

By: Representative Roberson

To: Drug Policy

HOUSE BILL NO. 249
(As Sent to Governor)

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 (AS AMENDED BY SENATE BILL NO. 2728, 2023
11 REGULAR SESSION), MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF
12 THOSE DEPARTMENTS' EXEMPTION FOR PURPOSES RELATED TO THE
13 MISSISSIPPI MEDICAL CANNABIS ACT FROM THE BID AND CONTRACT
14 REQUIREMENTS OF THE MISSISSIPPI DEPARTMENT OF INFORMATION
15 TECHNOLOGY SERVICES; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE
16 OF 1972, TO EXTEND THE DATE OF THE EXEMPTION FOR THOSE
17 DEPARTMENTS' PERSONAL AND PROFESSIONAL SERVICE CONTRACTS RELATING
18 TO THE MISSISSIPPI MEDICAL CANNABIS ACT FROM THE REQUIREMENTS OF
19 THE PUBLIC PROCUREMENT REVIEW BOARD; TO AMEND SECTION 31-7-13,
20 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON
21 THE EXEMPTION FROM STATE BID REQUIREMENTS FOR PURCHASES MADE BY
22 THOSE DEPARTMENTS IN CONNECTION WITH THEIR RESPONSIBILITIES UNDER
23 THE MISSISSIPPI MEDICAL CANNABIS ACT; TO INCLUDE SERVICES PROVIDED
24 BY THE MISSISSIPPI INDUSTRIES FOR THE BLIND IN THE EXCEPTIONS FROM
25 BIDDING REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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



29 25-9-107. The following terms, when used in this chapter,
30 unless a different meaning is plainly required by the context,
31 shall have the following meanings:

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

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

37 (c) "Nonstate service" means the following officers and
38 employees excluded from the state service by this chapter. The
39 following are excluded from the state service:

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

42 (ii) The Governor and staff members of the
43 immediate Office of the Governor;

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

46 (iv) The Lieutenant Governor, staff members of the
47 immediate Office of the Lieutenant Governor and officers and
48 employees directly appointed by the Lieutenant Governor;

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

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



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

57 (viii) Officers and enlisted members of the
58 National Guard of the state;

59 (ix) Prisoners, inmates, student or patient help
60 working in or about institutions;

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

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



77 (xii) Persons appointed on an emergency basis for
78 the duration of the emergency; the effective date of the emergency
79 appointments shall not be earlier than the date approved by the
80 State Personnel Director, and shall be limited to thirty (30)
81 working days. Emergency appointments may be extended to sixty
82 (60) working days by the State Personnel Board;

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

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



101 all qualifications required by federal statutes or by the
102 Mississippi Classification Plan;

103 (xv) The administrative head who is in charge of
104 any state department, agency, institution, board or commission,
105 wherein the statute specifically authorizes the Governor, board,
106 commission or other authority to appoint said administrative
107 head; * * * however, * * * the salary of such administrative head
108 shall be determined by the State Personnel Board in accordance
109 with the Variable Compensation Plan unless otherwise fixed by
110 statute;

111 (xvi) The State Personnel Board shall exclude
112 top-level positions if the incumbents determine and publicly
113 advocate substantive program policy and report directly to the
114 agency head, or the incumbents are required to maintain a direct
115 confidential working relationship with a key excluded
116 official. * * * Further, a written job classification shall be
117 approved by the board for each such position, and positions so
118 excluded shall be paid in conformity with the Variable
119 Compensation Plan;

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

123 (xviii) Repealed;



124 (xix) The associate director, deputy directors and
125 bureau directors within the Department of Agriculture and
126 Commerce;

127 (xx) Personnel employed by the Mississippi
128 Industries for the Blind; provided that any agency may enter into
129 contracts for the personal services of MIB employees without the
130 prior approval of the State Personnel Board or the State Personal
131 Service Contract Review Board; however, any agency contracting for
132 the personal services of an MIB employee shall provide the MIB
133 employee with not less than the entry-level compensation and
134 benefits that the agency would provide to a full-time employee of
135 the agency who performs the same services;

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

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

144 (xxiii) The President of the Mississippi Lottery
145 Corporation and personnel employed by the Mississippi Lottery
146 Corporation;

147 (xxiv) Employees, excluding administrative
148 employees, of the State Veterans Affairs Board who are employed at



149 a veterans home established by the State Veterans Affairs Board
150 under Section 35-1-19;

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

156 (xxvi) Personnel employed by the Mississippi
157 Department of Revenue whose employment is solely in connection
158 with the department's responsibilities in implementing,
159 administering and enforcing provisions of the Mississippi Medical
160 Cannabis Act. This subparagraph shall stand repealed on June
161 30, * * * 2026.

