

By: Senator(s) Kirby

To: Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2371  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, AS  
2 AMENDED BY SENATE BILL NO. 2806 AND SENATE BILL NO. 2818, 2022  
3 REGULAR SESSION, TO INCREASE THE THRESHOLD FOR BID REQUIREMENT  
4 UNDER THE PUBLIC PURCHASING LAW; TO PROVIDE THAT REVERSE AUCTIONS  
5 SHALL ONLY BE REQUIRED FOR INDIVIDUAL PUBLIC SCHOOLS, CHARTER  
6 SCHOOLS AND SCHOOL DISTRICTS, WHEN PURCHASING COPYRIGHTED  
7 EDUCATIONAL SUPPLEMENTAL MATERIALS AND SOFTWARE AS A SERVICE  
8 PRODUCT; TO ALLOW LOCAL SCHOOL BOARDS TO AUTHORIZE A PURCHASING  
9 ENTITY IN ITS JURISDICTION TO USE A REQUEST FOR QUALIFICATIONS  
10 WHICH PROMOTES OPEN COMPETITION AND MEETS THE REQUIREMENTS OF THE  
11 OFFICE OF PURCHASING AND TRAVEL FOR SUCH PURCHASES; TO CLARIFY  
12 THAT A PURCHASING ENTITY MAY, IN ITS DISCRETION, USE REVERSE  
13 AUCTION FOR TERM CONTRACT PURCHASES; TO CLARIFY UNDER THE PUBLIC  
14 PURCHASING LAW THAT REVERSE AUCTION SHALL NOT BE USED FOR THE  
15 IMPROVEMENT, REPAIR OR REMODELING OF ANY PUBLIC FACILITIES,  
16 INCLUDING THE PURCHASE OF MATERIALS, SUPPLIES, EQUIPMENT OR GOODS  
17 FOR SAME; TO PROVIDE THAT CERTAIN PURCHASES MADE BY THE DEPARTMENT  
18 OF HEALTH AND/OR THE DEPARTMENT OF REVENUE SOLELY FOR THE PURPOSE  
19 OF FULFILLING THEIR RESPECTIVE RESPONSIBILITIES UNDER THE  
20 MISSISSIPPI MEDICAL CANNABIS ACT TO BE EXEMPT FROM CERTAIN BIDDING  
21 REQUIREMENTS; AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** Section 31-7-13, Mississippi Code of 1972, as  
24 amended by Senate Bill No. 2806 and Senate Bill No. 2818, 2022  
25 Regular Session, is amended as follows:

26 31-7-13. All agencies and governing authorities shall  
27 purchase their commodities and printing; contract for garbage



28 collection or disposal; contract for solid waste collection or  
29 disposal; contract for sewage collection or disposal; contract for  
30 public construction; and contract for rentals as herein provided.

31 (a) **Bidding procedure for purchases not over \$5,000.00.**

32 Purchases which do not involve an expenditure of more than Five  
33 Thousand Dollars (\$5,000.00), exclusive of freight or shipping  
34 charges, may be made without advertising or otherwise requesting  
35 competitive bids. However, nothing contained in this paragraph  
36 (a) shall be construed to prohibit any agency or governing  
37 authority from establishing procedures which require competitive  
38 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

39 (b) **Bidding procedure for purchases over \$5,000.00 but  
40 not over \* \* \* \$75,000.00.** Purchases which involve an expenditure

41 of more than Five Thousand Dollars (\$5,000.00) but not more  
42 than \* \* \* Seventy-five Thousand Dollars (\$75,000.00), exclusive  
43 of freight and shipping charges, may be made from the lowest and  
44 best bidder without publishing or posting advertisement for bids,  
45 provided at least two (2) competitive written bids have been  
46 obtained. Any state agency or community/junior college purchasing  
47 commodities or procuring construction pursuant to this paragraph

48 (b) may authorize its purchasing agent, or his designee, to accept  
49 the lowest competitive written bid under \* \* \* Seventy-five  
50 Thousand Dollars (\$75,000.00). Any governing authority purchasing  
51 commodities pursuant to this paragraph (b) may authorize its  
52 purchasing agent, or his designee, with regard to governing



53 authorities other than counties, or its purchase clerk, or his  
54 designee, with regard to counties, to accept the lowest and best  
55 competitive written bid. Such authorization shall be made in  
56 writing by the governing authority and shall be maintained on file  
57 in the primary office of the agency and recorded in the official  
58 minutes of the governing authority, as appropriate. The  
59 purchasing agent or the purchase clerk, or his designee, as the  
60 case may be, and not the governing authority, shall be liable for  
61 any penalties and/or damages as may be imposed by law for any act  
62 or omission of the purchasing agent or purchase clerk, or his  
63 designee, constituting a violation of law in accepting any bid  
64 without approval by the governing authority. The term  
65 "competitive written bid" shall mean a bid submitted on a bid form  
66 furnished by the buying agency or governing authority and signed  
67 by authorized personnel representing the vendor, or a bid  
68 submitted on a vendor's letterhead or identifiable bid form and  
69 signed by authorized personnel representing the vendor.  
70 "Competitive" shall mean that the bids are developed based upon  
71 comparable identification of the needs and are developed  
72 independently and without knowledge of other bids or prospective  
73 bids. Any bid item for construction in excess of Five Thousand  
74 Dollars (\$5,000.00) shall be broken down by components to provide  
75 detail of component description and pricing. These details shall  
76 be submitted with the written bids and become part of the bid  
77 evaluation criteria. Bids may be submitted by facsimile,



78 electronic mail or other generally accepted method of information  
79 distribution. Bids submitted by electronic transmission shall not  
80 require the signature of the vendor's representative unless  
81 required by agencies or governing authorities.

82 (c) **Bidding procedure for purchases over \* \* \***  
83 **\$75,000.00.**

84 (i) **Publication requirement.**

85 1. Purchases which involve an expenditure of  
86 more than \* \* \* Seventy-five Thousand Dollars (\$75,000.00),  
87 exclusive of freight and shipping charges, may be made from the  
88 lowest and best bidder after advertising for competitive bids once  
89 each week for two (2) consecutive weeks in a regular newspaper  
90 published in the county or municipality in which such agency or  
91 governing authority is located. However, all American Recovery  
92 and Reinvestment Act projects in excess of Twenty-five Thousand  
93 Dollars (\$25,000.00) shall be bid. All references to American  
94 Recovery and Reinvestment Act projects in this section shall not  
95 apply to programs identified in Division B of the American  
96 Recovery and Reinvestment Act.

