

By: Representative Roberson

To: Drug Policy

HOUSE BILL NO. 249

1 AN ACT TO AMEND SECTION 25-9-107, MISSISSIPPI CODE OF 1972,  
 2 TO EXTEND THE DATE OF THE REPEALER ON THE PROVISION OF LAW  
 3 EXCLUDING FROM THE STATE SERVICE THOSE EMPLOYEES OF THE STATE  
 4 DEPARTMENT OF HEALTH AND THE DEPARTMENT OF REVENUE WHOSE  
 5 EMPLOYMENT IS SOLELY RELATED TO THE MISSISSIPPI MEDICAL CANNABIS  
 6 ACT; TO AMEND SECTION 25-43-1.103, MISSISSIPPI CODE OF 1972, TO  
 7 EXTEND THE DATE OF THE REPEALER ON THOSE DEPARTMENTS' EXEMPTION  
 8 FROM THE MISSISSIPPI ADMINISTRATIVE PROCEDURES LAW FOR PURPOSES  
 9 RELATED TO THE MISSISSIPPI MEDICAL CANNABIS ACT; TO AMEND SECTIONS  
 10 25-53-1 AND 25-53-5, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE  
 11 OF THOSE DEPARTMENTS' EXEMPTION FOR PURPOSES RELATED TO THE  
 12 MISSISSIPPI MEDICAL CANNABIS ACT FROM THE BID AND CONTRACT  
 13 REQUIREMENTS OF THE MISSISSIPPI DEPARTMENT OF INFORMATION  
 14 TECHNOLOGY SERVICES; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE  
 15 OF 1972, TO EXTEND THE DATE OF THE EXEMPTION FOR THOSE  
 16 DEPARTMENTS' PERSONAL AND PROFESSIONAL SERVICE CONTRACTS RELATING  
 17 TO THE MISSISSIPPI MEDICAL CANNABIS ACT FROM THE REQUIREMENTS OF  
 18 THE PUBLIC PROCUREMENT REVIEW BOARD; TO AMEND SECTION 31-7-13,  
 19 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON  
 20 THE EXEMPTION FROM STATE BID REQUIREMENTS FOR PURCHASES MADE BY  
 21 THOSE DEPARTMENTS IN CONNECTION WITH THEIR RESPONSIBILITIES UNDER  
 22 THE MISSISSIPPI MEDICAL CANNABIS ACT; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 25-9-107, Mississippi Code of 1972, is  
 25 amended as follows:

26 25-9-107. The following terms, when used in this chapter,  
 27 unless a different meaning is plainly required by the context,  
 28 shall have the following meanings:



29 (a) "Board" means the State Personnel Board created  
30 under the provisions of this chapter.

31 (b) "State service" means all employees of state  
32 departments, agencies and institutions as defined herein, except  
33 those officers and employees excluded by this chapter.

34 (c) "Nonstate service" means the following officers and  
35 employees excluded from the state service by this chapter. The  
36 following are excluded from the state service:

37 (i) Members of the State Legislature, their staff  
38 and other employees of the legislative branch;

39 (ii) The Governor and staff members of the  
40 immediate Office of the Governor;

41 (iii) Justices and judges of the judicial branch  
42 or members of appeals boards on a per diem basis;

43 (iv) The Lieutenant Governor, staff members of the  
44 immediate Office of the Lieutenant Governor and officers and  
45 employees directly appointed by the Lieutenant Governor;

46 (v) Officers and officials elected by popular vote  
47 and persons appointed to fill vacancies in elective offices;

48 (vi) Members of boards and commissioners appointed  
49 by the Governor, Lieutenant Governor or the State Legislature;

50 (vii) All academic officials, members of the  
51 teaching staffs and employees of the state institutions of higher  
52 learning, the Mississippi Community College Board, and community  
53 and junior colleges;



54 (viii) Officers and enlisted members of the  
55 National Guard of the state;

56 (ix) Prisoners, inmates, student or patient help  
57 working in or about institutions;

58 (x) Contract personnel; provided that any agency  
59 which employs state service employees may enter into contracts for  
60 personal and professional services only if such contracts are  
61 approved in compliance with the rules and regulations promulgated  
62 by the Public Procurement Review Board under Section 27-104-7.  
63 Before paying any warrant for such contractual services in excess  
64 of Seventy-five Thousand Dollars (\$75,000.00), the Auditor of  
65 Public Accounts, or the successor to those duties, shall determine  
66 whether the contract involved was for personal or professional  
67 services, and, if so, was approved by the Public Procurement  
68 Review Board as required by law;

69 (xi) Part-time employees; \* \* \* however, part-time  
70 employees shall only be hired into authorized employment positions  
71 classified by the board, shall meet minimum qualifications as set  
72 by the board, and shall be paid in accordance with the Variable  
73 Compensation Plan as certified by the board;

74 (xii) Persons appointed on an emergency basis for  
75 the duration of the emergency; the effective date of the emergency  
76 appointments shall not be earlier than the date approved by the  
77 State Personnel Director, and shall be limited to thirty (30)



78 working days. Emergency appointments may be extended to sixty  
79 (60) working days by the State Personnel Board;

80 (xiii) Physicians, dentists, veterinarians, nurse  
81 practitioners and attorneys, while serving in their professional  
82 capacities in authorized employment positions who are required by  
83 statute to be licensed, registered or otherwise certified as such,  
84 provided that the State Personnel Director shall verify that the  
85 statutory qualifications are met prior to issuance of a payroll  
86 warrant by the Auditor;

87 (xiv) Personnel who are employed and paid from  
88 funds received from a federal grant program which has been  
89 approved by the Legislature or the Department of Finance and  
90 Administration whose length of employment has been determined to  
91 be time-limited in nature. This subparagraph shall apply to  
92 personnel employed under the provisions of the Comprehensive  
93 Employment and Training Act of 1973, as amended, and other special  
94 federal grant programs which are not a part of regular federally  
95 funded programs wherein appropriations and employment positions  
96 are appropriated by the Legislature. Such employees shall be paid  
97 in accordance with the Variable Compensation Plan and shall meet  
98 all qualifications required by federal statutes or by the  
99 Mississippi Classification Plan;

100 (xv) The administrative head who is in charge of  
101 any state department, agency, institution, board or commission,  
102 wherein the statute specifically authorizes the Governor, board,



103 commission or other authority to appoint said administrative  
104 head; \* \* \* however, \* \* \* the salary of such administrative head  
105 shall be determined by the State Personnel Board in accordance  
106 with the Variable Compensation Plan unless otherwise fixed by  
107 statute;

108 (xvi) The State Personnel Board shall exclude  
109 top-level positions if the incumbents determine and publicly  
110 advocate substantive program policy and report directly to the  
111 agency head, or the incumbents are required to maintain a direct  
112 confidential working relationship with a key excluded official.

113 \* \* \* Further, a written job classification shall be approved by  
114 the board for each such position, and positions so excluded shall  
115 be paid in conformity with the Variable Compensation Plan;

116 (xvii) Employees whose employment is solely in  
117 connection with an agency's contract to produce, store or  
118 transport goods, and whose compensation is derived therefrom;

119 (xviii) Repealed;

120 (xix) The associate director, deputy directors and  
121 bureau directors within the Department of Agriculture and  
122 Commerce;

123 (xx) Personnel employed by the Mississippi  
124 Industries for the Blind; provided that any agency may enter into  
125 contracts for the personal services of MIB employees without the  
126 prior approval of the State Personnel Board or the State Personal  
127 Service Contract Review Board; however, any agency contracting for



128 the personal services of an MIB employee shall provide the MIB  
129 employee with not less than the entry-level compensation and  
130 benefits that the agency would provide to a full-time employee of  
131 the agency who performs the same services;

132 (xxi) Personnel employed by the Mississippi  
133 Department of Wildlife, Fisheries and Parks and the Mississippi  
134 Department of Marine Resources as law enforcement trainees  
135 (cadets); such personnel shall be paid in accordance with the  
136 Colonel Guy Groff State Variable Compensation Plan;

137 (xxii) Administrators and instructional employees  
138 under contract or employed by the Mississippi School of the Arts  
139 (MSA) established in Section 37-140-1 et seq.;

140 (xxiii) The President of the Mississippi Lottery  
141 Corporation and personnel employed by the Mississippi Lottery  
142 Corporation;

143 (xxiv) Employees, excluding administrative  
144 employees, of the State Veterans Affairs Board who are employed at  
145 a veterans home established by the State Veterans Affairs Board  
146 under Section 35-1-19;

147 (xxv) Personnel employed by the Mississippi  
148 Department of Health whose employment is solely in connection with  
149 the department's responsibilities in implementing, administering  
150 and enforcing provisions of the Mississippi Medical Cannabis Act.  
151 This subparagraph shall stand repealed on June 30, \* \* \* 2026; and



152 (xxvi) Personnel employed by the Mississippi  
153 Department of Revenue whose employment is solely in connection  
154 with the department's responsibilities in implementing,  
155 administering and enforcing provisions of the Mississippi Medical  
156 Cannabis Act. This subparagraph shall stand repealed on June  
157 30, \* \* \* 2026.

158 (d) "Agency" means any state board, commission,  
159 committee, council, department or unit thereof created by the  
160 Constitution or statutes if such board, commission, committee,  
161 council, department, unit or the head thereof, is authorized to  
162 appoint subordinate staff by the Constitution or statute, except a  
163 legislative or judicial board, commission, committee, council,  
164 department or unit thereof.

165 **SECTION 2.** Section 25-43-1.103, Mississippi Code of 1972, is  
166 amended as follows:

167 25-43-1.103. (1) This chapter applies to all agencies and  
168 all proceedings not expressly exempted under this chapter.

169 (2) This chapter creates only procedural rights and imposes  
170 only procedural duties. They are in addition to those created and  
171 imposed by other statutes.

172 (3) Specific statutory provisions which govern agency  
173 proceedings and which are in conflict with any of the provisions  
174 of this chapter shall continue to be applied to all proceedings of  
175 any such agency to the extent of such conflict only.



176 (4) The provisions of this chapter shall not be construed to  
177 amend, repeal or supersede the provisions of any other law; and,  
178 to the extent that the provisions of any other law conflict or are  
179 inconsistent with the provisions of this chapter, the provisions  
180 of such other law shall govern and control.

181 (5) An agency may grant procedural rights to persons in  
182 addition to those conferred by this chapter so long as rights  
183 conferred upon other persons by any provision of law are not  
184 substantially prejudiced.

185 (6) For the purposes of implementing, administering and/or  
186 enforcing the provisions of rules and regulations promulgated  
187 pursuant to the Mississippi Medical Cannabis Act, the Mississippi  
188 State Department of Health and the Mississippi Department of  
189 Revenue shall be exempted from this chapter from February 2, 2022,  
190 through June 30, \* \* \* 2026. This subsection shall stand repealed  
191 on June 30, \* \* \* 2026.

192 **SECTION 3.** Section 25-53-1, Mississippi Code of 1972, is  
193 amended as follows:

194 25-53-1. The Legislature recognizes that in order for the  
195 State of Mississippi to receive the maximum use and benefit from  
196 information technology and services now in operation or which will  
197 in the future be placed in operation, there should be full  
198 cooperation and cohesive planning and effort by and between the  
199 several state agencies and that it is the responsibility of the  
200 Legislature to provide statutory authority therefor. The





201 Legislature, therefore, declares and determines that for these and  
202 other related purposes there is hereby established an agency of  
203 state government to be known as the Mississippi Department of  
204 Information Technology Services (MDITS). The Legislature further  
205 declares that the Mississippi Department of Information Technology  
206 Services (MDITS) shall provide statewide services that facilitate  
207 cost-effective information processing and telecommunication  
208 solutions. State agencies shall work in full cooperation with the  
209 board of MDITS to identify opportunities to minimize duplication,  
210 reduce costs and improve the efficiency of providing common  
211 technology services across agency boundaries. The provisions of  
212 this chapter shall not apply to the Department of Human Services  
213 for a period of three (3) years beginning July 1, 2017. The  
214 provisions of this chapter shall not apply to the Department of  
215 Child Protection Services for a period of three (3) years  
216 beginning July 1, 2017. Through June 30, \* \* \* 2026, the  
217 provisions of this chapter shall not apply to the Department of  
218 Health and the Department of Revenue for the purposes of  
219 implementing, administering and enforcing the provisions of the  
220 Mississippi Medical Cannabis Act.