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

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

171 25-43-1.103. (1) This chapter applies to all agencies and
172 all proceedings not expressly exempted under this chapter.



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

176 (3) Specific statutory provisions which govern agency
177 proceedings and which are in conflict with any of the provisions
178 of this chapter shall continue to be applied to all proceedings of
179 any such agency to the extent of such conflict only.

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

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

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

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



198 25-53-1. The Legislature recognizes that in order for the
199 State of Mississippi to receive the maximum use and benefit from
200 information technology and services now in operation or which will
201 in the future be placed in operation, there should be full
202 cooperation and cohesive planning and effort by and between the
203 several state agencies and that it is the responsibility of the
204 Legislature to provide statutory authority therefor. The
205 Legislature, therefore, declares and determines that for these and
206 other related purposes there is hereby established an agency of
207 state government to be known as the Mississippi Department of
208 Information Technology Services (MDITS). The Legislature further
209 declares that the Mississippi Department of Information Technology
210 Services (MDITS) shall provide statewide services that facilitate
211 cost-effective information processing and telecommunication
212 solutions. State agencies shall work in full cooperation with the
213 board of MDITS to identify opportunities to minimize duplication,
214 reduce costs and improve the efficiency of providing common
215 technology services across agency boundaries. The provisions of
216 this chapter shall not apply to the Department of Human Services
217 for a period of three (3) years beginning July 1, 2017. The
218 provisions of this chapter shall not apply to the Department of
219 Child Protection Services for a period of three (3) years
220 beginning July 1, 2017. Through June 30, * * * 2024, the
221 provisions of this chapter shall not apply to the Department of
222 Health and the Department of Revenue for the purposes of



223 implementing, administering and enforcing the provisions of the
224 Mississippi Medical Cannabis Act.

225 **SECTION 4.** Section 25-53-5, Mississippi Code of 1972, as
226 amended by Senate Bill No. 2728, 2023 Regular Session, is amended
227 as follows:

228 25-53-5. The authority shall have the following powers,
229 duties, and responsibilities:

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

245 (ii) [Repealed]

246 (b) The authority shall immediately institute
247 procedures for carrying out the purposes of this chapter and



248 supervise the efficient execution of the powers and duties of the
249 office of executive director of the authority. In the execution
250 of its functions under this chapter, the authority shall maintain
251 as a paramount consideration the successful internal organization
252 and operation of the several agencies so that efficiency existing
253 therein shall not be adversely affected or impaired. In executing
254 its functions in relation to the institutions of higher learning
255 and junior colleges in the state, the authority shall take into
256 consideration the special needs of such institutions in relation
257 to the fields of teaching and scientific research.

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

264 (d) The authority shall adopt rules, regulations, and
265 procedures governing the acquisition of computer and
266 telecommunications equipment and services which shall, to the
267 fullest extent practicable, insure the maximum of competition
268 between all manufacturers of supplies or equipment or services.
269 In the writing of specifications, in the making of contracts
270 relating to the acquisition of such equipment and services, and in
271 the performance of its other duties the authority shall provide
272 for the maximum compatibility of all information systems hereafter



273 installed or utilized by all state agencies and may require the
274 use of common computer languages where necessary to accomplish the
275 purposes of this chapter. The authority may establish by
276 regulation and charge reasonable fees on a nondiscriminatory basis
277 for the furnishing to bidders of copies of bid specifications and
278 other documents issued by the authority.

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

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



297 duly adopted by the authority and entered on its minutes prior to
298 the performance of such duties.

299 (g) The authority may provide for the development and
300 require the adoption of standardized computer programs and may
301 provide for the dissemination of information to and the
302 establishment of training programs for the personnel of the
303 various information technology centers of state agencies and
304 personnel of the agencies utilizing the services thereof.

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

314 (i) The authority shall require such adequate
315 documentation of information technology procedures utilized by the
316 various state agencies and may require the establishment of such
317 organizational structures within state agencies relating to
318 information technology operations as may be necessary to
319 effectuate the purposes of this chapter.

