification,  
413 then amendments to the plans/specifications, bid opening date, bid  
414 opening time and place may be made, provided that the agency or  
415 governing authority maintains a list of all prospective bidders  
416 who are known to have received a copy of the bid documents and all  
417 such prospective bidders are sent copies of all amendments. This  
418 notification of amendments may be made via mail, facsimile,  
419 electronic mail or other generally accepted method of information  
420 distribution. No addendum to bid specifications may be issued  
421 within two (2) working days of the time established for the  
422 receipt of bids unless such addendum also amends the bid opening  
423 to a date not less than five (5) working days after the date of  
424 the addendum.



425                   (iii) **Filing requirement.** In all cases involving  
426 governing authorities, before the notice shall be published or  
427 posted, the plans or specifications for the construction or  
428 equipment being sought shall be filed with the clerk of the board  
429 of the governing authority. In addition to these requirements, a  
430 bid file shall be established which shall indicate those vendors  
431 to whom such solicitations and specifications were issued, and  
432 such file shall also contain such information as is pertinent to  
433 the bid.

434                   (iv) **Specification restrictions.** Specifications  
435 pertinent to such bidding shall be written so as not to exclude  
436 comparable equipment of domestic manufacture. Provided, however,  
437 that should valid justification be presented, the Department of  
438 Finance and Administration or the board of a governing authority  
439 may approve a request for specific equipment necessary to perform  
440 a specific job. Further, such justification, when placed on the  
441 minutes of the board of a governing authority, may serve as  
442 authority for that governing authority to write specifications to  
443 require a specific item of equipment needed to perform a specific  
444 job. In addition to these requirements, from and after July 1,  
445 1990, vendors of relocatable classrooms and the specifications for  
446 the purchase of such relocatable classrooms published by local  
447 school boards shall meet all pertinent regulations of the State  
448 Board of Education, including prior approval of such bid by the  
449 State Department of Education.

450                   (d) **Lowest and best bid decision procedure.**

451                   (i) **Decision procedure.** Purchases may be made  
452 from the lowest and best bidder. In determining the lowest and  
453 best bid, freight and shipping charges shall be included.  
454 Life-cycle costing, total cost bids, warranties, guaranteed  
455 buy-back provisions and other relevant provisions may be included  
456 in the best bid calculation. All best bid procedures for state  
457 agencies must be in compliance with regulations established by the



458 Department of Finance and Administration. If any governing  
459 authority accepts a bid other than the lowest bid actually  
460 submitted, it shall place on its minutes detailed calculations and  
461 narrative summary showing that the accepted bid was determined to  
462 be the lowest and best bid, including the dollar amount of the  
463 accepted bid and the dollar amount of the lowest bid. No agency  
464 or governing authority shall accept a bid based on items not  
465 included in the specifications.

466                   (ii) **Construction project negotiations authority.**  
467 If the lowest and best bid is not more than ten percent (10%)  
468 above the amount of funds allocated for a public construction or  
469 renovation project, then the agency or governing authority shall  
470 be permitted to negotiate with the lowest bidder in order to enter  
471 into a contract for an amount not to exceed the funds allocated.

472                   (e) **Lease-purchase authorization.** For the purposes of  
473 this section, the term "equipment" shall mean equipment, furniture  
474 and, if applicable, associated software and other applicable  
475 direct costs associated with the acquisition. Any lease-purchase  
476 of equipment which an agency is not required to lease-purchase  
477 under the master lease-purchase program pursuant to Section  
478 31-7-10 and any lease-purchase of equipment which a governing  
479 authority elects to lease-purchase may be acquired by a  
480 lease-purchase agreement under this paragraph (e). Lease-purchase  
481 financing may also be obtained from the vendor or from a  
482 third-party source after having solicited and obtained at least  
483 two (2) written competitive bids, as defined in paragraph (b) of  
484 this section, for such financing without advertising for such  
485 bids. Solicitation for the bids for financing may occur before or  
486 after acceptance of bids for the purchase of such equipment or,  
487 where no such bids for purchase are required, at any time before  
488 the purchase thereof. No such lease-purchase agreement shall be  
489 for an annual rate of interest which is greater than the overall  
490 maximum interest rate to maturity on general obligation