221       **SECTION 4.** Section 25-53-5, Mississippi Code of 1972, is  
222 amended as follows:

223       25-53-5. The authority shall have the following powers,  
224 duties, and responsibilities:



225           (a)   (i)   The authority shall provide for the  
226 development of plans for the efficient acquisition and utilization  
227 of computer equipment and services by all agencies of state  
228 government, and provide for their implementation. In so doing,  
229 the authority may use the MDITS' staff, at the discretion of the  
230 executive director of the authority, or the authority may contract  
231 for the services of qualified consulting firms in the field of  
232 information technology and utilize the service of such consultants  
233 as may be necessary for such purposes. Pursuant to Section  
234 25-53-1, the provisions of this section shall not apply to the  
235 Department of Human Services for a period of three (3) years  
236 beginning on July 1, 2017. Pursuant to Section 25-53-1, the  
237 provisions of this section shall not apply to the Department of  
238 Child Protection Services for a period of three (3) years  
239 beginning July 1, 2017.

240                           (ii)   [Repealed]

241           (b)   The authority shall immediately institute  
242 procedures for carrying out the purposes of this chapter and  
243 supervise the efficient execution of the powers and duties of the  
244 office of executive director of the authority. In the execution  
245 of its functions under this chapter, the authority shall maintain  
246 as a paramount consideration the successful internal organization  
247 and operation of the several agencies so that efficiency existing  
248 therein shall not be adversely affected or impaired. In executing  
249 its functions in relation to the institutions of higher learning



250 and junior colleges in the state, the authority shall take into  
251 consideration the special needs of such institutions in relation  
252 to the fields of teaching and scientific research.

253 (c) Title of whatever nature of all computer equipment  
254 now vested in any agency of the State of Mississippi is hereby  
255 vested in the authority, and no such equipment shall be disposed  
256 of in any manner except in accordance with the direction of the  
257 authority or under the provisions of such rules and regulations as  
258 may hereafter be adopted by the authority in relation thereto.

259 (d) The authority shall adopt rules, regulations, and  
260 procedures governing the acquisition of computer and  
261 telecommunications equipment and services which shall, to the  
262 fullest extent practicable, insure the maximum of competition  
263 between all manufacturers of supplies or equipment or services.  
264 In the writing of specifications, in the making of contracts  
265 relating to the acquisition of such equipment and services, and in  
266 the performance of its other duties the authority shall provide  
267 for the maximum compatibility of all information systems hereafter  
268 installed or utilized by all state agencies and may require the  
269 use of common computer languages where necessary to accomplish the  
270 purposes of this chapter. The authority may establish by  
271 regulation and charge reasonable fees on a nondiscriminatory basis  
272 for the furnishing to bidders of copies of bid specifications and  
273 other documents issued by the authority.



274           (e) The authority shall adopt rules and regulations  
275 governing the sharing with, or the sale or lease of information  
276 technology services to any nonstate agency or person. Such  
277 regulations shall provide that any such sharing, sale or lease  
278 shall be restricted in that same shall be accomplished only where  
279 such services are not readily available otherwise within the  
280 state, and then only at a charge to the user not less than the  
281 prevailing rate of charge for similar services by private  
282 enterprise within this state.

283           (f) The authority may, in its discretion, establish a  
284 special technical advisory committee or committees to study and  
285 make recommendations on technology matters within the competence  
286 of the authority as the authority may see fit. Persons serving on  
287 the Information Resource Council, its task forces, or any such  
288 technical advisory committees shall be entitled to receive their  
289 actual and necessary expenses actually incurred in the performance  
290 of such duties, together with mileage as provided by law for state  
291 employees, provided the same has been authorized by a resolution  
292 duly adopted by the authority and entered on its minutes prior to  
293 the performance of such duties.

294           (g) The authority may provide for the development and  
295 require the adoption of standardized computer programs and may  
296 provide for the dissemination of information to and the  
297 establishment of training programs for the personnel of the



298 various information technology centers of state agencies and  
299 personnel of the agencies utilizing the services thereof.

300 (h) The authority shall adopt reasonable rules and  
301 regulations requiring the reporting to the authority through the  
302 office of executive director of such information as may be  
303 required for carrying out the purposes of this chapter and may  
304 also establish such reasonable procedures to be followed in the  
305 presentation of bills for payment under the terms of all contracts  
306 for the acquisition of computer equipment and services now or  
307 hereafter in force as may be required by the authority or by the  
308 executive director in the execution of their powers and duties.

309 (i) The authority shall require such adequate  
310 documentation of information technology procedures utilized by the  
311 various state agencies and may require the establishment of such  
312 organizational structures within state agencies relating to  
313 information technology operations as may be necessary to  
314 effectuate the purposes of this chapter.

315 (j) The authority may adopt such further reasonable  
316 rules and regulations as may be necessary to fully implement the  
317 purposes of this chapter. All rules and regulations adopted by  
318 the authority shall be published and disseminated in readily  
319 accessible form to all affected state agencies, and to all current  
320 suppliers of computer equipment and services to the state, and to  
321 all prospective suppliers requesting the same. Such rules and  
322 regulations shall be kept current, be periodically revised, and



323 copies thereof shall be available at all times for inspection by  
324 the public at reasonable hours in the offices of the authority.  
325 Whenever possible no rule, regulation or any proposed amendment to  
326 such rules and regulations shall be finally adopted or enforced  
327 until copies of the proposed rules and regulations have been  
328 furnished to all interested parties for their comment and  
329 suggestions.

330 (k) The authority shall establish rules and regulations  
331 which shall provide for the submission of all contracts proposed  
332 to be executed by the executive director for computer equipment or  
333 services to the authority for approval before final execution, and  
334 the authority may provide that such contracts involving the  
335 expenditure of less than such specified amount as may be  
336 established by the authority may be finally executed by the  
337 executive director without first obtaining such approval by the  
338 authority.

339 (l) The authority is authorized to purchase, lease, or  
340 rent computer equipment or services and to operate that equipment  
341 and use those services in providing services to one or more state  
342 agencies when in its opinion such operation will provide maximum  
343 efficiency and economy in the functions of any such agency or  
344 agencies.

345 (m) Upon the request of the governing body of a  
346 political subdivision or instrumentality, the authority shall  
347 assist the political subdivision or instrumentality in its



348 development of plans for the efficient acquisition and utilization  
349 of computer equipment and services. An appropriate fee shall be  
350 charged the political subdivision by the authority for such  
351 assistance.

352 (n) The authority shall adopt rules and regulations  
353 governing the protest procedures to be followed by any actual or  
354 prospective bidder, offerer or contractor who is aggrieved in  
355 connection with the solicitation or award of a contract for the  
356 acquisition of computer equipment or services. Such rules and  
357 regulations shall prescribe the manner, time and procedure for  
358 making protests and may provide that a protest not timely filed  
359 shall be summarily denied. The authority may require the  
360 protesting party, at the time of filing the protest, to post a  
361 bond, payable to the state, in an amount that the authority  
362 determines sufficient to cover any expense or loss incurred by the  
363 state, the authority or any state agency as a result of the  
364 protest if the protest subsequently is determined by a court of  
365 competent jurisdiction to have been filed without any substantial  
366 basis or reasonable expectation to believe that the protest was  
367 meritorious; however, in no event may the amount of the bond  
368 required exceed a reasonable estimate of the total project cost.  
369 The authority, in its discretion, also may prohibit any  
370 prospective bidder, offerer or contractor who is a party to any  
371 litigation involving any such contract with the state, the  
372 authority or any agency of the state to participate in any other



373 such bid, offer or contract, or to be awarded any such contract,  
374 during the pendency of the litigation.

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

379 All acquisitions of computer equipment and services involving  
380 the expenditure of funds in excess of the dollar amount  
381 established in Section 31-7-13(c), or rentals or leases in excess  
382 of the dollar amount established in Section 31-7-13(c) for the  
383 term of the contract, shall be based upon competitive and open  
384 specifications, and contracts therefor shall be entered into only  
385 after advertisements for bids are published in one or more daily  
386 newspapers having a general circulation in the state not less than  
387 fourteen (14) days prior to receiving sealed bids therefor. The  
388 authority may reserve the right to reject any or all bids, and if  
389 all bids are rejected, the authority may negotiate a contract  
390 within the limitations of the specifications so long as the terms  
391 of any such negotiated contract are equal to or better than the  
392 comparable terms submitted by the lowest and best bidder, and so  
393 long as the total cost to the State of Mississippi does not exceed  
394 the lowest bid. If the authority accepts one (1) of such bids, it  
395 shall be that which is the lowest and best. Through June  
396 30, \* \* \* 2026, the provisions of this paragraph shall not apply  
397 to acquisitions of information technology equipment and services





398 made by the Mississippi Department of Health \* \* \* and the  
399 Mississippi Department of Revenue for the purposes of  
400 implementing, administering \* \* \* and enforcing the provisions of  
401 the Mississippi Medical Cannabis Act.

402 (p) When applicable, the authority may procure  
403 equipment, systems and related services in accordance with the law  
404 or regulations, or both, which govern the Bureau of Purchasing of  
405 the Office of General Services or which govern the Mississippi  
406 Department of Information Technology Services procurement of  
407 telecommunications equipment, software and services.

408 (q) The authority is authorized to purchase, lease, or  
409 rent information technology and services for the purpose of  
410 establishing pilot projects to investigate emerging technologies.  
411 These acquisitions shall be limited to new technologies and shall  
412 be limited to an amount set by annual appropriation of the  
413 Legislature. These acquisitions shall be exempt from the  
414 advertising and bidding requirement.

415 (r) All fees collected by the Mississippi Department of  
416 Information Technology Services shall be deposited into the  
417 Mississippi Department of Information Technology Services  
418 Revolving Fund unless otherwise specified by the Legislature.

419 (s) The authority shall work closely with the council  
420 to bring about effective coordination of policies, standards and  
421 procedures relating to procurement of remote sensing and  
422 geographic information systems (GIS) resources. In addition, the



423 authority is responsible for development, operation and  
424 maintenance of a delivery system infrastructure for geographic  
425 information systems data. The authority shall provide a warehouse  
426 for Mississippi's geographic information systems data.

427 (t) The authority shall manage one or more State Data  
428 Centers to provide information technology services on a  
429 cost-sharing basis. In determining the appropriate services to be  
430 provided through the State Data Center, the authority should  
431 consider those services that:

432 (i) Result in savings to the state as a whole;

433 (ii) Improve and enhance the security and  
434 reliability of the state's information and business systems; and

435 (iii) Optimize the efficient use of the state's  
436 information technology assets, including, but not limited to,  
437 promoting partnerships with the state institutions of higher  
438 learning and community colleges to capitalize on advanced  
439 information technology resources.

440 (u) The authority shall increase federal participation  
441 in the cost of the State Data Center to the extent provided by law  
442 and its shared technology infrastructure through providing such  
443 shared services to agencies that receive federal funds. With  
444 regard to state institutions of higher learning and community  
445 colleges, the authority may provide shared services when mutually  
446 agreeable, following a determination by both the authority and the  
447 Board of Trustees of State Institutions of Higher Learning or the



448 Mississippi Community College Board, as the case may be, that the  
449 sharing of services is mutually beneficial.

450 (v) The authority, in its discretion, may require new  
451 or replacement agency business applications to be hosted at the  
452 State Data Center. With regard to state institutions of higher  
453 learning and community colleges, the authority and the Board of  
454 Trustees of State Institutions of Higher Learning or the  
455 Mississippi Community College Board, as the case may be, may agree  
456 that institutions of higher learning or community colleges may  
457 utilize business applications that are hosted at the State Data  
458 Center, following a determination by both the authority and the  
459 applicable board that the hosting of those applications is  
460 mutually beneficial. In addition, the authority may establish  
461 partnerships to capitalize on the advanced technology resources of  
462 the Board of Trustees of State Institutions of Higher Learning or  
463 the Mississippi Community College Board, following a determination  
464 by both the authority and the applicable board that such a  
465 partnership is mutually beneficial.