320 (j) The authority may adopt such further reasonable
321 rules and regulations as may be necessary to fully implement the



322 purposes of this chapter. All rules and regulations adopted by
323 the authority shall be published and disseminated in readily
324 accessible form to all affected state agencies, and to all current
325 suppliers of computer equipment and services to the state, and to
326 all prospective suppliers requesting the same. Such rules and
327 regulations shall be kept current, be periodically revised, and
328 copies thereof shall be available at all times for inspection by
329 the public at reasonable hours in the offices of the authority.
330 Whenever possible no rule, regulation or any proposed amendment to
331 such rules and regulations shall be finally adopted or enforced
332 until copies of the proposed rules and regulations have been
333 furnished to all interested parties for their comment and
334 suggestions.

335 (k) The authority shall establish rules and regulations
336 which shall provide for the submission of all contracts proposed
337 to be executed by the executive director for computer equipment
338 and/or telecommunications or services, including cloud computing,
339 to the authority for approval before final execution, and the
340 authority may provide that such contracts involving the
341 expenditure of less than such specified amount as may be
342 established by the authority may be finally executed by the
343 executive director without first obtaining such approval by the
344 authority.

345 (l) The authority is authorized to consider new
346 technologies, such as cloud computing, to purchase, lease, or rent



347 computer equipment or services and to operate that equipment and
348 use those services in providing services to one or more state
349 agencies when in its opinion such operation will provide maximum
350 efficiency and economy in the functions of any such agency or
351 agencies.

352 (m) Upon the request of the governing body of a
353 political subdivision or instrumentality, the authority shall
354 assist the political subdivision or instrumentality in its
355 development of plans for the efficient acquisition and utilization
356 of computer equipment and services. An appropriate fee shall be
357 charged the political subdivision by the authority for such
358 assistance.

359 (n) The authority shall adopt rules and regulations
360 governing the protest procedures to be followed by any actual or
361 prospective bidder, offerer or contractor who is aggrieved in
362 connection with the solicitation or award of a contract for the
363 acquisition of computer equipment or services. Such rules and
364 regulations shall prescribe the manner, time and procedure for
365 making protests and may provide that a protest not timely filed
366 shall be summarily denied. The authority may require the
367 protesting party, at the time of filing the protest, to post a
368 bond, payable to the state, in an amount that the authority
369 determines sufficient to cover any expense or loss incurred by the
370 state, the authority or any state agency as a result of the
371 protest if the protest subsequently is determined by a court of



372 competent jurisdiction to have been filed without any substantial
373 basis or reasonable expectation to believe that the protest was
374 meritorious; however, in no event may the amount of the bond
375 required exceed a reasonable estimate of the total project cost.
376 The authority, in its discretion, also may prohibit any
377 prospective bidder, offerer or contractor who is a party to any
378 litigation involving any such contract with the state, the
379 authority or any agency of the state to participate in any other
380 such bid, offer or contract, or to be awarded any such contract,
381 during the pendency of the litigation.

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

386 All acquisitions of computer equipment and services involving
387 the expenditure of funds in excess of the dollar amount
388 established in Section 31-7-13(c), or rentals or leases in excess
389 of the dollar amount established in Section 31-7-13(c) for the
390 term of the contract, shall be based upon competitive and open
391 specifications, and contracts therefor shall be entered into only
392 after advertisements for bids are published in one or more daily
393 newspapers having a general circulation in the state not less than
394 fourteen (14) days prior to receiving sealed bids therefor. The
395 authority may reserve the right to reject any or all bids, and if
396 all bids are rejected, the authority may negotiate a contract



397 within the limitations of the specifications so long as the terms
398 of any such negotiated contract are equal to or better than the
399 comparable terms submitted by the lowest and best bidder, and so
400 long as the total cost to the State of Mississippi does not exceed
401 the lowest bid. If the authority accepts one (1) of such bids, it
402 shall be that which is the lowest and best. Through June
403 30, * * * 2024, the provisions of this paragraph shall not apply
404 to acquisitions of information technology equipment and services
405 made by the Mississippi Department of Health and * * * the
406 Mississippi Department of Revenue for the purposes of
407 implementing, administering and * * * enforcing the provisions of
408 the Mississippi Medical Cannabis Act.

409 (p) When applicable, the authority may procure
410 equipment, systems and related services in accordance with the law
411 or regulations, or both, which govern the Bureau of Purchasing of
412 the Office of General Services or which govern the Mississippi
413 Department of Information Technology Services procurement of
414 telecommunications equipment, software and services.

415 (q) The authority is authorized to purchase, lease, or
416 rent information technology and services for the purpose of
417 establishing pilot projects to investigate emerging technologies.
418 These acquisitions shall be limited to new technologies and shall
419 be limited to an amount set by annual appropriation of the
420 Legislature. These acquisitions shall be exempt from the
421 advertising and bidding requirement.