97 2. Reverse auctions shall be the primary  
98 method for receiving bids during the bidding process. If a  
99 purchasing entity determines that a reverse auction is not in the  
100 best interest of the state, then that determination must be  
101 approved by the Public Procurement Review Board. The purchasing  
102 entity shall submit a detailed explanation of why a reverse



103 auction would not be in the best interest of the state and present  
104 an alternative process to be approved by the Public Procurement  
105 Review Board. If the Public Procurement Review Board authorizes  
106 the purchasing entity to solicit bids with a method other than  
107 reverse auction, then the purchasing entity may designate the  
108 other methods by which the bids will be received, including, but  
109 not limited to, bids sealed in an envelope, bids received  
110 electronically in a secure system, or bids received by any other  
111 method that promotes open competition and has been approved by the  
112 Office of Purchasing and Travel. However, reverse auction shall  
113 not be used for any public contract for design, construction,  
114 improvement, repair or remodeling of any public facilities,  
115 including the purchase of materials, supplies, equipment or goods  
116 for same and including buildings, roads and bridges \* \* \*. The  
117 Public Procurement Review Board must approve any contract entered  
118 into by alternative process. The provisions of this item 2 shall  
119 not apply to the individual state institutions of higher learning.  
120 The provisions of this item 2 requiring reverse auction as the  
121 primary method of receiving bids shall not apply to term contract  
122 purchases as provided in paragraph (n) of this section; however, a  
123 purchasing entity may, in its discretion, utilize reverse auction  
124 for such purchases. The provisions of this item 2 shall not apply  
125 to individual public schools, including public charter schools and  
126 public school districts, only when purchasing copyrighted  
127 educational supplemental materials and software as a service



128 product. For such purchases, a local school board may authorize a  
129 purchasing entity in its jurisdiction to use a Request for  
130 Qualifications which promotes open competition and meets the  
131 requirements of the Office of Purchasing and Travel.

132 3. The date as published for the bid opening  
133 shall not be less than seven (7) working days after the last  
134 published notice; however, if the purchase involves a construction  
135 project in which the estimated cost is in excess of \* \* \*  
136 Seventy-five Thousand Dollars (\$75,000.00), such bids shall not be  
137 opened in less than fifteen (15) working days after the last  
138 notice is published and the notice for the purchase of such  
139 construction shall be published once each week for two (2)  
140 consecutive weeks. However, all American Recovery and  
141 Reinvestment Act projects in excess of Twenty-five Thousand  
142 Dollars (\$25,000.00) shall be bid. For any projects in excess of  
143 Twenty-five Thousand Dollars (\$25,000.00) under the American  
144 Recovery and Reinvestment Act, publication shall be made one (1)  
145 time and the bid opening for construction projects shall not be  
146 less than ten (10) working days after the date of the published  
147 notice. The notice of intention to let contracts or purchase  
148 equipment shall state the time and place at which bids shall be  
149 received, list the contracts to be made or types of equipment or  
150 supplies to be purchased, and, if all plans and/or specifications  
151 are not published, refer to the plans and/or specifications on  
152 file. If there is no newspaper published in the county or



153 municipality, then such notice shall be given by posting same at  
154 the courthouse, or for municipalities at the city hall, and at two  
155 (2) other public places in the county or municipality, and also by  
156 publication once each week for two (2) consecutive weeks in some  
157 newspaper having a general circulation in the county or  
158 municipality in the above-provided manner. On the same date that  
159 the notice is submitted to the newspaper for publication, the  
160 agency or governing authority involved shall mail written notice  
161 to, or provide electronic notification to the main office of the  
162 Mississippi Procurement Technical Assistance Program under the  
163 Mississippi Development Authority that contains the same  
164 information as that in the published notice. Submissions received  
165 by the Mississippi Procurement Technical Assistance Program for  
166 projects funded by the American Recovery and Reinvestment Act  
167 shall be displayed on a separate and unique Internet web page  
168 accessible to the public and maintained by the Mississippi  
169 Development Authority for the Mississippi Procurement Technical  
170 Assistance Program. Those American Recovery and Reinvestment Act  
171 related submissions shall be publicly posted within twenty-four  
172 (24) hours of receipt by the Mississippi Development Authority and  
173 the bid opening shall not occur until the submission has been  
174 posted for ten (10) consecutive days. The Department of Finance  
175 and Administration shall maintain information regarding contracts  
176 and other expenditures from the American Recovery and Reinvestment  
177 Act, on a unique Internet web page accessible to the public. The



178 Department of Finance and Administration shall promulgate rules  
179 regarding format, content and deadlines, unless otherwise  
180 specified by law, of the posting of award notices, contract  
181 execution and subsequent amendments, links to the contract  
182 documents, expenditures against the awarded contracts and general  
183 expenditures of funds from the American Recovery and Reinvestment  
184 Act. Within one (1) working day of the contract award, the agency  
185 or governing authority shall post to the designated web page  
186 maintained by the Department of Finance and Administration, notice  
187 of the award, including the award recipient, the contract amount,  
188 and a brief summary of the contract in accordance with rules  
189 promulgated by the department. Within one (1) working day of the  
190 contract execution, the agency or governing authority shall post  
191 to the designated web page maintained by the Department of Finance  
192 and Administration a summary of the executed contract and make a  
193 copy of the appropriately redacted contract documents available  
194 for linking to the designated web page in accordance with the  
195 rules promulgated by the department. The information provided by  
196 the agency or governing authority shall be posted to the web page  
197 for the duration of the American Recovery and Reinvestment Act  
198 funding or until the project is completed, whichever is longer.

199 (ii) **Bidding process amendment procedure.** If all  
200 plans and/or specifications are published in the notification,  
201 then the plans and/or specifications may not be amended. If all  
202 plans and/or specifications are not published in the notification,





203 then amendments to the plans/specifications, bid opening date, bid  
204 opening time and place may be made, provided that the agency or  
205 governing authority maintains a list of all prospective bidders  
206 who are known to have received a copy of the bid documents and all  
207 such prospective bidders are sent copies of all amendments. This  
208 notification of amendments may be made via mail, facsimile,  
209 electronic mail or other generally accepted method of information  
210 distribution. No addendum to bid specifications may be issued  
211 within two (2) working days of the time established for the  
212 receipt of bids unless such addendum also amends the bid opening  
213 to a date not less than five (5) working days after the date of  
214 the addendum.