466 (w) The authority shall provide a periodic update  
467 regarding reform-based information technology initiatives to the  
468 Chairmen of the House and Senate Accountability, Efficiency and  
469 Transparency Committees.

470 From and after July 1, 2018, the expenses of this agency  
471 shall be defrayed by appropriation from the State General Fund.  
472 In addition, in order to receive the maximum use and benefit from



473 information technology and services, expenses for the provision of  
474 statewide shared services that facilitate cost-effective  
475 information processing and telecommunication solutions shall be  
476 defrayed by pass-through funding and shall be deposited into the  
477 Mississippi Department of Information Technology Services  
478 Revolving Fund unless otherwise specified by the Legislature.  
479 These funds shall only be utilized to pay the actual costs  
480 incurred by the Mississippi Department of Information Technology  
481 Services for providing these shared services to state agencies.  
482 Furthermore, state agencies shall work in full cooperation with  
483 the Board of the Mississippi Department of Information Technology  
484 Services to identify computer equipment or services to minimize  
485 duplication, reduce costs, and improve the efficiency of providing  
486 common technology services across agency boundaries.

487       **SECTION 5.** Section 27-104-7, Mississippi Code of 1972, is  
488 amended as follows:

489       27-104-7. (1) (a) There is created the Public Procurement  
490 Review Board, which shall be reconstituted on January 1, 2018, and  
491 shall be composed of the following members:

492                   (i) Three (3) individuals appointed by the  
493 Governor with the advice and consent of the Senate;

494                   (ii) Two (2) individuals appointed by the  
495 Lieutenant Governor with the advice and consent of the Senate; and



496 (iii) The Executive Director of the Department of  
497 Finance and Administration, serving as an ex officio and nonvoting  
498 member.

499 (b) The initial terms of each appointee shall be as  
500 follows:

501 (i) One (1) member appointed by the Governor to  
502 serve for a term ending on June 30, 2019;

503 (ii) One (1) member appointed by the Governor to  
504 serve for a term ending on June 30, 2020;

505 (iii) One (1) member appointed by the Governor to  
506 serve for a term ending on June 30, 2021;

507 (iv) One (1) member appointed by the Lieutenant  
508 Governor to serve for a term ending on June 30, 2019; and

509 (v) One (1) member appointed by the Lieutenant  
510 Governor to serve for a term ending on June 30, 2020.

511 After the expiration of the initial terms, all appointed  
512 members' terms shall be for a period of four (4) years from the  
513 expiration date of the previous term, and until such time as the  
514 member's successor is duly appointed and qualified.

515 (c) When appointing members to the Public Procurement  
516 Review Board, the Governor and Lieutenant Governor shall take into  
517 consideration persons who possess at least five (5) years of  
518 management experience in general business, health care or finance  
519 for an organization, corporation or other public or private  
520 entity. Any person, or any employee or owner of a company, who



521 receives any grants, procurements or contracts that are subject to  
522 approval under this section shall not be appointed to the Public  
523 Procurement Review Board. Any person, or any employee or owner of  
524 a company, who is a principal of the source providing a personal  
525 or professional service shall not be appointed to the Public  
526 Procurement Review Board if the principal owns or controls a  
527 greater than five percent (5%) interest or has an ownership value  
528 of One Million Dollars (\$1,000,000.00) in the source's business,  
529 whichever is smaller. No member shall be an officer or employee  
530 of the State of Mississippi while serving as a voting member on  
531 the Public Procurement Review Board.

532 (d) Members of the Public Procurement Review Board  
533 shall be entitled to per diem as authorized by Section 25-3-69 and  
534 travel reimbursement as authorized by Section 25-3-41.

535 (e) The members of the Public Procurement Review Board  
536 shall elect a chair from among the membership, and he or she shall  
537 preside over the meetings of the board. The board shall annually  
538 elect a vice chair, who shall serve in the absence of the chair.  
539 No business shall be transacted, including adoption of rules of  
540 procedure, without the presence of a quorum of the board. Three  
541 (3) members shall be a quorum. No action shall be valid unless  
542 approved by a majority of the members present and voting, entered  
543 upon the minutes of the board and signed by the chair. Necessary  
544 clerical and administrative support for the board shall be  
545 provided by the Department of Finance and Administration. Minutes



546 shall be kept of the proceedings of each meeting, copies of which  
547 shall be filed on a monthly basis with the chairs of the  
548 Accountability, Efficiency and Transparency Committees of the  
549 Senate and House of Representatives and the chairs of the  
550 Appropriations Committees of the Senate and House of  
551 Representatives.

552 (2) The Public Procurement Review Board shall have the  
553 following powers and responsibilities:

554 (a) Approve all purchasing regulations governing the  
555 purchase or lease by any agency, as defined in Section 31-7-1, of  
556 commodities and equipment, except computer equipment acquired  
557 pursuant to Sections 25-53-1 through 25-53-29;

558 (b) Adopt regulations governing the approval of  
559 contracts let for the construction and maintenance of state  
560 buildings and other state facilities as well as related contracts  
561 for architectural and engineering services.

562 The provisions of this paragraph (b) shall not apply to such  
563 contracts involving buildings and other facilities of state  
564 institutions of higher learning which are self-administered as  
565 provided under this paragraph (b) or Section 37-101-15(m);

566 (c) Adopt regulations governing any lease or rental  
567 agreement by any state agency or department, including any state  
568 agency financed entirely by federal funds, for space outside the  
569 buildings under the jurisdiction of the Department of Finance and  
570 Administration. These regulations shall require each agency



571 requesting to lease such space to provide the following  
572 information that shall be published by the Department of Finance  
573 and Administration on its website: the agency to lease the space;  
574 the terms of the lease; the approximate square feet to be leased;  
575 the use for the space; a description of a suitable space; the  
576 general location desired for the leased space; the contact  
577 information for a person from the agency; the deadline date for  
578 the agency to have received a lease proposal; any other specific  
579 terms or conditions of the agency; and any other information  
580 deemed appropriate by the Division of Real Property Management of  
581 the Department of Finance and Administration or the Public  
582 Procurement Review Board. The information shall be provided  
583 sufficiently in advance of the time the space is needed to allow  
584 the Division of Real Property Management of the Department of  
585 Finance and Administration to review and preapprove the lease  
586 before the time for advertisement begins;

587 (d) Adopt, in its discretion, regulations to set aside  
588 at least five percent (5%) of anticipated annual expenditures for  
589 the purchase of commodities from minority businesses; however, all  
590 such set-aside purchases shall comply with all purchasing  
591 regulations promulgated by the department and shall be subject to  
592 all bid requirements. Set-aside purchases for which competitive  
593 bids are required shall be made from the lowest and best minority  
594 business bidder; however, if no minority bid is available or if  
595 the minority bid is more than two percent (2%) higher than the





596 lowest bid, then bids shall be accepted and awarded to the lowest  
597 and best bidder. However, the provisions in this paragraph shall  
598 not be construed to prohibit the rejection of a bid when only one  
599 (1) bid is received. Such rejection shall be placed in the  
600 minutes. For the purposes of this paragraph, the term "minority  
601 business" means a business which is owned by a person who is a  
602 citizen or lawful permanent resident of the United States and who  
603 is:

604 (i) Black: having origins in any of the black  
605 racial groups of Africa;

606 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
607 Central or South American, or other Spanish or Portuguese culture  
608 or origin regardless of race;

609 (iii) Asian-American: having origins in any of  
610 the original people of the Far East, Southeast Asia, the Indian  
611 subcontinent, or the Pacific Islands;

612 (iv) American Indian or Alaskan Native: having  
613 origins in any of the original people of North America; or

614 (v) Female;

615 (e) In consultation with and approval by the Chairs of  
616 the Senate and House Public Property Committees, approve leases,  
617 for a term not to exceed eighteen (18) months, entered into by  
618 state agencies for the purpose of providing parking arrangements  
619 for state employees who work in the Woolfolk Building, the Carroll  
620 Gartin Justice Building or the Walter Sillers Office Building;



621 (f) Promulgate rules and regulations governing the  
622 solicitation and selection of contractual services personnel,  
623 including personal and professional services contracts for any  
624 form of consulting, policy analysis, public relations, marketing,  
625 public affairs, legislative advocacy services or any other  
626 contract that the board deems appropriate for oversight, with the  
627 exception of:

628 (i) Any personal service contracts entered into by  
629 any agency that employs only nonstate service employees as defined  
630 in Section 25-9-107(c) \* \* \*;

631 (ii) Any personal service contracts entered into  
632 for computer or information technology-related services governed  
633 by the Mississippi Department of Information Technology  
634 Services \* \* \*;

635 (iii) Any personal service contracts entered into  
636 by the individual state institutions of higher learning \* \* \*;

637 (iv) Any personal service contracts entered into  
638 by the Mississippi Department of Transportation \* \* \*;

639 (v) Any personal service contracts entered into by  
640 the Department of Human Services through June 30, 2019, which the  
641 Executive Director of the Department of Human Services determines  
642 would be useful in establishing and operating the Department of  
643 Child Protection Services \* \* \*;



644                   (vi) Any personal service contracts entered into  
645 by the Department of Child Protection Services through June 30,  
646 2019 \* \* \*;

647                   (vii) Any contracts for entertainers and/or  
648 performers at the Mississippi State Fairgrounds entered into by  
649 the Mississippi Fair Commission \* \* \*;

650                   (viii) Any contracts entered into by the  
651 Department of Finance and Administration when procuring aircraft  
652 maintenance, parts, equipment and/or services \* \* \*;

653                   (ix) Any contract entered into by the Department  
654 of Public Safety for service on specialized equipment and/or  
655 software required for the operation at such specialized equipment  
656 for use by the Office of Forensics Laboratories \* \* \*;

657                   (x) Any personal or professional service contract  
658 entered into by the Mississippi Department of Health \* \* \* or the  
659 Department of Revenue solely in connection with their respective  
660 responsibilities under the Mississippi Medical Cannabis Act from  
661 February 2, 2022, through June 30, \* \* \* 2026;

662                   (xi) Any contract for attorney, accountant,  
663 actuary auditor, architect, engineer, anatomical pathologist, or  
664 utility rate expert services \* \* \*;

665                   (xii) Any personal service contracts approved by  
666 the Executive Director of the Department of Finance and  
667 Administration and entered into by the Coordinator of Mental  
668 Health Accessibility through June 30, 2022 \* \* \*;



669                   (xiii) Any personal or professional services  
670 contract entered into by the State Department of Health in  
671 carrying out its responsibilities under the ARPA Rural Water  
672 Associations Infrastructure Grant Program through June 30,  
673 2026 \* \* \*; and

674                   (xiv) Any personal or professional services  
675 contract entered into by the Mississippi Department of  
676 Environmental Quality in carrying out its responsibilities under  
677 the Mississippi Municipality and County Water Infrastructure Grant  
678 Program Act of 2022, through June 30, 2026.