422 (r) To promote the maximum use and benefit from
423 technology and services now in operation or which will in the
424 future be placed in operation and to identify opportunities,
425 minimize duplication, reduce costs and improve the efficiency of
426 providing common technology services the authority is authorized
427 to:

428 (i) Enter into master agreements for computer or
429 telecommunications equipment or services, including cloud
430 computing, available for shared use by state agencies, institutes
431 of higher learning and governing authorities; and

432 (ii) Enter into contracts for the acquisition of
433 computer or telecommunications equipment or services, including
434 cloud computing, that have been acquired by other entities,
435 located within or outside of the State of Mississippi, so long as
436 it is determined by the authority to be in the best interest of
437 the state. The acquisitions provided in this paragraph (r) shall
438 be exempt from the advertising and bidding requirements of Section
439 25-53-1 et seq.

440 (* * *s) All fees collected by the Mississippi
441 Department of Information Technology Services shall be deposited
442 into the Mississippi Department of Information Technology Services
443 Revolving Fund unless otherwise specified by the Legislature.

444 (* * *t) The authority shall work closely with the
445 council to bring about effective coordination of policies,
446 standards and procedures relating to procurement of remote sensing



447 and geographic information systems (GIS) resources. In addition,
448 the authority is responsible for development, operation and
449 maintenance of a delivery system infrastructure for geographic
450 information systems data. The authority shall provide a warehouse
451 for Mississippi's geographic information systems data.

452 (* * *u) The authority shall manage one or more State
453 Data Centers to provide information technology services on a
454 cost-sharing basis. In determining the appropriate services to be
455 provided through the State Data Center, the authority should
456 consider those services that:

- 457 (i) Result in savings to the state as a whole;
- 458 (ii) Improve and enhance the security and
459 reliability of the state's information and business systems; and
- 460 (iii) Optimize the efficient use of the state's
461 information technology assets, including, but not limited to,
462 promoting partnerships with the state institutions of higher
463 learning and community colleges to capitalize on advanced
464 information technology resources.

465 (* * *y) The authority shall increase federal
466 participation in the cost of the State Data Center to the extent
467 provided by law and its shared technology infrastructure through
468 providing such shared services to agencies that receive federal
469 funds. With regard to state institutions of higher learning and
470 community colleges, the authority may provide shared services when
471 mutually agreeable, following a determination by both the



472 authority and the Board of Trustees of State Institutions of
473 Higher Learning or the Mississippi Community College Board, as the
474 case may be, that the sharing of services is mutually beneficial.

475 (* * *w) The authority, in its discretion, may require
476 new or replacement agency business applications to be hosted at
477 the State Data Center. With regard to state institutions of
478 higher learning and community colleges, the authority and the
479 Board of Trustees of State Institutions of Higher Learning or the
480 Mississippi Community College Board, as the case may be, may agree
481 that institutions of higher learning or community colleges may
482 utilize business applications that are hosted at the State Data
483 Center, following a determination by both the authority and the
484 applicable board that the hosting of those applications is
485 mutually beneficial. In addition, the authority may establish
486 partnerships to capitalize on the advanced technology resources of
487 the Board of Trustees of State Institutions of Higher Learning or
488 the Mississippi Community College Board, following a determination
489 by both the authority and the applicable board that such a
490 partnership is mutually beneficial.

491 (* * *x) The authority shall provide a periodic update
492 regarding reform-based information technology initiatives to the
493 Chairmen of the House and Senate Accountability, Efficiency and
494 Transparency Committees.

495 From and after July 1, 2018, the expenses of this agency
496 shall be defrayed by appropriation from the State General Fund.



497 In addition, in order to receive the maximum use and benefit from
498 information technology and services, expenses for the provision of
499 statewide shared services that facilitate cost-effective
500 information processing and telecommunication solutions shall be
501 defrayed by pass-through funding and shall be deposited into the
502 Mississippi Department of Information Technology Services
503 Revolving Fund unless otherwise specified by the Legislature.
504 These funds shall only be utilized to pay the actual costs
505 incurred by the Mississippi Department of Information Technology
506 Services for providing these shared services to state agencies.
507 Furthermore, state agencies shall work in full cooperation with
508 the Board of the Mississippi Department of Information Technology
509 Services to identify computer equipment or services to minimize
510 duplication, reduce costs, and improve the efficiency of providing
511 common technology services across agency boundaries.

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

514 27-104-7. (1) (a) There is created the Public Procurement
515 Review Board, which shall be reconstituted on January 1, 2018, and
516 shall be composed of the following members:

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

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



521 (iii) The Executive Director of the Department of
522 Finance and Administration, serving as an ex officio and nonvoting
523 member.