491 indebtedness permitted under Section 75-17-101, and the term of  
492 such lease-purchase agreement shall not exceed the useful life of  
493 equipment covered thereby as determined according to the upper  
494 limit of the asset depreciation range (ADR) guidelines for the  
495 Class Life Asset Depreciation Range System established by the  
496 Internal Revenue Service pursuant to the United States Internal  
497 Revenue Code and regulations thereunder as in effect on December  
498 31, 1980, or comparable depreciation guidelines with respect to  
499 any equipment not covered by ADR guidelines. Any lease-purchase  
500 agreement entered into pursuant to this paragraph (e) may contain  
501 any of the terms and conditions which a master lease-purchase  
502 agreement may contain under the provisions of Section 31-7-10(5),  
503 and shall contain an annual allocation dependency clause  
504 substantially similar to that set forth in Section 31-7-10(8).  
505 Each agency or governing authority entering into a lease-purchase  
506 transaction pursuant to this paragraph (e) shall maintain with  
507 respect to each such lease-purchase transaction the same  
508 information as required to be maintained by the Department of  
509 Finance and Administration pursuant to Section 31-7-10(13).  
510 However, nothing contained in this section shall be construed to  
511 permit agencies to acquire items of equipment with a total  
512 acquisition cost in the aggregate of less than Ten Thousand  
513 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
514 equipment, and the purchase thereof by any lessor, acquired by  
515 lease-purchase under this paragraph and all lease-purchase  
516 payments with respect thereto shall be exempt from all Mississippi  
517 sales, use and ad valorem taxes. Interest paid on any  
518 lease-purchase agreement under this section shall be exempt from  
519 State of Mississippi income taxation.

520 (f) **Alternate bid authorization.** When necessary to  
521 ensure ready availability of commodities for public works and the  
522 timely completion of public projects, no more than two (2)  
523 alternate bids may be accepted by a governing authority for





524 commodities. No purchases may be made through use of such  
525 alternate bids procedure unless the lowest and best bidder, for  
526 reasons beyond his control, cannot deliver the commodities  
527 contained in his bid. In that event, purchases of such  
528 commodities may be made from one (1) of the bidders whose bid was  
529 accepted as an alternate.

530           (g) **Construction contract change authorization.** In the  
531 event a determination is made by an agency or governing authority  
532 after a construction contract is let that changes or modifications  
533 to the original contract are necessary or would better serve the  
534 purpose of the agency or the governing authority, such agency or  
535 governing authority may, in its discretion, order such changes  
536 pertaining to the construction that are necessary under the  
537 circumstances without the necessity of further public bids;  
538 provided that such change shall be made in a commercially  
539 reasonable manner and shall not be made to circumvent the public  
540 purchasing statutes. In addition to any other authorized person,  
541 the architect or engineer hired by an agency or governing  
542 authority with respect to any public construction contract shall  
543 have the authority, when granted by an agency or governing  
544 authority, to authorize changes or modifications to the original  
545 contract without the necessity of prior approval of the agency or  
546 governing authority when any such change or modification is less  
547 than one percent (1%) of the total contract amount. The agency or  
548 governing authority may limit the number, manner or frequency of  
549 such emergency changes or modifications.

550           (h) **Petroleum purchase alternative.** In addition to  
551 other methods of purchasing authorized in this chapter, when any  
552 agency or governing authority shall have a need for gas, diesel  
553 fuel, oils and/or other petroleum products in excess of the amount  
554 set forth in paragraph (a) of this section, such agency or  
555 governing authority may purchase the commodity after having  
556 solicited and obtained at least two (2) competitive written bids,



557 as defined in paragraph (b) of this section. If two (2)  
558 competitive written bids are not obtained the entity shall comply  
559 with the procedures set forth in paragraph (c) of this section.  
560 In the event any agency or governing authority shall have  
561 advertised for bids for the purchase of gas, diesel fuel, oils and  
562 other petroleum products and coal and no acceptable bids can be  
563 obtained, such agency or governing authority is authorized and  
564 directed to enter into any negotiations necessary to secure the  
565 lowest and best contract available for the purchase of such  
566 commodities.