679           Any such rules and regulations shall provide for maintaining  
680 continuous internal audit covering the activities of such agency  
681 affecting its revenue and expenditures as required under Section  
682 7-7-3(6) (d). Any rules and regulation changes related to personal  
683 and professional services contracts that the Public Procurement  
684 Review Board may propose shall be submitted to the Chairs of the  
685 Accountability, Efficiency and Transparency Committees of the  
686 Senate and House of Representatives and the Chairs of the  
687 Appropriation Committees of the Senate and House of  
688 Representatives at least fifteen (15) days before the board votes  
689 on the proposed changes, and those rules and regulation changes,  
690 if adopted, shall be promulgated in accordance with the  
691 Mississippi Administrative Procedures Act;

692                   (g) Approve all personal and professional services  
693 contracts involving the expenditures of funds in excess of



694 Seventy-five Thousand Dollars (\$75,000.00), except as provided in  
695 paragraph (f) of this subsection (2) and in subsection (8);

696           (h) Develop mandatory standards with respect to  
697 contractual services personnel that require invitations for public  
698 bid, requests for proposals, record keeping and financial  
699 responsibility of contractors. The Public Procurement Review  
700 Board shall, unless exempted under this paragraph (h) or under  
701 paragraph (i) or (o) of this subsection (2), require the agency  
702 involved to submit the procurement to a competitive procurement  
703 process, and may reserve the right to reject any or all resulting  
704 procurements;

705           (i) Prescribe certain circumstances by which agency  
706 heads may enter into contracts for personal and professional  
707 services without receiving prior approval from the Public  
708 Procurement Review Board. The Public Procurement Review Board may  
709 establish a preapproved list of providers of various personal and  
710 professional services for set prices with which state agencies may  
711 contract without bidding or prior approval from the board;

712           (i) Agency requirements may be fulfilled by  
713 procuring services performed incident to the state's own programs.  
714 The agency head shall determine in writing whether the price  
715 represents a fair market value for the services. When the  
716 procurements are made from other governmental entities, the  
717 private sector need not be solicited; however, these contracts



718 shall still be submitted for approval to the Public Procurement  
719 Review Board.

720 (ii) Contracts between two (2) state agencies,  
721 both under Public Procurement Review Board purview, shall not  
722 require Public Procurement Review Board approval. However, the  
723 contracts shall still be entered into the enterprise resource  
724 planning system;

725 (j) Provide standards for the issuance of requests for  
726 proposals, the evaluation of proposals received, consideration of  
727 costs and quality of services proposed, contract negotiations, the  
728 administrative monitoring of contract performance by the agency  
729 and successful steps in terminating a contract;

730 (k) Present recommendations for governmental  
731 privatization and to evaluate privatization proposals submitted by  
732 any state agency;

733 (l) Authorize personal and professional service  
734 contracts to be effective for more than one (1) year provided a  
735 funding condition is included in any such multiple year contract,  
736 except the State Board of Education, which shall have the  
737 authority to enter into contractual agreements for student  
738 assessment for a period up to ten (10) years. The State Board of  
739 Education shall procure these services in accordance with the  
740 Public Procurement Review Board procurement regulations;

741 (m) Request the State Auditor to conduct a performance  
742 audit on any personal or professional service contract;



743 (n) Prepare an annual report to the Legislature  
744 concerning the issuance of personal and professional services  
745 contracts during the previous year, collecting any necessary  
746 information from state agencies in making such report;

747 (o) Develop and implement the following standards and  
748 procedures for the approval of any sole source contract for  
749 personal and professional services regardless of the value of the  
750 procurement:

751 (i) For the purposes of this paragraph (o), the  
752 term "sole source" means only one (1) source is available that can  
753 provide the required personal or professional service.

754 (ii) An agency that has been issued a binding,  
755 valid court order mandating that a particular source or provider  
756 must be used for the required service must include a copy of the  
757 applicable court order in all future sole source contract reviews  
758 for the particular personal or professional service referenced in  
759 the court order.

760 (iii) Any agency alleging to have a sole source  
761 for any personal or professional service, other than those  
762 exempted under paragraph (f) of this subsection (2) and subsection  
763 (8), shall publish on the procurement portal website established  
764 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)  
765 days, the terms of the proposed contract for those services. In  
766 addition, the publication shall include, but is not limited to,  
767 the following information:



- 768                   1. The personal or professional service  
769 offered in the contract;
- 770                   2. An explanation of why the personal or  
771 professional service is the only one that can meet the needs of  
772 the agency;
- 773                   3. An explanation of why the source is the  
774 only person or entity that can provide the required personal or  
775 professional service;
- 776                   4. An explanation of why the amount to be  
777 expended for the personal or professional service is reasonable;  
778 and
- 779                   5. The efforts that the agency went through  
780 to obtain the best possible price for the personal or professional  
781 service.

782                   (iv) If any person or entity objects and proposes  
783 that the personal or professional service published under  
784 subparagraph (iii) of this paragraph (o) is not a sole source  
785 service and can be provided by another person or entity, then the  
786 objecting person or entity shall notify the Public Procurement  
787 Review Board and the agency that published the proposed sole  
788 source contract with a detailed explanation of why the personal or  
789 professional service is not a sole source service.

790                   (v) 1. If the agency determines after review that  
791 the personal or professional service in the proposed sole source  
792 contract can be provided by another person or entity, then the





793 agency must withdraw the sole source contract publication from the  
794 procurement portal website and submit the procurement of the  
795 personal or professional service to an advertised competitive bid  
796 or selection process.

797                   2. If the agency determines after review that  
798 there is only one (1) source for the required personal or  
799 professional service, then the agency may appeal to the Public  
800 Procurement Review Board. The agency has the burden of proving  
801 that the personal or professional service is only provided by one  
802 (1) source.

803                   3. If the Public Procurement Review Board has  
804 any reasonable doubt as to whether the personal or professional  
805 service can only be provided by one (1) source, then the agency  
806 must submit the procurement of the personal or professional  
807 service to an advertised competitive bid or selection process. No  
808 action taken by the Public Procurement Review Board in this appeal  
809 process shall be valid unless approved by a majority of the  
810 members of the Public Procurement Review Board present and voting.

811                   (vi) The Public Procurement Review Board shall  
812 prepare and submit a quarterly report to the House of  
813 Representatives and Senate Accountability, Efficiency and  
814 Transparency Committees that details the sole source contracts  
815 presented to the Public Procurement Review Board and the reasons  
816 that the Public Procurement Review Board approved or rejected each  
817 contract. These quarterly reports shall also include the



818 documentation and memoranda required in subsection (4) of this  
819 section. An agency that submitted a sole source contract shall be  
820 prepared to explain the sole source contract to each committee by  
821 December 15 of each year upon request by the committee;

822 (p) Assess any fines and administrative penalties  
823 provided for in Sections 31-7-401 through 31-7-423.

824 (3) All submissions shall be made sufficiently in advance of  
825 each monthly meeting of the Public Procurement Review Board as  
826 prescribed by the Public Procurement Review Board. If the Public  
827 Procurement Review Board rejects any contract submitted for review  
828 or approval, the Public Procurement Review Board shall clearly set  
829 out the reasons for its action, including, but not limited to, the  
830 policy that the agency has violated in its submitted contract and  
831 any corrective actions that the agency may take to amend the  
832 contract to comply with the rules and regulations of the Public  
833 Procurement Review Board.

834 (4) All sole source contracts for personal and professional  
835 services awarded by state agencies, other than those exempted  
836 under Section 27-104-7(2) (f) and (8), whether approved by an  
837 agency head or the Public Procurement Review Board, shall contain  
838 in the procurement file a written determination for the approval,  
839 using a request form furnished by the Public Procurement Review  
840 Board. The written determination shall document the basis for the  
841 determination, including any market analysis conducted in order to  
842 ensure that the service required was practicably available from



843 only one (1) source. A memorandum shall accompany the request  
844 form and address the following four (4) points:

845 (a) Explanation of why this service is the only service  
846 that can meet the needs of the purchasing agency;

847 (b) Explanation of why this vendor is the only  
848 practicably available source from which to obtain this service;

849 (c) Explanation of why the price is considered  
850 reasonable; and

851 (d) Description of the efforts that were made to  
852 conduct a noncompetitive negotiation to get the best possible  
853 price for the taxpayers.

854 (5) In conjunction with the State Personnel Board, the  
855 Public Procurement Review Board shall develop and promulgate rules  
856 and regulations to define the allowable legal relationship between  
857 contract employees and the contracting departments, agencies and  
858 institutions of state government under the jurisdiction of the  
859 State Personnel Board, in compliance with the applicable rules and  
860 regulations of the federal Internal Revenue Service (IRS) for  
861 federal employment tax purposes. Under these regulations, the  
862 usual common law rules are applicable to determine and require  
863 that such worker is an independent contractor and not an employee,  
864 requiring evidence of lawful behavioral control, lawful financial  
865 control and lawful relationship of the parties. Any state  
866 department, agency or institution shall only be authorized to



867 contract for personnel services in compliance with those  
868 regulations.

869 (6) No member of the Public Procurement Review Board shall  
870 use his or her official authority or influence to coerce, by  
871 threat of discharge from employment, or otherwise, the purchase of  
872 commodities, the contracting for personal or professional  
873 services, or the contracting for public construction under this  
874 chapter.

875 (7) Notwithstanding any other laws or rules to the contrary,  
876 the provisions of subsection (2) of this section shall not be  
877 applicable to the Mississippi State Port Authority at Gulfport.

878 (8) Nothing in this section shall impair or limit the  
879 authority of the Board of Trustees of the Public Employees'  
880 Retirement System to enter into any personal or professional  
881 services contracts directly related to their constitutional  
882 obligation to manage the trust funds, including, but not limited  
883 to, actuarial, custodial banks, cash management, investment  
884 consultant and investment management contracts.

885 (9) Notwithstanding the exemption of personal and  
886 professional services contracts entered into by the Department of  
887 Human Services and personal and professional services contracts  
888 entered into by the Department of Child Protection Services from  
889 the provisions of this section under subsection (2)(f), before the  
890 Department of Human Services or the Department of Child Protection  
891 Services may enter into a personal or professional service



892 contract, the department(s) shall give notice of the proposed  
893 personal or professional service contract to the Public  
894 Procurement Review Board for any recommendations by the board.  
895 Upon receipt of the notice, the board shall post the notice on its  
896 website and on the procurement portal website established by  
897 Sections 25-53-151 and 27-104-165. If the board does not respond  
898 to the department(s) within seven (7) calendar days after  
899 receiving the notice, the department(s) may enter the proposed  
900 personal or professional service contract. If the board responds  
901 to the department(s) within seven (7) calendar days, then the  
902 board has seven (7) calendar days from the date of its initial  
903 response to provide any additional recommendations. After the end  
904 of the second seven-day period, the department(s) may enter the  
905 proposed personal or professional service contract. The board is  
906 not authorized to disapprove any proposed personal or professional  
907 services contracts. This subsection shall stand repealed on July  
908 1, 2022.

909 **SECTION 6.** Section 31-7-13, Mississippi Code of 1972, is  
910 amended as follows:

911 31-7-13. All agencies and governing authorities shall  
912 purchase their commodities and printing; contract for garbage  
913 collection or disposal; contract for solid waste collection or  
914 disposal; contract for sewage collection or disposal; contract for  
915 public construction; and contract for rentals as herein provided.



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

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

924 (b) **Bidding procedure for purchases over \$5,000.00 but**  
925 **not over \$75,000.00.** Purchases which involve an expenditure of  
926 more than Five Thousand Dollars (\$5,000.00) but not more than  
927 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
928 and shipping charges, may be made from the lowest and best bidder  
929 without publishing or posting advertisement for bids, provided at  
930 least two (2) competitive written bids have been obtained. Any  
931 state agency or community or junior college purchasing commodities  
932 or procuring construction pursuant to this paragraph (b) may  
933 authorize its purchasing agent, or his designee, to accept the  
934 lowest competitive written bid under Seventy-five Thousand Dollars  
935 (\$75,000.00). Any governing authority purchasing commodities  
936 pursuant to this paragraph (b) may authorize its purchasing agent,  
937 or his designee, with regard to governing authorities other than  
938 counties, or its purchase clerk, or his designee, with regard to  
939 counties, to accept the lowest and best competitive written bid.  
940 Such authorization shall be made in writing by the governing



941 authority and shall be maintained on file in the primary office of  
942 the agency and recorded in the official minutes of the governing  
943 authority, as appropriate. The purchasing agent or the purchase  
944 clerk, or his designee, as the case may be, and not the governing  
945 authority, shall be liable for any penalties and/or damages as may  
946 be imposed by law for any act or omission of the purchasing agent  
947 or purchase clerk, or his designee, constituting a violation of  
948 law in accepting any bid without approval by the governing  
949 authority. The term "competitive written bid" shall mean a bid  
950 submitted on a bid form furnished by the buying agency or  
951 governing authority and signed by authorized personnel  
952 representing the vendor, or a bid submitted on a vendor's  
953 letterhead or identifiable bid form and signed by authorized  
954 personnel representing the vendor. "Competitive" shall mean that  
955 the bids are developed based upon comparable identification of the  
956 needs and are developed independently and without knowledge of  
957 other bids or prospective bids. Any bid item for construction in  
958 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
959 by components to provide detail of component description and  
960 pricing. These details shall be submitted with the written bids  
961 and become part of the bid evaluation criteria. Bids may be  
962 submitted by facsimile, electronic mail or other generally  
963 accepted method of information distribution. Bids submitted by  
964 electronic transmission shall not require the signature of the



965 vendor's representative unless required by agencies or governing  
966 authorities.