215 (iii) **Filing requirement.** In all cases involving  
216 governing authorities, before the notice shall be published or  
217 posted, the plans or specifications for the construction or  
218 equipment being sought shall be filed with the clerk of the board  
219 of the governing authority. In addition to these requirements, a  
220 bid file shall be established which shall indicate those vendors  
221 to whom such solicitations and specifications were issued, and  
222 such file shall also contain such information as is pertinent to  
223 the bid.

224 (iv) **Specification restrictions.**

225 1. Specifications pertinent to such bidding  
226 shall be written so as not to exclude comparable equipment of  
227 domestic manufacture. However, if valid justification is



228 presented, the Department of Finance and Administration or the  
229 board of a governing authority may approve a request for specific  
230 equipment necessary to perform a specific job. Further, such  
231 justification, when placed on the minutes of the board of a  
232 governing authority, may serve as authority for that governing  
233 authority to write specifications to require a specific item of  
234 equipment needed to perform a specific job. In addition to these  
235 requirements, from and after July 1, 1990, vendors of relocatable  
236 classrooms and the specifications for the purchase of such  
237 relocatable classrooms published by local school boards shall meet  
238 all pertinent regulations of the State Board of Education,  
239 including prior approval of such bid by the State Department of  
240 Education.

241                   2. Specifications for construction projects  
242 may include an allowance for commodities, equipment, furniture,  
243 construction materials or systems in which prospective bidders are  
244 instructed to include in their bids specified amounts for such  
245 items so long as the allowance items are acquired by the vendor in  
246 a commercially reasonable manner and approved by the  
247 agency/governing authority. Such acquisitions shall not be made  
248 to circumvent the public purchasing laws.

249                   (v) **Electronic bids.** Agencies and governing  
250 authorities shall provide a secure electronic interactive system  
251 for the submittal of bids requiring competitive bidding that shall  
252 be an additional bidding option for those bidders who choose to



253 submit their bids electronically. The Department of Finance and  
254 Administration shall provide, by regulation, the standards that  
255 agencies must follow when receiving electronic bids. Agencies and  
256 governing authorities shall make the appropriate provisions  
257 necessary to accept electronic bids from those bidders who choose  
258 to submit their bids electronically for all purchases requiring  
259 competitive bidding under this section. Any special condition or  
260 requirement for the electronic bid submission shall be specified  
261 in the advertisement for bids required by this section. Agencies  
262 or governing authorities that are currently without available high  
263 speed Internet access shall be exempt from the requirement of this  
264 subparagraph (v) until such time that high speed Internet access  
265 becomes available. Any county having a population of less than  
266 twenty thousand (20,000) shall be exempt from the provisions of  
267 this subparagraph (v). Any municipality having a population of  
268 less than ten thousand (10,000) shall be exempt from the  
269 provisions of this subparagraph (v). The provisions of this  
270 subparagraph (v) shall not require any bidder to submit bids  
271 electronically. When construction bids are submitted  
272 electronically, the requirement for including a certificate of  
273 responsibility, or a statement that the bid enclosed does not  
274 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
275 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
276 deemed in compliance with by including same as an attachment with  
277 the electronic bid submittal.



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

279 (i) **Decision procedure.** Purchases may be made  
280 from the lowest and best bidder. In determining the lowest and  
281 best bid, freight and shipping charges shall be included.  
282 Life-cycle costing, total cost bids, warranties, guaranteed  
283 buy-back provisions and other relevant provisions may be included  
284 in the best bid calculation. All best bid procedures for state  
285 agencies must be in compliance with regulations established by the  
286 Department of Finance and Administration. If any governing  
287 authority accepts a bid other than the lowest bid actually  
288 submitted, it shall place on its minutes detailed calculations and  
289 narrative summary showing that the accepted bid was determined to  
290 be the lowest and best bid, including the dollar amount of the  
291 accepted bid and the dollar amount of the lowest bid. No agency  
292 or governing authority shall accept a bid based on items not  
293 included in the specifications.

294 (ii) **Decision procedure for Certified Purchasing**  
295 **Offices.** In addition to the decision procedure set forth in  
296 subparagraph (i) of this paragraph (d), Certified Purchasing  
297 Offices may also use the following procedure: Purchases may be  
298 made from the bidder offering the best value. In determining the  
299 best value bid, freight and shipping charges shall be included.  
300 Life-cycle costing, total cost bids, warranties, guaranteed  
301 buy-back provisions, documented previous experience, training  
302 costs and other relevant provisions, including, but not limited



303 to, a bidder having a local office and inventory located within  
304 the jurisdiction of the governing authority, may be included in  
305 the best value calculation. This provision shall authorize  
306 Certified Purchasing Offices to utilize a Request For Proposals  
307 (RFP) process when purchasing commodities. All best value  
308 procedures for state agencies must be in compliance with  
309 regulations established by the Department of Finance and  
310 Administration. No agency or governing authority shall accept a  
311 bid based on items or criteria not included in the specifications.

312 (iii) **Decision procedure for Mississippi**

313 **Landmarks.** In addition to the decision procedure set forth in  
314 subparagraph (i) of this paragraph (d), where purchase involves  
315 renovation, restoration, or both, of the State Capitol Building or  
316 any other historical building designated for at least five (5)  
317 years as a Mississippi Landmark by the Board of Trustees of the  
318 Department of Archives and History under the authority of Sections  
319 39-7-7 and 39-7-11, the agency or governing authority may use the  
320 following procedure: Purchases may be made from the lowest and  
321 best prequalified bidder. Prequalification of bidders shall be  
322 determined not less than fifteen (15) working days before the  
323 first published notice of bid opening. Prequalification criteria  
324 shall be limited to bidder's knowledge and experience in  
325 historical restoration, preservation and renovation. In  
326 determining the lowest and best bid, freight and shipping charges  
327 shall be included. Life-cycle costing, total cost bids,



328 warranties, guaranteed buy-back provisions and other relevant  
329 provisions may be included in the best bid calculation. All best  
330 bid and prequalification procedures for state agencies must be in  
331 compliance with regulations established by the Department of  
332 Finance and Administration. If any governing authority accepts a  
333 bid other than the lowest bid actually submitted, it shall place  
334 on its minutes detailed calculations and narrative summary showing  
335 that the accepted bid was determined to be the lowest and best  
336 bid, including the dollar amount of the accepted bid and the  
337 dollar amount of the lowest bid. No agency or governing authority  
338 shall accept a bid based on items not included in the  
339 specifications.