567           (i) **Road construction petroleum products price**  
568 **adjustment clause authorization.** Any agency or governing  
569 authority authorized to enter into contracts for the construction,  
570 maintenance, surfacing or repair of highways, roads or streets,  
571 may include in its bid proposal and contract documents a price  
572 adjustment clause with relation to the cost to the contractor,  
573 including taxes, based upon an industry-wide cost index, of  
574 petroleum products including asphalt used in the performance or  
575 execution of the contract or in the production or manufacture of  
576 materials for use in such performance. Such industry-wide index  
577 shall be established and published monthly by the Mississippi  
578 Department of Transportation with a copy thereof to be mailed,  
579 upon request, to the clerks of the governing authority of each  
580 municipality and the clerks of each board of supervisors  
581 throughout the state. The price adjustment clause shall be based  
582 on the cost of such petroleum products only and shall not include  
583 any additional profit or overhead as part of the adjustment. The  
584 bid proposals or document contract shall contain the basis and  
585 methods of adjusting unit prices for the change in the cost of  
586 such petroleum products.

587           (j) **State agency emergency purchase procedure.** If the  
588 executive head of any agency of the state shall determine that an  
589 emergency exists in regard to the purchase of any commodities or



590 repair contracts, so that the delay incident to giving opportunity  
591 for competitive bidding would be detrimental to the interests of  
592 the state, then the provisions herein for competitive bidding  
593 shall not apply and the head of such agency shall be authorized to  
594 make the purchase or repair. Total purchases so made shall only  
595 be for the purpose of meeting needs created by the emergency  
596 situation. In the event such executive head is responsible to an  
597 agency board, at the meeting next following the emergency  
598 purchase, documentation of the purchase, including a description  
599 of the commodity purchased, the purchase price thereof and the  
600 nature of the emergency shall be presented to the board and placed  
601 on the minutes of the board of such agency. The head of such  
602 agency shall, at the earliest possible date following such  
603 emergency purchase, file with the Department of Finance and  
604 Administration (i) a statement under oath certifying the  
605 conditions and circumstances of the emergency, and (ii) a  
606 certified copy of the appropriate minutes of the board of such  
607 agency, if applicable. On or before September 1 of each year, the  
608 State Auditor shall prepare and deliver to the Senate Fees,  
609 Salaries and Administration Committee, the House Fees and Salaries  
610 of Public Officers Committee and the Joint Legislative Budget  
611 Committee a report containing a list of all state agency emergency  
612 purchases and supporting documentation for each emergency  
613 purchases.

614 (k) **Governing authority emergency purchase procedure.**

615 If the governing authority, or the governing authority acting  
616 through its designee, shall determine that an emergency exists in  
617 regard to the purchase of any commodities or repair contracts, so  
618 that the delay incident to giving opportunity for competitive  
619 bidding would be detrimental to the interest of the governing  
620 authority, then the provisions herein for competitive bidding  
621 shall not apply and any officer or agent of such governing  
622 authority having general or special authority therefor in making



623 such purchase or repair shall approve the bill presented therefor,  
624 and he shall certify in writing thereon from whom such purchase  
625 was made, or with whom such a repair contract was made. At the  
626 board meeting next following the emergency purchase or repair  
627 contract, documentation of the purchase or repair contract,  
628 including a description of the commodity purchased, the price  
629 thereof and the nature of the emergency shall be presented to the  
630 board and shall be placed on the minutes of the board of such  
631 governing authority.

632 (1) **Hospital purchase, lease-purchase and lease**  
633 **authorization.**

634 (i) The commissioners or board of trustees of any  
635 public hospital may contract with such lowest and best bidder for  
636 the purchase or lease-purchase of any commodity under a contract  
637 of purchase or lease-purchase agreement whose obligatory payment  
638 terms do not exceed five (5) years.