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

968 (i) **Publication requirement.**

969 1. Purchases which involve an expenditure of  
970 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
971 freight and shipping charges, may be made from the lowest and best  
972 bidder after advertising for competitive bids once each week for  
973 two (2) consecutive weeks in a regular newspaper published in the  
974 county or municipality in which such agency or governing authority  
975 is located. However, all American Recovery and Reinvestment Act  
976 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
977 shall be bid. All references to American Recovery and  
978 Reinvestment Act projects in this section shall not apply to  
979 programs identified in Division B of the American Recovery and  
980 Reinvestment Act.

981 2. Reverse auctions shall be the primary  
982 method for receiving bids during the bidding process. If a  
983 purchasing entity determines that a reverse auction is not in the  
984 best interest of the state, then that determination must be  
985 approved by the Public Procurement Review Board. The purchasing  
986 entity shall submit a detailed explanation of why a reverse  
987 auction would not be in the best interest of the state and present  
988 an alternative process to be approved by the Public Procurement  
989 Review Board. If the Public Procurement Review Board authorizes





990 the purchasing entity to solicit bids with a method other than  
991 reverse auction, then the purchasing entity may designate the  
992 other methods by which the bids will be received, including, but  
993 not limited to, bids sealed in an envelope, bids received  
994 electronically in a secure system, or bids received by any other  
995 method that promotes open competition and has been approved by the  
996 Office of Purchasing and Travel. However, reverse auction shall  
997 not be used for any public contract for design, construction,  
998 improvement, repair or remodeling of any public facilities,  
999 including the purchase of materials, supplies, equipment or goods  
1000 for same and including buildings, roads and bridges. The Public  
1001 Procurement Review Board must approve any contract entered into by  
1002 alternative process. The provisions of this item 2 shall not  
1003 apply to the individual state institutions of higher learning.  
1004 The provisions of this item 2 requiring reverse auction as the  
1005 primary method of receiving bids shall not apply to term contract  
1006 purchases as provided in paragraph (n) of this section; however, a  
1007 purchasing entity may, in its discretion, utilize reverse auction  
1008 for such purchases. The provisions of this item 2 shall not apply  
1009 to individual public schools, including public charter schools and  
1010 public school districts, only when purchasing copyrighted  
1011 educational supplemental materials and software as a service  
1012 product. For such purchases, a local school board may authorize a  
1013 purchasing entity in its jurisdiction to use a Request for



1014 Qualifications which promotes open competition and meets the  
1015 requirements of the Office of Purchasing and Travel.

1016                   3. The date as published for the bid opening  
1017 shall not be less than seven (7) working days after the last  
1018 published notice; however, if the purchase involves a construction  
1019 project in which the estimated cost is in excess of Seventy-five  
1020 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
1021 less than fifteen (15) working days after the last notice is  
1022 published and the notice for the purchase of such construction  
1023 shall be published once each week for two (2) consecutive weeks.  
1024 However, all American Recovery and Reinvestment Act projects in  
1025 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
1026 For any projects in excess of Twenty-five Thousand Dollars  
1027 (\$25,000.00) under the American Recovery and Reinvestment Act,  
1028 publication shall be made one (1) time and the bid opening for  
1029 construction projects shall not be less than ten (10) working days  
1030 after the date of the published notice. The notice of intention  
1031 to let contracts or purchase equipment shall state the time and  
1032 place at which bids shall be received, list the contracts to be  
1033 made or types of equipment or supplies to be purchased, and, if  
1034 all plans and/or specifications are not published, refer to the  
1035 plans and/or specifications on file. If there is no newspaper  
1036 published in the county or municipality, then such notice shall be  
1037 given by posting same at the courthouse, or for municipalities at  
1038 the city hall, and at two (2) other public places in the county or



1039 municipality, and also by publication once each week for two (2)  
1040 consecutive weeks in some newspaper having a general circulation  
1041 in the county or municipality in the above-provided manner. On  
1042 the same date that the notice is submitted to the newspaper for  
1043 publication, the agency or governing authority involved shall mail  
1044 written notice to, or provide electronic notification to the main  
1045 office of the Mississippi Procurement Technical Assistance Program  
1046 under the Mississippi Development Authority that contains the same  
1047 information as that in the published notice. Submissions received  
1048 by the Mississippi Procurement Technical Assistance Program for  
1049 projects funded by the American Recovery and Reinvestment Act  
1050 shall be displayed on a separate and unique Internet web page  
1051 accessible to the public and maintained by the Mississippi  
1052 Development Authority for the Mississippi Procurement Technical  
1053 Assistance Program. Those American Recovery and Reinvestment Act  
1054 related submissions shall be publicly posted within twenty-four  
1055 (24) hours of receipt by the Mississippi Development Authority and  
1056 the bid opening shall not occur until the submission has been  
1057 posted for ten (10) consecutive days. The Department of Finance  
1058 and Administration shall maintain information regarding contracts  
1059 and other expenditures from the American Recovery and Reinvestment  
1060 Act, on a unique Internet web page accessible to the public. The  
1061 Department of Finance and Administration shall promulgate rules  
1062 regarding format, content and deadlines, unless otherwise  
1063 specified by law, of the posting of award notices, contract



1064 execution and subsequent amendments, links to the contract  
1065 documents, expenditures against the awarded contracts and general  
1066 expenditures of funds from the American Recovery and Reinvestment  
1067 Act. Within one (1) working day of the contract award, the agency  
1068 or governing authority shall post to the designated web page  
1069 maintained by the Department of Finance and Administration, notice  
1070 of the award, including the award recipient, the contract amount,  
1071 and a brief summary of the contract in accordance with rules  
1072 promulgated by the department. Within one (1) working day of the  
1073 contract execution, the agency or governing authority shall post  
1074 to the designated web page maintained by the Department of Finance  
1075 and Administration a summary of the executed contract and make a  
1076 copy of the appropriately redacted contract documents available  
1077 for linking to the designated web page in accordance with the  
1078 rules promulgated by the department. The information provided by  
1079 the agency or governing authority shall be posted to the web page  
1080 for the duration of the American Recovery and Reinvestment Act  
1081 funding or until the project is completed, whichever is longer.

1082 (ii) **Bidding process amendment procedure.** If all  
1083 plans and/or specifications are published in the notification,  
1084 then the plans and/or specifications may not be amended. If all  
1085 plans and/or specifications are not published in the notification,  
1086 then amendments to the plans/specifications, bid opening date, bid  
1087 opening time and place may be made, provided that the agency or  
1088 governing authority maintains a list of all prospective bidders



1089 who are known to have received a copy of the bid documents and all  
1090 such prospective bidders are sent copies of all amendments. This  
1091 notification of amendments may be made via mail, facsimile,  
1092 electronic mail or other generally accepted method of information  
1093 distribution. No addendum to bid specifications may be issued  
1094 within two (2) working days of the time established for the  
1095 receipt of bids unless such addendum also amends the bid opening  
1096 to a date not less than five (5) working days after the date of  
1097 the addendum.

1098                   (iii) **Filing requirement.** In all cases involving  
1099 governing authorities, before the notice shall be published or  
1100 posted, the plans or specifications for the construction or  
1101 equipment being sought shall be filed with the clerk of the board  
1102 of the governing authority. In addition to these requirements, a  
1103 bid file shall be established which shall indicate those vendors  
1104 to whom such solicitations and specifications were issued, and  
1105 such file shall also contain such information as is pertinent to  
1106 the bid.

1107                   (iv) **Specification restrictions.**

1108                   1. Specifications pertinent to such bidding  
1109 shall be written so as not to exclude comparable equipment of  
1110 domestic manufacture. However, if valid justification is  
1111 presented, the Department of Finance and Administration or the  
1112 board of a governing authority may approve a request for specific  
1113 equipment necessary to perform a specific job. Further, such



1114 justification, when placed on the minutes of the board of a  
1115 governing authority, may serve as authority for that governing  
1116 authority to write specifications to require a specific item of  
1117 equipment needed to perform a specific job. In addition to these  
1118 requirements, from and after July 1, 1990, vendors of relocatable  
1119 classrooms and the specifications for the purchase of such  
1120 relocatable classrooms published by local school boards shall meet  
1121 all pertinent regulations of the State Board of Education,  
1122 including prior approval of such bid by the State Department of  
1123 Education.

1124                   2. Specifications for construction projects  
1125 may include an allowance for commodities, equipment, furniture,  
1126 construction materials or systems in which prospective bidders are  
1127 instructed to include in their bids specified amounts for such  
1128 items so long as the allowance items are acquired by the vendor in  
1129 a commercially reasonable manner and approved by the  
1130 agency/governing authority. Such acquisitions shall not be made  
1131 to circumvent the public purchasing laws.

1132                   (v) **Electronic bids.** Agencies and governing  
1133 authorities shall provide a secure electronic interactive system  
1134 for the submittal of bids requiring competitive bidding that shall  
1135 be an additional bidding option for those bidders who choose to  
1136 submit their bids electronically. The Department of Finance and  
1137 Administration shall provide, by regulation, the standards that  
1138 agencies must follow when receiving electronic bids. Agencies and



1139 governing authorities shall make the appropriate provisions  
1140 necessary to accept electronic bids from those bidders who choose  
1141 to submit their bids electronically for all purchases requiring  
1142 competitive bidding under this section. Any special condition or  
1143 requirement for the electronic bid submission shall be specified  
1144 in the advertisement for bids required by this section. Agencies  
1145 or governing authorities that are currently without available high  
1146 speed Internet access shall be exempt from the requirement of this  
1147 subparagraph (v) until such time that high speed Internet access  
1148 becomes available. Any county having a population of less than  
1149 twenty thousand (20,000) shall be exempt from the provisions of  
1150 this subparagraph (v). Any municipality having a population of  
1151 less than ten thousand (10,000) shall be exempt from the  
1152 provisions of this subparagraph (v). The provisions of this  
1153 subparagraph (v) shall not require any bidder to submit bids  
1154 electronically. When construction bids are submitted  
1155 electronically, the requirement for including a certificate of  
1156 responsibility, or a statement that the bid enclosed does not  
1157 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
1158 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
1159 deemed in compliance with by including same as an attachment with  
1160 the electronic bid submittal.

1161 (d) **Lowest and best bid decision procedure.**

1162 (i) **Decision procedure.** Purchases may be made  
1163 from the lowest and best bidder. In determining the lowest and



1164 best bid, freight and shipping charges shall be included.  
1165 Life-cycle costing, total cost bids, warranties, guaranteed  
1166 buy-back provisions and other relevant provisions may be included  
1167 in the best bid calculation. All best bid procedures for state  
1168 agencies must be in compliance with regulations established by the  
1169 Department of Finance and Administration. If any governing  
1170 authority accepts a bid other than the lowest bid actually  
1171 submitted, it shall place on its minutes detailed calculations and  
1172 narrative summary showing that the accepted bid was determined to  
1173 be the lowest and best bid, including the dollar amount of the  
1174 accepted bid and the dollar amount of the lowest bid. No agency  
1175 or governing authority shall accept a bid based on items not  
1176 included in the specifications.