340 (iv) **Construction project negotiations authority.**

341 If the lowest and best bid is not more than ten percent (10%)  
342 above the amount of funds allocated for a public construction or  
343 renovation project, then the agency or governing authority shall  
344 be permitted to negotiate with the lowest bidder in order to enter  
345 into a contract for an amount not to exceed the funds allocated.

346 (e) **Lease-purchase authorization.** For the purposes of  
347 this section, the term "equipment" shall mean equipment, furniture  
348 and, if applicable, associated software and other applicable  
349 direct costs associated with the acquisition. Any lease-purchase  
350 of equipment which an agency is not required to lease-purchase  
351 under the master lease-purchase program pursuant to Section  
352 31-7-10 and any lease-purchase of equipment which a governing



353 authority elects to lease-purchase may be acquired by a  
354 lease-purchase agreement under this paragraph (e). Lease-purchase  
355 financing may also be obtained from the vendor or from a  
356 third-party source after having solicited and obtained at least  
357 two (2) written competitive bids, as defined in paragraph (b) of  
358 this section, for such financing without advertising for such  
359 bids. Solicitation for the bids for financing may occur before or  
360 after acceptance of bids for the purchase of such equipment or,  
361 where no such bids for purchase are required, at any time before  
362 the purchase thereof. No such lease-purchase agreement shall be  
363 for an annual rate of interest which is greater than the overall  
364 maximum interest rate to maturity on general obligation  
365 indebtedness permitted under Section 75-17-101, and the term of  
366 such lease-purchase agreement shall not exceed the useful life of  
367 equipment covered thereby as determined according to the upper  
368 limit of the asset depreciation range (ADR) guidelines for the  
369 Class Life Asset Depreciation Range System established by the  
370 Internal Revenue Service pursuant to the United States Internal  
371 Revenue Code and regulations thereunder as in effect on December  
372 31, 1980, or comparable depreciation guidelines with respect to  
373 any equipment not covered by ADR guidelines. Any lease-purchase  
374 agreement entered into pursuant to this paragraph (e) may contain  
375 any of the terms and conditions which a master lease-purchase  
376 agreement may contain under the provisions of Section 31-7-10(5),  
377 and shall contain an annual allocation dependency clause



378 substantially similar to that set forth in Section 31-7-10(8).  
379 Each agency or governing authority entering into a lease-purchase  
380 transaction pursuant to this paragraph (e) shall maintain with  
381 respect to each such lease-purchase transaction the same  
382 information as required to be maintained by the Department of  
383 Finance and Administration pursuant to Section 31-7-10(13).  
384 However, nothing contained in this section shall be construed to  
385 permit agencies to acquire items of equipment with a total  
386 acquisition cost in the aggregate of less than Ten Thousand  
387 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
388 equipment, and the purchase thereof by any lessor, acquired by  
389 lease-purchase under this paragraph and all lease-purchase  
390 payments with respect thereto shall be exempt from all Mississippi  
391 sales, use and ad valorem taxes. Interest paid on any  
392 lease-purchase agreement under this section shall be exempt from  
393 State of Mississippi income taxation.

394 (f) **Alternate bid authorization.** When necessary to  
395 ensure ready availability of commodities for public works and the  
396 timely completion of public projects, no more than two (2)  
397 alternate bids may be accepted by a governing authority for  
398 commodities. No purchases may be made through use of such  
399 alternate bids procedure unless the lowest and best bidder cannot  
400 deliver the commodities contained in his bid. In that event,  
401 purchases of such commodities may be made from one (1) of the  
402 bidders whose bid was accepted as an alternate.





403           (g) **Construction contract change authorization.** In the  
404 event a determination is made by an agency or governing authority  
405 after a construction contract is let that changes or modifications  
406 to the original contract are necessary or would better serve the  
407 purpose of the agency or the governing authority, such agency or  
408 governing authority may, in its discretion, order such changes  
409 pertaining to the construction that are necessary under the  
410 circumstances without the necessity of further public bids;  
411 provided that such change shall be made in a commercially  
412 reasonable manner and shall not be made to circumvent the public  
413 purchasing statutes. In addition to any other authorized person,  
414 the architect or engineer hired by an agency or governing  
415 authority with respect to any public construction contract shall  
416 have the authority, when granted by an agency or governing  
417 authority, to authorize changes or modifications to the original  
418 contract without the necessity of prior approval of the agency or  
419 governing authority when any such change or modification is less  
420 than one percent (1%) of the total contract amount. The agency or  
421 governing authority may limit the number, manner or frequency of  
422 such emergency changes or modifications.

423           (h) **Petroleum purchase alternative.** In addition to  
424 other methods of purchasing authorized in this chapter, when any  
425 agency or governing authority shall have a need for gas, diesel  
426 fuel, oils and/or other petroleum products in excess of the amount  
427 set forth in paragraph (a) of this section, such agency or



428 governing authority may purchase the commodity after having  
429 solicited and obtained at least two (2) competitive written bids,  
430 as defined in paragraph (b) of this section. If two (2)  
431 competitive written bids are not obtained, the entity shall comply  
432 with the procedures set forth in paragraph (c) of this section.  
433 In the event any agency or governing authority shall have  
434 advertised for bids for the purchase of gas, diesel fuel, oils and  
435 other petroleum products and coal and no acceptable bids can be  
436 obtained, such agency or governing authority is authorized and  
437 directed to enter into any negotiations necessary to secure the  
438 lowest and best contract available for the purchase of such  
439 commodities.