639 (ii) In addition to the authority granted in  
640 subparagraph (i) of this paragraph (1), the commissioners or board  
641 of trustees is authorized to enter into contracts for the lease of  
642 equipment or services, or both, which it considers necessary for  
643 the proper care of patients if, in its opinion, it is not  
644 financially feasible to purchase the necessary equipment or  
645 services. Any such contract for the lease of equipment or  
646 services executed by the commissioners or board shall not exceed a  
647 maximum of five (5) years' duration and shall include a  
648 cancellation clause based on unavailability of funds. If such  
649 cancellation clause is exercised, there shall be no further  
650 liability on the part of the lessee. Any such contract for the  
651 lease of equipment or services executed on behalf of the  
652 commissioners or board that complies with the provisions of this  
653 subparagraph (ii) shall be excepted from the bid requirements set  
654 forth in this section.



655                   (m) **Exceptions from bidding requirements.** Excepted  
656 from bid requirements are:

657                   (i) **Purchasing agreements approved by department.**  
658 Purchasing agreements, contracts and maximum price regulations  
659 executed or approved by the Department of Finance and  
660 Administration.

661                   (ii) **Outside equipment repairs.** Repairs to  
662 equipment, when such repairs are made by repair facilities in the  
663 private sector; however, engines, transmissions, rear axles and/or  
664 other such components shall not be included in this exemption when  
665 replaced as a complete unit instead of being repaired and the need  
666 for such total component replacement is known before disassembly  
667 of the component; provided, however, that invoices identifying the  
668 equipment, specific repairs made, parts identified by number and  
669 name, supplies used in such repairs, and the number of hours of  
670 labor and costs therefor shall be required for the payment for  
671 such repairs.

672                   (iii) **In-house equipment repairs.** Purchases of  
673 parts for repairs to equipment, when such repairs are made by  
674 personnel of the agency or governing authority; however, entire  
675 assemblies, such as engines or transmissions, shall not be  
676 included in this exemption when the entire assembly is being  
677 replaced instead of being repaired.

678                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
679 of gravel or fill dirt which are to be removed and transported by  
680 the purchaser.

681                   (v) **Governmental equipment auctions.** Motor  
682 vehicles or other equipment purchased from a federal or state  
683 agency or a governing authority at a public auction held for the  
684 purpose of disposing of such vehicles or other equipment. Any  
685 purchase by a governing authority under the exemption authorized  
686 by this subparagraph (v) shall require advance authorization  
687 spread upon the minutes of the governing authority to include the



688 listing of the item or items authorized to be purchased and the  
689 maximum bid authorized to be paid for each item or items.

690 (vi) **Intergovernmental sales and transfers.**

691 Purchases, sales, transfers or trades by governing authorities or  
692 state agencies when such purchases, sales, transfers or trades are  
693 made by a private treaty agreement or through means of  
694 negotiation, from any federal agency or authority, another  
695 governing authority or state agency of the State of Mississippi,  
696 or any state agency of another state. Nothing in this section  
697 shall permit such purchases through public auction except as  
698 provided for in subparagraph (v) of this section. It is the  
699 intent of this section to allow governmental entities to dispose  
700 of and/or purchase commodities from other governmental entities at  
701 a price that is agreed to by both parties. This shall allow for  
702 purchases and/or sales at prices which may be determined to be  
703 below the market value if the selling entity determines that the  
704 sale at below market value is in the best interest of the  
705 taxpayers of the state. Governing authorities shall place the  
706 terms of the agreement and any justification on the minutes, and  
707 state agencies shall obtain approval from the Department of  
708 Finance and Administration, prior to releasing or taking  
709 possession of the commodities.

710 (vii) **Perishable supplies or food.** Perishable  
711 supplies or foods purchased for use in connection with hospitals,  
712 the school lunch programs, homemaking programs and for the feeding  
713 of county or municipal prisoners.