1177 (ii) **Decision procedure for Certified Purchasing**  
1178 **Offices.** In addition to the decision procedure set forth in  
1179 subparagraph (i) of this paragraph (d), Certified Purchasing  
1180 Offices may also use the following procedure: Purchases may be  
1181 made from the bidder offering the best value. In determining the  
1182 best value bid, freight and shipping charges shall be included.  
1183 Life-cycle costing, total cost bids, warranties, guaranteed  
1184 buy-back provisions, documented previous experience, training  
1185 costs and other relevant provisions, including, but not limited  
1186 to, a bidder having a local office and inventory located within  
1187 the jurisdiction of the governing authority, may be included in  
1188 the best value calculation. This provision shall authorize





1189 Certified Purchasing Offices to utilize a Request For Proposals  
1190 (RFP) process when purchasing commodities. All best value  
1191 procedures for state agencies must be in compliance with  
1192 regulations established by the Department of Finance and  
1193 Administration. No agency or governing authority shall accept a  
1194 bid based on items or criteria not included in the specifications.

1195 (iii) **Decision procedure for Mississippi**

1196 **Landmarks.** In addition to the decision procedure set forth in  
1197 subparagraph (i) of this paragraph (d), where purchase involves  
1198 renovation, restoration, or both, of the State Capitol Building or  
1199 any other historical building designated for at least five (5)  
1200 years as a Mississippi Landmark by the Board of Trustees of the  
1201 Department of Archives and History under the authority of Sections  
1202 39-7-7 and 39-7-11, the agency or governing authority may use the  
1203 following procedure: Purchases may be made from the lowest and  
1204 best prequalified bidder. Prequalification of bidders shall be  
1205 determined not less than fifteen (15) working days before the  
1206 first published notice of bid opening. Prequalification criteria  
1207 shall be limited to bidder's knowledge and experience in  
1208 historical restoration, preservation and renovation. In  
1209 determining the lowest and best bid, freight and shipping charges  
1210 shall be included. Life-cycle costing, total cost bids,  
1211 warranties, guaranteed buy-back provisions and other relevant  
1212 provisions may be included in the best bid calculation. All best  
1213 bid and prequalification procedures for state agencies must be in



1214 compliance with regulations established by the Department of  
1215 Finance and Administration. If any governing authority accepts a  
1216 bid other than the lowest bid actually submitted, it shall place  
1217 on its minutes detailed calculations and narrative summary showing  
1218 that the accepted bid was determined to be the lowest and best  
1219 bid, including the dollar amount of the accepted bid and the  
1220 dollar amount of the lowest bid. No agency or governing authority  
1221 shall accept a bid based on items not included in the  
1222 specifications.

1223 (iv) **Construction project negotiations authority.**

1224 If the lowest and best bid is not more than ten percent (10%)  
1225 above the amount of funds allocated for a public construction or  
1226 renovation project, then the agency or governing authority shall  
1227 be permitted to negotiate with the lowest bidder in order to enter  
1228 into a contract for an amount not to exceed the funds allocated.

1229 (e) **Lease-purchase authorization.** For the purposes of  
1230 this section, the term "equipment" shall mean equipment, furniture  
1231 and, if applicable, associated software and other applicable  
1232 direct costs associated with the acquisition. Any lease-purchase  
1233 of equipment which an agency is not required to lease-purchase  
1234 under the master lease-purchase program pursuant to Section  
1235 31-7-10 and any lease-purchase of equipment which a governing  
1236 authority elects to lease-purchase may be acquired by a  
1237 lease-purchase agreement under this paragraph (e). Lease-purchase  
1238 financing may also be obtained from the vendor or from a



1239 third-party source after having solicited and obtained at least  
1240 two (2) written competitive bids, as defined in paragraph (b) of  
1241 this section, for such financing without advertising for such  
1242 bids. Solicitation for the bids for financing may occur before or  
1243 after acceptance of bids for the purchase of such equipment or,  
1244 where no such bids for purchase are required, at any time before  
1245 the purchase thereof. No such lease-purchase agreement shall be  
1246 for an annual rate of interest which is greater than the overall  
1247 maximum interest rate to maturity on general obligation  
1248 indebtedness permitted under Section 75-17-101, and the term of  
1249 such lease-purchase agreement shall not exceed the useful life of  
1250 equipment covered thereby as determined according to the upper  
1251 limit of the asset depreciation range (ADR) guidelines for the  
1252 Class Life Asset Depreciation Range System established by the  
1253 Internal Revenue Service pursuant to the United States Internal  
1254 Revenue Code and regulations thereunder as in effect on December  
1255 31, 1980, or comparable depreciation guidelines with respect to  
1256 any equipment not covered by ADR guidelines. Any lease-purchase  
1257 agreement entered into pursuant to this paragraph (e) may contain  
1258 any of the terms and conditions which a master lease-purchase  
1259 agreement may contain under the provisions of Section 31-7-10(5),  
1260 and shall contain an annual allocation dependency clause  
1261 substantially similar to that set forth in Section 31-7-10(8).  
1262 Each agency or governing authority entering into a lease-purchase  
1263 transaction pursuant to this paragraph (e) shall maintain with



1264 respect to each such lease-purchase transaction the same  
1265 information as required to be maintained by the Department of  
1266 Finance and Administration pursuant to Section 31-7-10(13).  
1267 However, nothing contained in this section shall be construed to  
1268 permit agencies to acquire items of equipment with a total  
1269 acquisition cost in the aggregate of less than Ten Thousand  
1270 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
1271 equipment, and the purchase thereof by any lessor, acquired by  
1272 lease-purchase under this paragraph and all lease-purchase  
1273 payments with respect thereto shall be exempt from all Mississippi  
1274 sales, use and ad valorem taxes. Interest paid on any  
1275 lease-purchase agreement under this section shall be exempt from  
1276 State of Mississippi income taxation.

1277 (f) **Alternate bid authorization.** When necessary to  
1278 ensure ready availability of commodities for public works and the  
1279 timely completion of public projects, no more than two (2)  
1280 alternate bids may be accepted by a governing authority for  
1281 commodities. No purchases may be made through use of such  
1282 alternate bids procedure unless the lowest and best bidder cannot  
1283 deliver the commodities contained in his bid. In that event,  
1284 purchases of such commodities may be made from one (1) of the  
1285 bidders whose bid was accepted as an alternate.

1286 (g) **Construction contract change authorization.** In the  
1287 event a determination is made by an agency or governing authority  
1288 after a construction contract is let that changes or modifications



1289 to the original contract are necessary or would better serve the  
1290 purpose of the agency or the governing authority, such agency or  
1291 governing authority may, in its discretion, order such changes  
1292 pertaining to the construction that are necessary under the  
1293 circumstances without the necessity of further public bids;  
1294 provided that such change shall be made in a commercially  
1295 reasonable manner and shall not be made to circumvent the public  
1296 purchasing statutes. In addition to any other authorized person,  
1297 the architect or engineer hired by an agency or governing  
1298 authority with respect to any public construction contract shall  
1299 have the authority, when granted by an agency or governing  
1300 authority, to authorize changes or modifications to the original  
1301 contract without the necessity of prior approval of the agency or  
1302 governing authority when any such change or modification is less  
1303 than one percent (1%) of the total contract amount. The agency or  
1304 governing authority may limit the number, manner or frequency of  
1305 such emergency changes or modifications.

1306 (h) **Petroleum purchase alternative.** In addition to  
1307 other methods of purchasing authorized in this chapter, when any  
1308 agency or governing authority shall have a need for gas, diesel  
1309 fuel, oils and/or other petroleum products in excess of the amount  
1310 set forth in paragraph (a) of this section, such agency or  
1311 governing authority may purchase the commodity after having  
1312 solicited and obtained at least two (2) competitive written bids,  
1313 as defined in paragraph (b) of this section. If two (2)



1314 competitive written bids are not obtained, the entity shall comply  
1315 with the procedures set forth in paragraph (c) of this section.  
1316 In the event any agency or governing authority shall have  
1317 advertised for bids for the purchase of gas, diesel fuel, oils and  
1318 other petroleum products and coal and no acceptable bids can be  
1319 obtained, such agency or governing authority is authorized and  
1320 directed to enter into any negotiations necessary to secure the  
1321 lowest and best contract available for the purchase of such  
1322 commodities.

1323           (i) **Road construction petroleum products price**  
1324 **adjustment clause authorization.** Any agency or governing  
1325 authority authorized to enter into contracts for the construction,  
1326 maintenance, surfacing or repair of highways, roads or streets,  
1327 may include in its bid proposal and contract documents a price  
1328 adjustment clause with relation to the cost to the contractor,  
1329 including taxes, based upon an industry-wide cost index, of  
1330 petroleum products including asphalt used in the performance or  
1331 execution of the contract or in the production or manufacture of  
1332 materials for use in such performance. Such industry-wide index  
1333 shall be established and published monthly by the Mississippi  
1334 Department of Transportation with a copy thereof to be mailed,  
1335 upon request, to the clerks of the governing authority of each  
1336 municipality and the clerks of each board of supervisors  
1337 throughout the state. The price adjustment clause shall be based  
1338 on the cost of such petroleum products only and shall not include



1339 any additional profit or overhead as part of the adjustment. The  
1340 bid proposals or document contract shall contain the basis and  
1341 methods of adjusting unit prices for the change in the cost of  
1342 such petroleum products.

1343           (j) **State agency emergency purchase procedure.** If the  
1344 governing board or the executive head, or his designees, of any  
1345 agency of the state shall determine that an emergency exists in  
1346 regard to the purchase of any commodities or repair contracts, so  
1347 that the delay incident to giving opportunity for competitive  
1348 bidding would be detrimental to the interests of the state, then  
1349 the head of such agency, or his designees, shall file with the  
1350 Department of Finance and Administration (i) a statement  
1351 explaining the conditions and circumstances of the emergency,  
1352 which shall include a detailed description of the events leading  
1353 up to the situation and the negative impact to the entity if the  
1354 purchase is made following the statutory requirements set forth in  
1355 paragraph (a), (b) or (c) of this section, and (ii) a certified  
1356 copy of the appropriate minutes of the board of such agency  
1357 requesting the emergency purchase, if applicable. Upon receipt of  
1358 the statement and applicable board certification, the State Fiscal  
1359 Officer, or his designees, may, in writing, authorize the purchase  
1360 or repair without having to comply with competitive bidding  
1361 requirements.

1362           If the governing board or the executive head, or his  
1363 designees, of any agency determines that an emergency exists in



1364 regard to the purchase of any commodities or repair contracts, so  
1365 that the delay incident to giving opportunity for competitive  
1366 bidding would threaten the health or safety of any person, or the  
1367 preservation or protection of property, then the provisions in  
1368 this section for competitive bidding shall not apply, and any  
1369 officer or agent of the agency having general or specific  
1370 authority for making the purchase or repair contract shall approve  
1371 the bill presented for payment, and he shall certify in writing  
1372 from whom the purchase was made, or with whom the repair contract  
1373 was made.

1374 Total purchases made under this paragraph (j) shall only be  
1375 for the purpose of meeting needs created by the emergency  
1376 situation. Following the emergency purchase, documentation of the  
1377 purchase, including a description of the commodity purchased, the  
1378 purchase price thereof and the nature of the emergency shall be  
1379 filed with the Department of Finance and Administration. Any  
1380 contract awarded pursuant to this paragraph (j) shall not exceed a  
1381 term of one (1) year.

1382 Purchases under the grant program established under Section  
1383 37-68-7 in response to COVID-19 and the directive that school  
1384 districts create a distance learning plan and fulfill technology  
1385 needs expeditiously shall be deemed an emergency purchase for  
1386 purposes of this paragraph (j).