440           (i) **Road construction petroleum products price**  
441 **adjustment clause authorization.** Any agency or governing  
442 authority authorized to enter into contracts for the construction,  
443 maintenance, surfacing or repair of highways, roads or streets,  
444 may include in its bid proposal and contract documents a price  
445 adjustment clause with relation to the cost to the contractor,  
446 including taxes, based upon an industry-wide cost index, of  
447 petroleum products including asphalt used in the performance or  
448 execution of the contract or in the production or manufacture of  
449 materials for use in such performance. Such industry-wide index  
450 shall be established and published monthly by the Mississippi  
451 Department of Transportation with a copy thereof to be mailed,  
452 upon request, to the clerks of the governing authority of each



453 municipality and the clerks of each board of supervisors  
454 throughout the state. The price adjustment clause shall be based  
455 on the cost of such petroleum products only and shall not include  
456 any additional profit or overhead as part of the adjustment. The  
457 bid proposals or document contract shall contain the basis and  
458 methods of adjusting unit prices for the change in the cost of  
459 such petroleum products.

460           (j) **State agency emergency purchase procedure.** If the  
461 governing board or the executive head, or his designees, of any  
462 agency of the state shall determine that an emergency exists in  
463 regard to the purchase of any commodities or repair contracts, so  
464 that the delay incident to giving opportunity for competitive  
465 bidding would be detrimental to the interests of the state, then  
466 the head of such agency, or his designees, shall file with the  
467 Department of Finance and Administration (i) a statement  
468 explaining the conditions and circumstances of the emergency,  
469 which shall include a detailed description of the events leading  
470 up to the situation and the negative impact to the entity if the  
471 purchase is made following the statutory requirements set forth in  
472 paragraph (a), (b) or (c) of this section, and (ii) a certified  
473 copy of the appropriate minutes of the board of such agency  
474 requesting the emergency purchase, if applicable. Upon receipt of  
475 the statement and applicable board certification, the State Fiscal  
476 Officer, or his designees, may, in writing, authorize the purchase



477 or repair without having to comply with competitive bidding  
478 requirements.

479 If the governing board or the executive head, or his  
480 designees, of any agency determines that an emergency exists in  
481 regard to the purchase of any commodities or repair contracts, so  
482 that the delay incident to giving opportunity for competitive  
483 bidding would threaten the health or safety of any person, or the  
484 preservation or protection of property, then the provisions in  
485 this section for competitive bidding shall not apply, and any  
486 officer or agent of the agency having general or specific  
487 authority for making the purchase or repair contract shall approve  
488 the bill presented for payment, and he shall certify in writing  
489 from whom the purchase was made, or with whom the repair contract  
490 was made.

491 Total purchases made under this paragraph (j) shall only be  
492 for the purpose of meeting needs created by the emergency  
493 situation. Following the emergency purchase, documentation of the  
494 purchase, including a description of the commodity purchased, the  
495 purchase price thereof and the nature of the emergency shall be  
496 filed with the Department of Finance and Administration. Any  
497 contract awarded pursuant to this paragraph (j) shall not exceed a  
498 term of one (1) year.

499 Purchases under the grant program established under Section  
500 37-68-7 in response to COVID-19 and the directive that school  
501 districts create a distance learning plan and fulfill technology



502 needs expeditiously shall be deemed an emergency purchase for  
503 purposes of this paragraph (j).

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

505 If the governing authority, or the governing authority acting  
506 through its designee, shall determine that an emergency exists in  
507 regard to the purchase of any commodities or repair contracts, so  
508 that the delay incident to giving opportunity for competitive  
509 bidding would be detrimental to the interest of the governing  
510 authority, then the provisions herein for competitive bidding  
511 shall not apply and any officer or agent of such governing  
512 authority having general or special authority therefor in making  
513 such purchase or repair shall approve the bill presented therefor,  
514 and he shall certify in writing thereon from whom such purchase  
515 was made, or with whom such a repair contract was made. At the  
516 board meeting next following the emergency purchase or repair  
517 contract, documentation of the purchase or repair contract,  
518 including a description of the commodity purchased, the price  
519 thereof and the nature of the emergency shall be presented to the  
520 board and shall be placed on the minutes of the board of such  
521 governing authority. Purchases under the grant program  
522 established under Section 37-68-7 in response to COVID-19 and the  
523 directive that school districts create a distance learning plan  
524 and fulfill technology needs expeditiously shall be deemed an  
525 emergency purchase for purposes of this paragraph (k).



526 (1) **Hospital purchase, lease-purchase and lease**  
527 **authorization.**

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

533 (ii) In addition to the authority granted in  
534 subparagraph (i) of this paragraph (1), the commissioners or board  
535 of trustees is authorized to enter into contracts for the lease of  
536 equipment or services, or both, which it considers necessary for  
537 the proper care of patients if, in its opinion, it is not  
538 financially feasible to purchase the necessary equipment or  
539 services. Any such contract for the lease of equipment or  
540 services executed by the commissioners or board shall not exceed a  
541 maximum of five (5) years' duration and shall include a  
542 cancellation clause based on unavailability of funds. If such  
543 cancellation clause is exercised, there shall be no further  
544 liability on the part of the lessee. Any such contract for the  
545 lease of equipment or services executed on behalf of the  
546 commissioners or board that complies with the provisions of this  
547 subparagraph (ii) shall be excepted from the bid requirements set  
548 forth in this section.

549 (m) **Exceptions from bidding requirements.** Excepted  
550 from bid requirements are:



551 (i) **Purchasing agreements approved by department.**

552 Purchasing agreements, contracts and maximum price regulations  
553 executed or approved by the Department of Finance and  
554 Administration.

555 (ii) **Outside equipment repairs.** Repairs to  
556 equipment, when such repairs are made by repair facilities in the  
557 private sector; however, engines, transmissions, rear axles and/or  
558 other such components shall not be included in this exemption when  
559 replaced as a complete unit instead of being repaired and the need  
560 for such total component replacement is known before disassembly  
561 of the component; however, invoices identifying the equipment,  
562 specific repairs made, parts identified by number and name,  
563 supplies used in such repairs, and the number of hours of labor  
564 and costs therefor shall be required for the payment for such  
565 repairs.

566 (iii) **In-house equipment repairs.** Purchases of  
567 parts for repairs to equipment, when such repairs are made by  
568 personnel of the agency or governing authority; however, entire  
569 assemblies, such as engines or transmissions, shall not be  
570 included in this exemption when the entire assembly is being  
571 replaced instead of being repaired.

572 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
573 of gravel or fill dirt which are to be removed and transported by  
574 the purchaser.