714 (viii) **Single source items.** Noncompetitive items  
715 available from one (1) source only. In connection with the  
716 purchase of noncompetitive items only available from one (1)  
717 source, a certification of the conditions and circumstances  
718 requiring the purchase shall be filed by the agency with the  
719 Department of Finance and Administration and by the governing  
720 authority with the board of the governing authority. Upon receipt



721 of that certification the Department of Finance and Administration  
722 or the board of the governing authority, as the case may be, may,  
723 in writing, authorize the purchase, which authority shall be noted  
724 on the minutes of the body at the next regular meeting thereafter.  
725 In those situations, a governing authority is not required to  
726 obtain the approval of the Department of Finance and  
727 Administration.

728                   (ix) **Waste disposal facility construction**  
729 **contracts.** Construction of incinerators and other facilities for  
730 disposal of solid wastes in which products either generated  
731 therein, such as steam, or recovered therefrom, such as materials  
732 for recycling, are to be sold or otherwise disposed of; provided,  
733 however, in constructing such facilities a governing authority or  
734 agency shall publicly issue requests for proposals, advertised for  
735 in the same manner as provided herein for seeking bids for public  
736 construction projects, concerning the design, construction,  
737 ownership, operation and/or maintenance of such facilities,  
738 wherein such requests for proposals when issued shall contain  
739 terms and conditions relating to price, financial responsibility,  
740 technology, environmental compatibility, legal responsibilities  
741 and such other matters as are determined by the governing  
742 authority or agency to be appropriate for inclusion; and after  
743 responses to the request for proposals have been duly received,  
744 the governing authority or agency may select the most qualified  
745 proposal or proposals on the basis of price, technology and other  
746 relevant factors and from such proposals, but not limited to the  
747 terms thereof, negotiate and enter contracts with one or more of  
748 the persons or firms submitting proposals.

749                   (x) **Hospital group purchase contracts.** Supplies,  
750 commodities and equipment purchased by hospitals through group  
751 purchase programs pursuant to Section 31-7-38.

752                   (xi) **Information technology products.** Purchases  
753 of information technology products made by governing authorities



754 under the provisions of purchase schedules, or contracts executed  
755 or approved by the Mississippi Department of Information  
756 Technology Services and designated for use by governing  
757 authorities.

758                   (xii) **Energy efficiency services and equipment.**  
759 Energy efficiency services and equipment acquired by school  
760 districts, community and junior colleges, institutions of higher  
761 learning and state agencies or other applicable governmental  
762 entities on a shared-savings, lease or lease-purchase basis  
763 pursuant to Section 31-7-14.

764                   (xiii) **Municipal electrical utility system fuel.**  
765 Purchases of coal and/or natural gas by municipally-owned electric  
766 power generating systems that have the capacity to use both coal  
767 and natural gas for the generation of electric power.

768                   (xiv) **Library books and other reference materials.**  
769 Purchases by libraries or for libraries of books and periodicals;  
770 processed film, video cassette tapes, filmstrips and slides;  
771 recorded audio tapes, cassettes and diskettes; and any such items  
772 as would be used for teaching, research or other information  
773 distribution; however, equipment such as projectors, recorders,  
774 audio or video equipment, and monitor televisions are not exempt  
775 under this subparagraph.

776                   (xv) **Unmarked vehicles.** Purchases of unmarked  
777 vehicles when such purchases are made in accordance with  
778 purchasing regulations adopted by the Department of Finance and  
779 Administration pursuant to Section 31-7-9(2).

780                   (xvi) **Election ballots.** Purchases of ballots  
781 printed pursuant to Section 23-15-351.

782                   (xvii) **Multichannel interactive video systems.**  
783 From and after July 1, 1990, contracts by Mississippi Authority  
784 for Educational Television with any private educational  
785 institution or private nonprofit organization whose purposes are  
786 educational in regard to the construction, purchase, lease or





787 lease-purchase of facilities and equipment and the employment of  
788 personnel for providing multichannel interactive video systems  
789 (ITSF) in the school districts of this state.