1387 (k) **Governing authority emergency purchase procedure.**

1388 If the governing authority, or the governing authority acting





1389 through its designee, shall determine that an emergency exists in  
1390 regard to the purchase of any commodities or repair contracts, so  
1391 that the delay incident to giving opportunity for competitive  
1392 bidding would be detrimental to the interest of the governing  
1393 authority, then the provisions herein for competitive bidding  
1394 shall not apply and any officer or agent of such governing  
1395 authority having general or special authority therefor in making  
1396 such purchase or repair shall approve the bill presented therefor,  
1397 and he shall certify in writing thereon from whom such purchase  
1398 was made, or with whom such a repair contract was made. At the  
1399 board meeting next following the emergency purchase or repair  
1400 contract, documentation of the purchase or repair contract,  
1401 including a description of the commodity purchased, the price  
1402 thereof and the nature of the emergency shall be presented to the  
1403 board and shall be placed on the minutes of the board of such  
1404 governing authority. Purchases under the grant program  
1405 established under Section 37-68-7 in response to COVID-19 and the  
1406 directive that school districts create a distance learning plan  
1407 and fulfill technology needs expeditiously shall be deemed an  
1408 emergency purchase for purposes of this paragraph (k).

1409           (1) **Hospital purchase, lease-purchase and lease**  
1410 **authorization.**

1411                   (i) The commissioners or board of trustees of any  
1412 public hospital may contract with such lowest and best bidder for  
1413 the purchase or lease-purchase of any commodity under a contract



1414 of purchase or lease-purchase agreement whose obligatory payment  
1415 terms do not exceed five (5) years.

1416 (ii) In addition to the authority granted in  
1417 subparagraph (i) of this paragraph (1), the commissioners or board  
1418 of trustees is authorized to enter into contracts for the lease of  
1419 equipment or services, or both, which it considers necessary for  
1420 the proper care of patients if, in its opinion, it is not  
1421 financially feasible to purchase the necessary equipment or  
1422 services. Any such contract for the lease of equipment or  
1423 services executed by the commissioners or board shall not exceed a  
1424 maximum of five (5) years' duration and shall include a  
1425 cancellation clause based on unavailability of funds. If such  
1426 cancellation clause is exercised, there shall be no further  
1427 liability on the part of the lessee. Any such contract for the  
1428 lease of equipment or services executed on behalf of the  
1429 commissioners or board that complies with the provisions of this  
1430 subparagraph (ii) shall be excepted from the bid requirements set  
1431 forth in this section.

1432 (m) **Exceptions from bidding requirements.** Excepted  
1433 from bid requirements are:

1434 (i) **Purchasing agreements approved by department.**  
1435 Purchasing agreements, contracts and maximum price regulations  
1436 executed or approved by the Department of Finance and  
1437 Administration.



1438                   (ii) **Outside equipment repairs.** Repairs to  
1439 equipment, when such repairs are made by repair facilities in the  
1440 private sector; however, engines, transmissions, rear axles and/or  
1441 other such components shall not be included in this exemption when  
1442 replaced as a complete unit instead of being repaired and the need  
1443 for such total component replacement is known before disassembly  
1444 of the component; however, invoices identifying the equipment,  
1445 specific repairs made, parts identified by number and name,  
1446 supplies used in such repairs, and the number of hours of labor  
1447 and costs therefor shall be required for the payment for such  
1448 repairs.

1449                   (iii) **In-house equipment repairs.** Purchases of  
1450 parts for repairs to equipment, when such repairs are made by  
1451 personnel of the agency or governing authority; however, entire  
1452 assemblies, such as engines or transmissions, shall not be  
1453 included in this exemption when the entire assembly is being  
1454 replaced instead of being repaired.

1455                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
1456 of gravel or fill dirt which are to be removed and transported by  
1457 the purchaser.

1458                   (v) **Governmental equipment auctions.** Motor  
1459 vehicles or other equipment purchased from a federal agency or  
1460 authority, another governing authority or state agency of the  
1461 State of Mississippi, or any governing authority or state agency  
1462 of another state at a public auction held for the purpose of



1463 disposing of such vehicles or other equipment. Any purchase by a  
1464 governing authority under the exemption authorized by this  
1465 subparagraph (v) shall require advance authorization spread upon  
1466 the minutes of the governing authority to include the listing of  
1467 the item or items authorized to be purchased and the maximum bid  
1468 authorized to be paid for each item or items.

1469 (vi) **Intergovernmental sales and transfers.**

1470 Purchases, sales, transfers or trades by governing authorities or  
1471 state agencies when such purchases, sales, transfers or trades are  
1472 made by a private treaty agreement or through means of  
1473 negotiation, from any federal agency or authority, another  
1474 governing authority or state agency of the State of Mississippi,  
1475 or any state agency or governing authority of another state.  
1476 Nothing in this section shall permit such purchases through public  
1477 auction except as provided for in subparagraph (v) of this  
1478 paragraph (m). It is the intent of this section to allow  
1479 governmental entities to dispose of and/or purchase commodities  
1480 from other governmental entities at a price that is agreed to by  
1481 both parties. This shall allow for purchases and/or sales at  
1482 prices which may be determined to be below the market value if the  
1483 selling entity determines that the sale at below market value is  
1484 in the best interest of the taxpayers of the state. Governing  
1485 authorities shall place the terms of the agreement and any  
1486 justification on the minutes, and state agencies shall obtain



1487 approval from the Department of Finance and Administration, prior  
1488 to releasing or taking possession of the commodities.

1489 (vii) **Perishable supplies or food.** Perishable  
1490 supplies or food purchased for use in connection with hospitals,  
1491 the school lunch programs, homemaking programs and for the feeding  
1492 of county or municipal prisoners.

1493 (viii) **Single-source items.** Noncompetitive items  
1494 available from one (1) source only. In connection with the  
1495 purchase of noncompetitive items only available from one (1)  
1496 source, a certification of the conditions and circumstances  
1497 requiring the purchase shall be filed by the agency with the  
1498 Department of Finance and Administration and by the governing  
1499 authority with the board of the governing authority. Upon receipt  
1500 of that certification the Department of Finance and Administration  
1501 or the board of the governing authority, as the case may be, may,  
1502 in writing, authorize the purchase, which authority shall be noted  
1503 on the minutes of the body at the next regular meeting thereafter.  
1504 In those situations, a governing authority is not required to  
1505 obtain the approval of the Department of Finance and  
1506 Administration. Following the purchase, the executive head of the  
1507 state agency, or his designees, shall file with the Department of  
1508 Finance and Administration, documentation of the purchase,  
1509 including a description of the commodity purchased, the purchase  
1510 price thereof and the source from whom it was purchased.



1511 (ix) **Waste disposal facility construction**  
1512 **contracts.** Construction of incinerators and other facilities for  
1513 disposal of solid wastes in which products either generated  
1514 therein, such as steam, or recovered therefrom, such as materials  
1515 for recycling, are to be sold or otherwise disposed of; however,  
1516 in constructing such facilities, a governing authority or agency  
1517 shall publicly issue requests for proposals, advertised for in the  
1518 same manner as provided herein for seeking bids for public  
1519 construction projects, concerning the design, construction,  
1520 ownership, operation and/or maintenance of such facilities,  
1521 wherein such requests for proposals when issued shall contain  
1522 terms and conditions relating to price, financial responsibility,  
1523 technology, environmental compatibility, legal responsibilities  
1524 and such other matters as are determined by the governing  
1525 authority or agency to be appropriate for inclusion; and after  
1526 responses to the request for proposals have been duly received,  
1527 the governing authority or agency may select the most qualified  
1528 proposal or proposals on the basis of price, technology and other  
1529 relevant factors and from such proposals, but not limited to the  
1530 terms thereof, negotiate and enter contracts with one or more of  
1531 the persons or firms submitting proposals.

1532 (x) **Hospital group purchase contracts.** Supplies,  
1533 commodities and equipment purchased by hospitals through group  
1534 purchase programs pursuant to Section 31-7-38.



1535                   (xi)   **Information technology products.** Purchases  
1536 of information technology products made by governing authorities  
1537 under the provisions of purchase schedules, or contracts executed  
1538 or approved by the Mississippi Department of Information  
1539 Technology Services and designated for use by governing  
1540 authorities.

1541                   (xii)   **Energy efficiency services and equipment.**  
1542 Energy efficiency services and equipment acquired by school  
1543 districts, community and junior colleges, institutions of higher  
1544 learning and state agencies or other applicable governmental  
1545 entities on a shared-savings, lease or lease-purchase basis  
1546 pursuant to Section 31-7-14.

1547                   (xiii)   **Municipal electrical utility system fuel.**  
1548 Purchases of coal and/or natural gas by municipally owned electric  
1549 power generating systems that have the capacity to use both coal  
1550 and natural gas for the generation of electric power.

1551                   (xiv)   **Library books and other reference materials.**  
1552 Purchases by libraries or for libraries of books and periodicals;  
1553 processed film, videocassette tapes, filmstrips and slides;  
1554 recorded audiotapes, cassettes and diskettes; and any such items  
1555 as would be used for teaching, research or other information  
1556 distribution; however, equipment such as projectors, recorders,  
1557 audio or video equipment, and monitor televisions are not exempt  
1558 under this subparagraph.



1559                   (xv)    **Unmarked vehicles.**   Purchases of unmarked  
1560 vehicles when such purchases are made in accordance with  
1561 purchasing regulations adopted by the Department of Finance and  
1562 Administration pursuant to Section 31-7-9(2).

1563                   (xvi)   **Election ballots.**   Purchases of ballots  
1564 printed pursuant to Section 23-15-351.

1565                   (xvii)   **Multichannel interactive video systems.**  
1566 From and after July 1, 1990, contracts by Mississippi Authority  
1567 for Educational Television with any private educational  
1568 institution or private nonprofit organization whose purposes are  
1569 educational in regard to the construction, purchase, lease or  
1570 lease-purchase of facilities and equipment and the employment of  
1571 personnel for providing multichannel interactive video systems  
1572 (ITSF) in the school districts of this state.

1573                   (xviii)   **Purchases of prison industry products by**  
1574 **the Department of Corrections, regional correctional facilities or**  
1575 **privately owned prisons.**   Purchases made by the Mississippi  
1576 Department of Corrections, regional correctional facilities or  
1577 privately owned prisons involving any item that is manufactured,  
1578 processed, grown or produced from the state's prison industries.

1579                   (xix)    **Undercover operations equipment.**   Purchases  
1580 of surveillance equipment or any other high-tech equipment to be  
1581 used by law enforcement agents in undercover operations, provided  
1582 that any such purchase shall be in compliance with regulations  
1583 established by the Department of Finance and Administration.





1584 (xx) **Junior college books for rent.** Purchases by  
1585 community or junior colleges of textbooks which are obtained for  
1586 the purpose of renting such books to students as part of a book  
1587 service system.

1588 (xxi) **Certain school district purchases.**  
1589 Purchases of commodities made by school districts from vendors  
1590 with which any levying authority of the school district, as  
1591 defined in Section 37-57-1, has contracted through competitive  
1592 bidding procedures for purchases of the same commodities.

1593 (xxii) **Garbage, solid waste and sewage contracts.**  
1594 Contracts for garbage collection or disposal, contracts for solid  
1595 waste collection or disposal and contracts for sewage collection  
1596 or disposal.

1597 (xxiii) **Municipal water tank maintenance**  
1598 **contracts.** Professional maintenance program contracts for the  
1599 repair or maintenance of municipal water tanks, which provide  
1600 professional services needed to maintain municipal water storage  
1601 tanks for a fixed annual fee for a duration of two (2) or more  
1602 years.

1603 (xxiv) **Purchases of Mississippi Industries for the**  
1604 **Blind products.** Purchases made by state agencies or governing  
1605 authorities involving any item that is manufactured, processed or  
1606 produced by the Mississippi Industries for the Blind.

1607 (xxv) **Purchases of state-adopted textbooks.**  
1608 Purchases of state-adopted textbooks by public school districts.



1609                   (xxvi)   **Certain purchases under the Mississippi**  
1610 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1611 provisions of Section 57-75-9(2), (3) and (4).

1612                   (xxvii)   **Used heavy or specialized machinery or**  
1613 **equipment for installation of soil and water conservation**  
1614 **practices purchased at auction.** Used heavy or specialized  
1615 machinery or equipment used for the installation and  
1616 implementation of soil and water conservation practices or  
1617 measures purchased subject to the restrictions provided in  
1618 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1619 Soil and Water Conservation Commission under the exemption  
1620 authorized by this subparagraph shall require advance  
1621 authorization spread upon the minutes of the commission to include  
1622 the listing of the item or items authorized to be purchased and  
1623 the maximum bid authorized to be paid for each item or items.