575                   (v) **Governmental equipment auctions.** Motor  
576 vehicles or other equipment purchased from a federal agency or  
577 authority, another governing authority or state agency of the  
578 State of Mississippi, or any governing authority or state agency  
579 of another state at a public auction held for the purpose of  
580 disposing of such vehicles or other equipment. Any purchase by a  
581 governing authority under the exemption authorized by this  
582 subparagraph (v) shall require advance authorization spread upon  
583 the minutes of the governing authority to include the listing of  
584 the item or items authorized to be purchased and the maximum bid  
585 authorized to be paid for each item or items.

586                   (vi) **Intergovernmental sales and transfers.**  
587 Purchases, sales, transfers or trades by governing authorities or  
588 state agencies when such purchases, sales, transfers or trades are  
589 made by a private treaty agreement or through means of  
590 negotiation, from any federal agency or authority, another  
591 governing authority or state agency of the State of Mississippi,  
592 or any state agency or governing authority of another state.  
593 Nothing in this section shall permit such purchases through public  
594 auction except as provided for in subparagraph (v) of this  
595 paragraph (m). It is the intent of this section to allow  
596 governmental entities to dispose of and/or purchase commodities  
597 from other governmental entities at a price that is agreed to by  
598 both parties. This shall allow for purchases and/or sales at  
599 prices which may be determined to be below the market value if the





600 selling entity determines that the sale at below market value is  
601 in the best interest of the taxpayers of the state. Governing  
602 authorities shall place the terms of the agreement and any  
603 justification on the minutes, and state agencies shall obtain  
604 approval from the Department of Finance and Administration, prior  
605 to releasing or taking possession of the commodities.

606 (vii) **Perishable supplies or food.** Perishable  
607 supplies or food purchased for use in connection with hospitals,  
608 the school lunch programs, homemaking programs and for the feeding  
609 of county or municipal prisoners.

610 (viii) **Single-source items.** Noncompetitive items  
611 available from one (1) source only. In connection with the  
612 purchase of noncompetitive items only available from one (1)  
613 source, a certification of the conditions and circumstances  
614 requiring the purchase shall be filed by the agency with the  
615 Department of Finance and Administration and by the governing  
616 authority with the board of the governing authority. Upon receipt  
617 of that certification the Department of Finance and Administration  
618 or the board of the governing authority, as the case may be, may,  
619 in writing, authorize the purchase, which authority shall be noted  
620 on the minutes of the body at the next regular meeting thereafter.  
621 In those situations, a governing authority is not required to  
622 obtain the approval of the Department of Finance and  
623 Administration. Following the purchase, the executive head of the  
624 state agency, or his designees, shall file with the Department of



625 Finance and Administration, documentation of the purchase,  
626 including a description of the commodity purchased, the purchase  
627 price thereof and the source from whom it was purchased.

628 (ix) **Waste disposal facility construction**  
629 **contracts.** Construction of incinerators and other facilities for  
630 disposal of solid wastes in which products either generated  
631 therein, such as steam, or recovered therefrom, such as materials  
632 for recycling, are to be sold or otherwise disposed of; however,  
633 in constructing such facilities, a governing authority or agency  
634 shall publicly issue requests for proposals, advertised for in the  
635 same manner as provided herein for seeking bids for public  
636 construction projects, concerning the design, construction,  
637 ownership, operation and/or maintenance of such facilities,  
638 wherein such requests for proposals when issued shall contain  
639 terms and conditions relating to price, financial responsibility,  
640 technology, environmental compatibility, legal responsibilities  
641 and such other matters as are determined by the governing  
642 authority or agency to be appropriate for inclusion; and after  
643 responses to the request for proposals have been duly received,  
644 the governing authority or agency may select the most qualified  
645 proposal or proposals on the basis of price, technology and other  
646 relevant factors and from such proposals, but not limited to the  
647 terms thereof, negotiate and enter contracts with one or more of  
648 the persons or firms submitting proposals.



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

652                   (xi)   **Information technology products.**  Purchases  
653 of information technology products made by governing authorities  
654 under the provisions of purchase schedules, or contracts executed  
655 or approved by the Mississippi Department of Information  
656 Technology Services and designated for use by governing  
657 authorities.

658                   (xii)   **Energy efficiency services and equipment.**  
659 Energy efficiency services and equipment acquired by school  
660 districts, community and junior colleges, institutions of higher  
661 learning and state agencies or other applicable governmental  
662 entities on a shared-savings, lease or lease-purchase basis  
663 pursuant to Section 31-7-14.

664                   (xiii)   **Municipal electrical utility system fuel.**  
665 Purchases of coal and/or natural gas by municipally owned electric  
666 power generating systems that have the capacity to use both coal  
667 and natural gas for the generation of electric power.

668                   (xiv)   **Library books and other reference materials.**  
669 Purchases by libraries or for libraries of books and periodicals;  
670 processed film, videocassette tapes, filmstrips and slides;  
671 recorded audiotapes, cassettes and diskettes; and any such items  
672 as would be used for teaching, research or other information  
673 distribution; however, equipment such as projectors, recorders,



674 audio or video equipment, and monitor televisions are not exempt  
675 under this subparagraph.

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

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

682 (xvii) **Multichannel interactive video systems.**  
683 From and after July 1, 1990, contracts by Mississippi Authority  
684 for Educational Television with any private educational  
685 institution or private nonprofit organization whose purposes are  
686 educational in regard to the construction, purchase, lease or  
687 lease-purchase of facilities and equipment and the employment of  
688 personnel for providing multichannel interactive video systems  
689 (ITSF) in the school districts of this state.

690 (xviii) **Purchases of prison industry products by**  
691 **the Department of Corrections, regional correctional facilities or**  
692 **privately owned prisons.** Purchases made by the Mississippi  
693 Department of Corrections, regional correctional facilities or  
694 privately owned prisons involving any item that is manufactured,  
695 processed, grown or produced from the state's prison industries.

696 (xix) **Undercover operations equipment.** Purchases  
697 of surveillance equipment or any other high-tech equipment to be  
698 used by law enforcement agents in undercover operations, provided



699 that any such purchase shall be in compliance with regulations  
700 established by the Department of Finance and Administration.

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

705 (xxi) **Certain school district purchases.**  
706 Purchases of commodities made by school districts from vendors  
707 with which any levying authority of the school district, as  
708 defined in Section 37-57-1, has contracted through competitive  
709 bidding procedures for purchases of the same commodities.