790 (xviii) **Purchases of prison industry products.**

791 From and after January 1, 1991, purchases made by state agencies  
792 or governing authorities involving any item that is manufactured,  
793 processed, grown or produced from the state's prison industries.

794 (xix) **Undercover operations equipment.** Purchases  
795 of surveillance equipment or any other high-tech equipment to be  
796 used by law enforcement agents in undercover operations, provided  
797 that any such purchase shall be in compliance with regulations  
798 established by the Department of Finance and Administration.

799 (xx) **Junior college books for rent.** Purchases by  
800 community or junior colleges of textbooks which are obtained for  
801 the purpose of renting such books to students as part of a book  
802 service system.

803 (xxi) **Certain school district purchases.**

804 Purchases of commodities made by school districts from vendors  
805 with which any levying authority of the school district, as  
806 defined in Section 37-57-1, has contracted through competitive  
807 bidding procedures for purchases of the same commodities.

808 (xxii) **Garbage, solid waste and sewage contracts.**

809 Contracts for garbage collection or disposal, contracts for solid  
810 waste collection or disposal and contracts for sewage collection  
811 or disposal.

812 (xxiii) **Municipal water tank maintenance**

813 **contracts.** Professional maintenance program contracts for the  
814 repair or maintenance of municipal water tanks, which provide  
815 professional services needed to maintain municipal water storage  
816 tanks for a fixed annual fee for a duration of two (2) or more  
817 years.

818 (xxiv) **Purchases of Mississippi Industries for the**

819 **Blind products.** Purchases made by state agencies or governing



820 authorities involving any item that is manufactured, processed or  
821 produced by the Mississippi Industries for the Blind.

822 (xxv) **Purchases of state-adopted textbooks.**

823 Purchases of state-adopted textbooks by public school districts.

824 (xxvi) **Certain purchases under the Mississippi**

825 **Major Economic Impact Act.** Contracts entered into pursuant to the  
826 provisions of Section 57-75-9(2) and (3).

827 (xxvii) **Used heavy or specialized machinery or**  
828 **equipment for installation of soil and water conservation**

829 **practices purchased at auction.** Used heavy or specialized

830 machinery or equipment used for the installation and

831 implementation of soil and water conservation practices or

832 measures purchased subject to the restrictions provided in

833 Sections 69-27-331 through 69-27-341. Any purchase by the State

834 Soil and Water Conservation Commission under the exemption

835 authorized by this subparagraph shall require advance

836 authorization spread upon the minutes of the commission to include

837 the listing of the item or items authorized to be purchased and

838 the maximum bid authorized to be paid for each item or items.

839 (xxviii) **Hospital lease of equipment or services.**

840 Leases by hospitals of equipment or services if the leases are in

841 compliance with paragraph (1)(ii).

842 (n) **Term contract authorization.** All contracts for the  
843 purchase of:

844 (i) All contracts for the purchase of commodities,

845 equipment and public construction (including, but not limited to,

846 repair and maintenance), may be let for periods of not more than

847 sixty (60) months in advance, subject to applicable statutory

848 provisions prohibiting the letting of contracts during specified

849 periods near the end of terms of office. Term contracts for a

850 period exceeding twenty-four (24) months shall also be subject to

851 ratification or cancellation by governing authority boards taking



852 office subsequent to the governing authority board entering the  
853 contract.

854 (ii) Bid proposals and contracts may include price  
855 adjustment clauses with relation to the cost to the contractor  
856 based upon a nationally published industry-wide or nationally  
857 published and recognized cost index. The cost index used in a  
858 price adjustment clause shall be determined by the Department of  
859 Finance and Administration for the state agencies and by the  
860 governing board for governing authorities. The bid proposal and  
861 contract documents utilizing a price adjustment clause shall  
862 contain the basis and method of adjusting unit prices for the  
863 change in the cost of such commodities, equipment and public  
864 construction.