1624                   (xxviii)   **Hospital lease of equipment or services.**  
1625 Leases by hospitals of equipment or services if the leases are in  
1626 compliance with paragraph (1)(ii).

1627                   (xxix)   **Purchases made pursuant to qualified**  
1628 **cooperative purchasing agreements.** Purchases made by certified  
1629 purchasing offices of state agencies or governing authorities  
1630 under cooperative purchasing agreements previously approved by the  
1631 Office of Purchasing and Travel and established by or for any  
1632 municipality, county, parish or state government or the federal  
1633 government, provided that the notification to potential



1634 contractors includes a clause that sets forth the availability of  
1635 the cooperative purchasing agreement to other governmental  
1636 entities. Such purchases shall only be made if the use of the  
1637 cooperative purchasing agreements is determined to be in the best  
1638 interest of the governmental entity.

1639 (xxx) **School yearbooks.** Purchases of school  
1640 yearbooks by state agencies or governing authorities; \* \* \*  
1641 however, \* \* \* state agencies and governing authorities shall use  
1642 for these purchases the RFP process as set forth in the  
1643 Mississippi Procurement Manual adopted by the Office of Purchasing  
1644 and Travel.

1645 (xxxii) **Design-build method of contracting and**  
1646 **certain other contracts.** Contracts entered into under the  
1647 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1648 (xxxiii) **Toll roads and bridge construction**  
1649 **projects.** Contracts entered into under the provisions of Section  
1650 65-43-1 or 65-43-3.

1651 (xxxiiii) **Certain purchases under Section 57-1-221.**  
1652 Contracts entered into pursuant to the provisions of Section  
1653 57-1-221.

1654 (xxxv) **Certain transfers made pursuant to the**  
1655 **provisions of Section 57-105-1(7).** Transfers of public property  
1656 or facilities under Section 57-105-1(7) and construction related  
1657 to such public property or facilities.



1658 (xxxv) **Certain purchases or transfers entered into**  
1659 **with local electrical power associations.** Contracts or agreements  
1660 entered into under the provisions of Section 55-3-33.

1661 (xxxvi) **Certain purchases by an academic medical**  
1662 **center or health sciences school.** Purchases by an academic  
1663 medical center or health sciences school, as defined in Section  
1664 37-115-50, of commodities that are used for clinical purposes and  
1665 1. intended for use in the diagnosis of disease or other  
1666 conditions or in the cure, mitigation, treatment or prevention of  
1667 disease, and 2. medical devices, biological, drugs and  
1668 radiation-emitting devices as defined by the United States Food  
1669 and Drug Administration.

1670 (xxxvii) **Certain purchases made under the Alyce G.**  
1671 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1672 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1673 Lottery Law.

1674 (xxxviii) **Certain purchases made by the Department**  
1675 **of Health and the Department of Revenue.** Purchases made by the  
1676 Department of Health \* \* \* and the Department of Revenue solely  
1677 for the purpose of fulfilling their respective responsibilities  
1678 under the Mississippi Medical Cannabis Act. This subparagraph  
1679 shall stand repealed on June 30, \* \* \* 2026.

1680 (n) **Term contract authorization.** All contracts for the  
1681 purchase of:



1682 (i) All contracts for the purchase of commodities,  
1683 equipment and public construction (including, but not limited to,  
1684 repair and maintenance), may be let for periods of not more than  
1685 sixty (60) months in advance, subject to applicable statutory  
1686 provisions prohibiting the letting of contracts during specified  
1687 periods near the end of terms of office. Term contracts for a  
1688 period exceeding twenty-four (24) months shall also be subject to  
1689 ratification or cancellation by governing authority boards taking  
1690 office subsequent to the governing authority board entering the  
1691 contract.

1692 (ii) Bid proposals and contracts may include price  
1693 adjustment clauses with relation to the cost to the contractor  
1694 based upon a nationally published industry-wide or nationally  
1695 published and recognized cost index. The cost index used in a  
1696 price adjustment clause shall be determined by the Department of  
1697 Finance and Administration for the state agencies and by the  
1698 governing board for governing authorities. The bid proposal and  
1699 contract documents utilizing a price adjustment clause shall  
1700 contain the basis and method of adjusting unit prices for the  
1701 change in the cost of such commodities, equipment and public  
1702 construction.

1703 (o) **Purchase law violation prohibition and vendor**  
1704 **penalty.** No contract or purchase as herein authorized shall be  
1705 made for the purpose of circumventing the provisions of this  
1706 section requiring competitive bids, nor shall it be lawful for any



1707 person or concern to submit individual invoices for amounts within  
1708 those authorized for a contract or purchase where the actual value  
1709 of the contract or commodity purchased exceeds the authorized  
1710 amount and the invoices therefor are split so as to appear to be  
1711 authorized as purchases for which competitive bids are not  
1712 required. Submission of such invoices shall constitute a  
1713 misdemeanor punishable by a fine of not less than Five Hundred  
1714 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1715 or by imprisonment for thirty (30) days in the county jail, or  
1716 both such fine and imprisonment. In addition, the claim or claims  
1717 submitted shall be forfeited.

1718 (p) **Electrical utility petroleum-based equipment**  
1719 **purchase procedure.** When in response to a proper advertisement  
1720 therefor, no bid firm as to price is submitted to an electric  
1721 utility for power transformers, distribution transformers, power  
1722 breakers, reclosers or other articles containing a petroleum  
1723 product, the electric utility may accept the lowest and best bid  
1724 therefor although the price is not firm.

1725 (q) **Fuel management system bidding procedure.** Any  
1726 governing authority or agency of the state shall, before  
1727 contracting for the services and products of a fuel management or  
1728 fuel access system, enter into negotiations with not fewer than  
1729 two (2) sellers of fuel management or fuel access systems for  
1730 competitive written bids to provide the services and products for  
1731 the systems. In the event that the governing authority or agency



1732 cannot locate two (2) sellers of such systems or cannot obtain  
1733 bids from two (2) sellers of such systems, it shall show proof  
1734 that it made a diligent, good-faith effort to locate and negotiate  
1735 with two (2) sellers of such systems. Such proof shall include,  
1736 but not be limited to, publications of a request for proposals and  
1737 letters soliciting negotiations and bids. For purposes of this  
1738 paragraph (q), a fuel management or fuel access system is an  
1739 automated system of acquiring fuel for vehicles as well as  
1740 management reports detailing fuel use by vehicles and drivers, and  
1741 the term "competitive written bid" shall have the meaning as  
1742 defined in paragraph (b) of this section. Governing authorities  
1743 and agencies shall be exempt from this process when contracting  
1744 for the services and products of fuel management or fuel access  
1745 systems under the terms of a state contract established by the  
1746 Office of Purchasing and Travel.

1747           (r) **Solid waste contract proposal procedure.** Before  
1748 entering into any contract for garbage collection or disposal,  
1749 contract for solid waste collection or disposal or contract for  
1750 sewage collection or disposal, which involves an expenditure of  
1751 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1752 authority or agency shall issue publicly a request for proposals  
1753 concerning the specifications for such services which shall be  
1754 advertised for in the same manner as provided in this section for  
1755 seeking bids for purchases which involve an expenditure of more  
1756 than the amount provided in paragraph (c) of this section. Any



1757 request for proposals when issued shall contain terms and  
1758 conditions relating to price, financial responsibility,  
1759 technology, legal responsibilities and other relevant factors as  
1760 are determined by the governing authority or agency to be  
1761 appropriate for inclusion; all factors determined relevant by the  
1762 governing authority or agency or required by this paragraph (r)  
1763 shall be duly included in the advertisement to elicit proposals.  
1764 After responses to the request for proposals have been duly  
1765 received, the governing authority or agency shall select the most  
1766 qualified proposal or proposals on the basis of price, technology  
1767 and other relevant factors and from such proposals, but not  
1768 limited to the terms thereof, negotiate and enter into contracts  
1769 with one or more of the persons or firms submitting proposals. If  
1770 the governing authority or agency deems none of the proposals to  
1771 be qualified or otherwise acceptable, the request for proposals  
1772 process may be reinitiated. Notwithstanding any other provisions  
1773 of this paragraph, where a county with at least thirty-five  
1774 thousand (35,000) nor more than forty thousand (40,000)  
1775 population, according to the 1990 federal decennial census, owns  
1776 or operates a solid waste landfill, the governing authorities of  
1777 any other county or municipality may contract with the governing  
1778 authorities of the county owning or operating the landfill,  
1779 pursuant to a resolution duly adopted and spread upon the minutes  
1780 of each governing authority involved, for garbage or solid waste  
1781 collection or disposal services through contract negotiations.





1782                   (s) **Minority set-aside authorization.** Notwithstanding  
1783 any provision of this section to the contrary, any agency or  
1784 governing authority, by order placed on its minutes, may, in its  
1785 discretion, set aside not more than twenty percent (20%) of its  
1786 anticipated annual expenditures for the purchase of commodities  
1787 from minority businesses; however, all such set-aside purchases  
1788 shall comply with all purchasing regulations promulgated by the  
1789 Department of Finance and Administration and shall be subject to  
1790 bid requirements under this section. Set-aside purchases for  
1791 which competitive bids are required shall be made from the lowest  
1792 and best minority business bidder. For the purposes of this  
1793 paragraph, the term "minority business" means a business which is  
1794 owned by a majority of persons who are United States citizens or  
1795 permanent resident aliens (as defined by the Immigration and  
1796 Naturalization Service) of the United States, and who are Asian,  
1797 Black, Hispanic or Native American, according to the following  
1798 definitions:

1799                   (i) "Asian" means persons having origins in any of  
1800 the original people of the Far East, Southeast Asia, the Indian  
1801 subcontinent, or the Pacific Islands.

1802                   (ii) "Black" means persons having origins in any  
1803 black racial group of Africa.

1804                   (iii) "Hispanic" means persons of Spanish or  
1805 Portuguese culture with origins in Mexico, South or Central  
1806 America, or the Caribbean Islands, regardless of race.



1807 (iv) "Native American" means persons having  
1808 origins in any of the original people of North America, including  
1809 American Indians, Eskimos and Aleuts.

1810 (t) **Construction punch list restriction.** The  
1811 architect, engineer or other representative designated by the  
1812 agency or governing authority that is contracting for public  
1813 construction or renovation may prepare and submit to the  
1814 contractor only one (1) preliminary punch list of items that do  
1815 not meet the contract requirements at the time of substantial  
1816 completion and one (1) final list immediately before final  
1817 completion and final payment.

1818 (u) **Procurement of construction services by state**  
1819 **institutions of higher learning.** Contracts for privately financed  
1820 construction of auxiliary facilities on the campus of a state  
1821 institution of higher learning may be awarded by the Board of  
1822 Trustees of State Institutions of Higher Learning to the lowest  
1823 and best bidder, where sealed bids are solicited, or to the  
1824 offeror whose proposal is determined to represent the best value  
1825 to the citizens of the State of Mississippi, where requests for  
1826 proposals are solicited.

1827 (v) **Insurability of bidders for public construction or**  
1828 **other public contracts.** In any solicitation for bids to perform  
1829 public construction or other public contracts to which this  
1830 section applies, including, but not limited to, contracts for  
1831 repair and maintenance, for which the contract will require



1832 insurance coverage in an amount of not less than One Million  
1833 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1834 submit proof of current insurance coverage in the specified amount  
1835 or demonstrate ability to obtain the required coverage amount of  
1836 insurance if the contract is awarded to the bidder. Proof of  
1837 insurance coverage shall be submitted within five (5) business  
1838 days from bid acceptance.

1839 (w) **Purchase authorization clarification.** Nothing in  
1840 this section shall be construed as authorizing any purchase not  
1841 authorized by law.

1842 **SECTION 7.** This act shall take effect and be in force from  
1843 and after July 1, 2023.