710 (xxii) **Garbage, solid waste and sewage contracts.**  
711 Contracts for garbage collection or disposal, contracts for solid  
712 waste collection or disposal and contracts for sewage collection  
713 or disposal.

714 (xxiii) **Municipal water tank maintenance**  
715 **contracts.** Professional maintenance program contracts for the  
716 repair or maintenance of municipal water tanks, which provide  
717 professional services needed to maintain municipal water storage  
718 tanks for a fixed annual fee for a duration of two (2) or more  
719 years.

720 (xxiv) **Purchases of Mississippi Industries for the**  
721 **Blind products.** Purchases made by state agencies or governing  
722 authorities involving any item that is manufactured, processed or  
723 produced by the Mississippi Industries for the Blind.



724 (xxv) **Purchases of state-adopted textbooks.**  
725 Purchases of state-adopted textbooks by public school districts.

726 (xxvi) **Certain purchases under the Mississippi**  
727 **Major Economic Impact Act.** Contracts entered into pursuant to the  
728 provisions of Section 57-75-9(2), (3) and (4).

729 (xxvii) **Used heavy or specialized machinery or**  
730 **equipment for installation of soil and water conservation**  
731 **practices purchased at auction.** Used heavy or specialized  
732 machinery or equipment used for the installation and  
733 implementation of soil and water conservation practices or  
734 measures purchased subject to the restrictions provided in  
735 Sections 69-27-331 through 69-27-341. Any purchase by the State  
736 Soil and Water Conservation Commission under the exemption  
737 authorized by this subparagraph shall require advance  
738 authorization spread upon the minutes of the commission to include  
739 the listing of the item or items authorized to be purchased and  
740 the maximum bid authorized to be paid for each item or items.

741 (xxviii) **Hospital lease of equipment or services.**  
742 Leases by hospitals of equipment or services if the leases are in  
743 compliance with paragraph (1)(ii).

744 (xxix) **Purchases made pursuant to qualified**  
745 **cooperative purchasing agreements.** Purchases made by certified  
746 purchasing offices of state agencies or governing authorities  
747 under cooperative purchasing agreements previously approved by the  
748 Office of Purchasing and Travel and established by or for any



749 municipality, county, parish or state government or the federal  
750 government, provided that the notification to potential  
751 contractors includes a clause that sets forth the availability of  
752 the cooperative purchasing agreement to other governmental  
753 entities. Such purchases shall only be made if the use of the  
754 cooperative purchasing agreements is determined to be in the best  
755 interest of the governmental entity.

756 (xxx) **School yearbooks.** Purchases of school  
757 yearbooks by state agencies or governing authorities; provided,  
758 however, that state agencies and governing authorities shall use  
759 for these purchases the RFP process as set forth in the  
760 Mississippi Procurement Manual adopted by the Office of Purchasing  
761 and Travel.

762 (xxxii) **Design-build method of contracting and**  
763 **certain other contracts.** Contracts entered into under the  
764 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

765 (xxxiii) **Toll roads and bridge construction**  
766 **projects.** Contracts entered into under the provisions of Section  
767 65-43-1 or 65-43-3.

768 (xxxiiii) **Certain purchases under Section 57-1-221.**  
769 Contracts entered into pursuant to the provisions of Section  
770 57-1-221.

771 (xxxv) **Certain transfers made pursuant to the**  
772 **provisions of Section 57-105-1(7).** Transfers of public property



773 or facilities under Section 57-105-1(7) and construction related  
774 to such public property or facilities.

775 (xxxv) **Certain purchases or transfers entered into**  
776 **with local electrical power associations.** Contracts or agreements  
777 entered into under the provisions of Section 55-3-33.

778 (xxxvi) **Certain purchases by an academic medical**  
779 **center or health sciences school.** Purchases by an academic  
780 medical center or health sciences school, as defined in Section  
781 37-115-50, of commodities that are used for clinical purposes and  
782 1. intended for use in the diagnosis of disease or other  
783 conditions or in the cure, mitigation, treatment or prevention of  
784 disease, and 2. medical devices, biological, drugs and  
785 radiation-emitting devices as defined by the United States Food  
786 and Drug Administration.

787 (xxxvii) **Certain purchases made under the Alyce G.**  
788 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
789 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
790 Lottery Law.

791 (xxxviii) **Certain purchases made by the Department**  
792 **of Health and the Department of Revenue.** Purchases made by the  
793 Department of Health and/or the Department of Revenue solely for  
794 the purpose of fulfilling their respective responsibilities under  
795 the Mississippi Medical Cannabis Act. This subparagraph shall  
796 stand repealed on June 30, 2023.





797 (n) **Term contract authorization.** All contracts for the  
798 purchase of:

799 (i) All contracts for the purchase of commodities,  
800 equipment and public construction (including, but not limited to,  
801 repair and maintenance), may be let for periods of not more than  
802 sixty (60) months in advance, subject to applicable statutory  
803 provisions prohibiting the letting of contracts during specified  
804 periods near the end of terms of office. Term contracts for a  
805 period exceeding twenty-four (24) months shall also be subject to  
806 ratification or cancellation by governing authority boards taking  
807 office subsequent to the governing authority board entering the  
808 contract.

809 (ii) Bid proposals and contracts may include price  
810 adjustment clauses with relation to the cost to the contractor  
811 based upon a nationally published industry-wide or nationally  
812 published and recognized cost index. The cost index used in a  
813 price adjustment clause shall be determined by the Department of  
814 Finance and Administration for the state agencies and by the  
815 governing board for governing authorities. The bid proposal and  
816 contract documents utilizing a price adjustment clause shall  
817 contain the basis and method of adjusting unit prices for the  
818 change in the cost of such commodities, equipment and public  
819 construction.

820 (o) **Purchase law violation prohibition and vendor**  
821 **penalty.** No contract or purchase as herein authorized shall be



822 made for the purpose of circumventing the provisions of this  
823 section requiring competitive bids, nor shall it be lawful for any  
824 person or concern to submit individual invoices for amounts within  
825 those authorized for a contract or purchase where the actual value  
826 of the contract or commodity purchased exceeds the authorized  
827 amount and the invoices therefor are split so as to appear to be  
828 authorized as purchases for which competitive bids are not  
829 required. Submission of such invoices shall constitute a  
830 misdemeanor punishable by a fine of not less than Five Hundred  
831 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
832 or by imprisonment for thirty (30) days in the county jail, or  
833 both such fine and imprisonment. In addition, the claim or claims  
834 submitted shall be forfeited.