865 (o) **Purchase law violation prohibition and vendor**  
866 **penalty.** No contract or purchase as herein authorized shall be  
867 made for the purpose of circumventing the provisions of this  
868 section requiring competitive bids, nor shall it be lawful for any  
869 person or concern to submit individual invoices for amounts within  
870 those authorized for a contract or purchase where the actual value  
871 of the contract or commodity purchased exceeds the authorized  
872 amount and the invoices therefor are split so as to appear to be  
873 authorized as purchases for which competitive bids are not  
874 required. Submission of such invoices shall constitute a  
875 misdemeanor punishable by a fine of not less than Five Hundred  
876 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
877 or by imprisonment for thirty (30) days in the county jail, or  
878 both such fine and imprisonment. In addition, the claim or claims  
879 submitted shall be forfeited.

880 (p) **Electrical utility petroleum-based equipment**  
881 **purchase procedure.** When in response to a proper advertisement  
882 therefor, no bid firm as to price is submitted to an electric  
883 utility for power transformers, distribution transformers, power  
884 breakers, reclosers or other articles containing a petroleum



885 product, the electric utility may accept the lowest and best bid  
886 therefor although the price is not firm.

887           (q) **Fuel management system bidding procedure.** Any  
888 governing authority or agency of the state shall, before  
889 contracting for the services and products of a fuel management or  
890 fuel access system, enter into negotiations with not fewer than  
891 two (2) sellers of fuel management or fuel access systems for  
892 competitive written bids to provide the services and products for  
893 the systems. In the event that the governing authority or agency  
894 cannot locate two (2) sellers of such systems or cannot obtain  
895 bids from two (2) sellers of such systems, it shall show proof  
896 that it made a diligent, good-faith effort to locate and negotiate  
897 with two (2) sellers of such systems. Such proof shall include,  
898 but not be limited to, publications of a request for proposals and  
899 letters soliciting negotiations and bids. For purposes of this  
900 paragraph (q), a fuel management or fuel access system is an  
901 automated system of acquiring fuel for vehicles as well as  
902 management reports detailing fuel use by vehicles and drivers, and  
903 the term "competitive written bid" shall have the meaning as  
904 defined in paragraph (b) of this section. Governing authorities  
905 and agencies shall be exempt from this process when contracting  
906 for the services and products of a fuel management or fuel access  
907 systems under the terms of a state contract established by the  
908 Office of Purchasing and Travel.

909           (r) **Solid waste contract proposal procedure.** Before  
910 entering into any contract for garbage collection or disposal,  
911 contract for solid waste collection or disposal or contract for  
912 sewage collection or disposal, which involves an expenditure of  
913 more than Fifty Thousand Dollars (\$50,000.00), a governing  
914 authority or agency shall issue publicly a request for proposals  
915 concerning the specifications for such services which shall be  
916 advertised for in the same manner as provided in this section for  
917 seeking bids for purchases which involve an expenditure of more



918 than Ten Thousand Dollars (\$10,000.00). Any request for proposals  
919 when issued shall contain terms and conditions relating to price,  
920 financial responsibility, technology, legal responsibilities and  
921 other relevant factors as are determined by the governing  
922 authority or agency to be appropriate for inclusion; all factors  
923 determined relevant by the governing authority or agency or  
924 required by this paragraph (r) shall be duly included in the  
925 advertisement to elicit proposals. After responses to the request  
926 for proposals have been duly received, the governing authority or  
927 agency shall select the most qualified proposal or proposals on  
928 the basis of price, technology and other relevant factors and from  
929 such proposals, but not limited to the terms thereof, negotiate  
930 and enter contracts with one or more of the persons or firms  
931 submitting proposals. If the governing authority or agency deems  
932 none of the proposals to be qualified or otherwise acceptable, the  
933 request for proposals process may be reinitiated. Notwithstanding  
934 any other provisions of this paragraph, where a county with at  
935 least thirty-five thousand (35,000) nor more than forty thousand  
936 (40,000) population, according to the 1990 federal decennial  
937 census, owns or operates a solid waste landfill, the governing  
938 authorities of any other county or municipality may contract with  
939 the governing authorities of the county owning or operating the  
940 landfill, pursuant to a resolution duly adopted and spread upon  
941 the minutes of each governing authority involved, for garbage or  
942 solid waste collection or disposal services through contract  
943 negotiations.