835 (p) **Electrical utility petroleum-based equipment**  
836 **purchase procedure.** When in response to a proper advertisement  
837 therefor, no bid firm as to price is submitted to an electric  
838 utility for power transformers, distribution transformers, power  
839 breakers, reclosers or other articles containing a petroleum  
840 product, the electric utility may accept the lowest and best bid  
841 therefor although the price is not firm.

842 (q) **Fuel management system bidding procedure.** Any  
843 governing authority or agency of the state shall, before  
844 contracting for the services and products of a fuel management or  
845 fuel access system, enter into negotiations with not fewer than  
846 two (2) sellers of fuel management or fuel access systems for



847 competitive written bids to provide the services and products for  
848 the systems. In the event that the governing authority or agency  
849 cannot locate two (2) sellers of such systems or cannot obtain  
850 bids from two (2) sellers of such systems, it shall show proof  
851 that it made a diligent, good-faith effort to locate and negotiate  
852 with two (2) sellers of such systems. Such proof shall include,  
853 but not be limited to, publications of a request for proposals and  
854 letters soliciting negotiations and bids. For purposes of this  
855 paragraph (q), a fuel management or fuel access system is an  
856 automated system of acquiring fuel for vehicles as well as  
857 management reports detailing fuel use by vehicles and drivers, and  
858 the term "competitive written bid" shall have the meaning as  
859 defined in paragraph (b) of this section. Governing authorities  
860 and agencies shall be exempt from this process when contracting  
861 for the services and products of fuel management or fuel access  
862 systems under the terms of a state contract established by the  
863 Office of Purchasing and Travel.

864 (r) **Solid waste contract proposal procedure.** Before  
865 entering into any contract for garbage collection or disposal,  
866 contract for solid waste collection or disposal or contract for  
867 sewage collection or disposal, which involves an expenditure of  
868 more than \* \* \* Seventy-five Thousand Dollars (\$75,000.00), a  
869 governing authority or agency shall issue publicly a request for  
870 proposals concerning the specifications for such services which  
871 shall be advertised for in the same manner as provided in this



872 section for seeking bids for purchases which involve an  
873 expenditure of more than the amount provided in paragraph (c) of  
874 this section. Any request for proposals when issued shall contain  
875 terms and conditions relating to price, financial responsibility,  
876 technology, legal responsibilities and other relevant factors as  
877 are determined by the governing authority or agency to be  
878 appropriate for inclusion; all factors determined relevant by the  
879 governing authority or agency or required by this paragraph (r)  
880 shall be duly included in the advertisement to elicit proposals.  
881 After responses to the request for proposals have been duly  
882 received, the governing authority or agency shall select the most  
883 qualified proposal or proposals on the basis of price, technology  
884 and other relevant factors and from such proposals, but not  
885 limited to the terms thereof, negotiate and enter into contracts  
886 with one or more of the persons or firms submitting proposals. If  
887 the governing authority or agency deems none of the proposals to  
888 be qualified or otherwise acceptable, the request for proposals  
889 process may be reinitiated. Notwithstanding any other provisions  
890 of this paragraph, where a county with at least thirty-five  
891 thousand (35,000) nor more than forty thousand (40,000)  
892 population, according to the 1990 federal decennial census, owns  
893 or operates a solid waste landfill, the governing authorities of  
894 any other county or municipality may contract with the governing  
895 authorities of the county owning or operating the landfill,  
896 pursuant to a resolution duly adopted and spread upon the minutes



897 of each governing authority involved, for garbage or solid waste  
898 collection or disposal services through contract negotiations.

899           (s) **Minority set-aside authorization.** Notwithstanding  
900 any provision of this section to the contrary, any agency or  
901 governing authority, by order placed on its minutes, may, in its  
902 discretion, set aside not more than twenty percent (20%) of its  
903 anticipated annual expenditures for the purchase of commodities  
904 from minority businesses; however, all such set-aside purchases  
905 shall comply with all purchasing regulations promulgated by the  
906 Department of Finance and Administration and shall be subject to  
907 bid requirements under this section. Set-aside purchases for  
908 which competitive bids are required shall be made from the lowest  
909 and best minority business bidder. For the purposes of this  
910 paragraph, the term "minority business" means a business which is  
911 owned by a majority of persons who are United States citizens or  
912 permanent resident aliens (as defined by the Immigration and  
913 Naturalization Service) of the United States, and who are Asian,  
914 Black, Hispanic or Native American, according to the following  
915 definitions:

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

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



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

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

927 (t) **Construction punch list restriction.** The  
928 architect, engineer or other representative designated by the  
929 agency or governing authority that is contracting for public  
930 construction or renovation may prepare and submit to the  
931 contractor only one (1) preliminary punch list of items that do  
932 not meet the contract requirements at the time of substantial  
933 completion and one (1) final list immediately before final  
934 completion and final payment.

935 (u) **Procurement of construction services by state**  
936 **institutions of higher learning.** Contracts for privately financed  
937 construction of auxiliary facilities on the campus of a state  
938 institution of higher learning may be awarded by the Board of  
939 Trustees of State Institutions of Higher Learning to the lowest  
940 and best bidder, where sealed bids are solicited, or to the  
941 offeror whose proposal is determined to represent the best value  
942 to the citizens of the State of Mississippi, where requests for  
943 proposals are solicited.

944 (v) **Insurability of bidders for public construction or**  
945 **other public contracts.** In any solicitation for bids to perform



946 public construction or other public contracts to which this  
947 section applies, including, but not limited to, contracts for  
948 repair and maintenance, for which the contract will require  
949 insurance coverage in an amount of not less than One Million  
950 Dollars (\$1,000,000.00), bidders shall be permitted to either  
951 submit proof of current insurance coverage in the specified amount  
952 or demonstrate ability to obtain the required coverage amount of  
953 insurance if the contract is awarded to the bidder. Proof of  
954 insurance coverage shall be submitted within five (5) business  
955 days from bid acceptance.

956 (w) **Purchase authorization clarification.** Nothing in  
957 this section shall be construed as authorizing any purchase not  
958 authorized by law.

959 **SECTION 2.** This act shall take effect and be in force from  
960 and after July 1, 2022.