944 (s) **Minority set aside authorization.** Notwithstanding  
945 any provision of this section to the contrary, any agency or  
946 governing authority, by order placed on its minutes, may, in its  
947 discretion, set aside not more than twenty percent (20%) of its  
948 anticipated annual expenditures for the purchase of commodities  
949 from minority businesses; however, all such set-aside purchases  
950 shall comply with all purchasing regulations promulgated by the



951 Department of Finance and Administration and shall be subject to  
952 bid requirements under this section. Set-aside purchases for  
953 which competitive bids are required shall be made from the lowest  
954 and best minority business bidder. For the purposes of this  
955 paragraph, the term "minority business" means a business which is  
956 owned by a majority of persons who are United States citizens or  
957 permanent resident aliens (as defined by the Immigration and  
958 Naturalization Service) of the United States, and who are Asian,  
959 Black, Hispanic or Native American, according to the following  
960 definitions:

961 (i) "Asian" means persons having origins in any of  
962 the original people of the Far East, Southeast Asia, the Indian  
963 subcontinent, or the Pacific Islands.

964 (ii) "Black" means persons having origins in any  
965 black racial group of Africa.

966 (iii) "Hispanic" means persons of Spanish or  
967 Portuguese culture with origins in Mexico, South or Central  
968 America, or the Caribbean Islands, regardless of race.

969 (iv) "Native American" means persons having  
970 origins in any of the original people of North America, including  
971 American Indians, Eskimos and Aleuts.

972 (t) **Construction punch list restriction.** The  
973 architect, engineer or other representative designated by the  
974 agency or governing authority that is contracting for public  
975 construction or renovation may prepare and submit to the  
976 contractor only one (1) preliminary punch list of items that do  
977 not meet the contract requirements at the time of substantial  
978 completion and one (1) final list immediately before final  
979 completion and final payment.

980 (u) **Contracts subject to Section 1 of this act.**  
981 Contracts by agencies and governing authorities under this chapter  
982 shall be subject to the provisions of Section 1 of this act.



983           (v)   **Purchase authorization clarification.**   Nothing in  
984 this section shall be construed as authorizing any purchase not  
985 authorized by law.

986           **SECTION 6.**   Section 31-7-38, Mississippi Code of 1972, is  
987 amended as follows:

988           31-7-38.   The board of trustees or governing board of any  
989 hospital or regional mental health center owned or owned and  
990 operated separately or jointly by the State of Mississippi or any  
991 of its branches, agencies, departments or subdivisions, or by one  
992 or more counties, cities, towns, supervisors districts or election  
993 districts, or combinations thereof, may authorize by resolution  
994 the organization and operation of, or the participation in, a  
995 group purchasing program with other hospitals or regional mental  
996 health centers, for the purchase of supplies, commodities and  
997 equipment when it appears to the board of trustees or governing  
998 board that such a group purchasing program could or would affect  
999 economy or efficiency in their operations.   Purchases by hospitals  
1000 or regional mental health centers participating in group  
1001 purchasing programs of supplies, commodities and equipment through  
1002 such programs shall be exempt from the provisions of Sections  
1003 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13.   However, group  
1004 purchase program contracts shall be subject to the provisions of  
1005 Section 1 of this act.   The Mississippi Department of Mental  
1006 health shall develop and submit to the Chairmen of the Senate and  
1007 House Appropriations Committees a report analyzing the savings and  
1008 economic benefits of the group purchasing program authorized under  
1009 this section for state hospitals or regional mental health centers  
1010 compared to the purchasing procedures authorized prior to passage  
1011 of Laws, 2001, Chapter 473.   This section shall stand repealed on  
1012 July 1, 2005.

1013           **SECTION 7.**   This act shall take effect and be in force from  
1014 and after July 1, 2003.