524 (b) The initial terms of each appointee shall be as
525 follows:

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

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

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

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

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

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

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



546 receives any grants, procurements or contracts that are subject to
547 approval under this section shall not be appointed to the Public
548 Procurement Review Board. Any person, or any employee or owner of
549 a company, who is a principal of the source providing a personal
550 or professional service shall not be appointed to the Public
551 Procurement Review Board if the principal owns or controls a
552 greater than five percent (5%) interest or has an ownership value
553 of One Million Dollars (\$1,000,000.00) in the source's business,
554 whichever is smaller. No member shall be an officer or employee
555 of the State of Mississippi while serving as a voting member on
556 the Public Procurement Review Board.

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

560 (e) The members of the Public Procurement Review Board
561 shall elect a chair from among the membership, and he or she shall
562 preside over the meetings of the board. The board shall annually
563 elect a vice chair, who shall serve in the absence of the chair.
564 No business shall be transacted, including adoption of rules of
565 procedure, without the presence of a quorum of the board. Three
566 (3) members shall be a quorum. No action shall be valid unless
567 approved by a majority of the members present and voting, entered
568 upon the minutes of the board and signed by the chair. Necessary
569 clerical and administrative support for the board shall be
570 provided by the Department of Finance and Administration. Minutes



571 shall be kept of the proceedings of each meeting, copies of which
572 shall be filed on a monthly basis with the chairs of the
573 Accountability, Efficiency and Transparency Committees of the
574 Senate and House of Representatives and the chairs of the
575 Appropriations Committees of the Senate and House of
576 Representatives.

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

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

583 (b) Adopt regulations governing the approval of
584 contracts let for the construction and maintenance of state
585 buildings and other state facilities as well as related contracts
586 for architectural and engineering services.

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

591 (c) Adopt regulations governing any lease or rental
592 agreement by any state agency or department, including any state
593 agency financed entirely by federal funds, for space outside the
594 buildings under the jurisdiction of the Department of Finance and
595 Administration. These regulations shall require each agency



596 requesting to lease such space to provide the following
597 information that shall be published by the Department of Finance
598 and Administration on its website: the agency to lease the space;
599 the terms of the lease; the approximate square feet to be leased;
600 the use for the space; a description of a suitable space; the
601 general location desired for the leased space; the contact
602 information for a person from the agency; the deadline date for
603 the agency to have received a lease proposal; any other specific
604 terms or conditions of the agency; and any other information
605 deemed appropriate by the Division of Real Property Management of
606 the Department of Finance and Administration or the Public
607 Procurement Review Board. The information shall be provided
608 sufficiently in advance of the time the space is needed to allow
609 the Division of Real Property Management of the Department of
610 Finance and Administration to review and preapprove the lease
611 before the time for advertisement begins;

612 (d) Adopt, in its discretion, regulations to set aside
613 at least five percent (5%) of anticipated annual expenditures for
614 the purchase of commodities from minority businesses; however, all
615 such set-aside purchases shall comply with all purchasing
616 regulations promulgated by the department and shall be subject to
617 all bid requirements. Set-aside purchases for which competitive
618 bids are required shall be made from the lowest and best minority
619 business bidder; however, if no minority bid is available or if
620 the minority bid is more than two percent (2%) higher than the



621 lowest bid, then bids shall be accepted and awarded to the lowest
622 and best bidder. However, the provisions in this paragraph shall
623 not be construed to prohibit the rejection of a bid when only one
624 (1) bid is received. Such rejection shall be placed in the
625 minutes. For the purposes of this paragraph, the term "minority
626 business" means a business which is owned by a person who is a
627 citizen or lawful permanent resident of the United States and who
628 is:

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

631 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
632 Central or South American, or other Spanish or Portuguese culture
633 or origin regardless of race;

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

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

639 (v) Female;

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



646 (f) Promulgate rules and regulations governing the
647 solicitation and selection of contractual services personnel,
648 including personal and professional services contracts for any
649 form of consulting, policy analysis, public relations, marketing,
650 public affairs, legislative advocacy services or any other
651 contract that the board deems appropriate for oversight, with the
652 exception of:

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

656 (ii) Any personal service contracts entered into
657 for computer or information technology-related services governed
658 by the Mississippi Department of Information Technology
659 Services * * *;

660 (iii) Any personal service contracts entered into
661 by the individual state institutions of higher learning * * *;

662 (iv) Any personal service contracts entered into
663 by the Mississippi Department of Transportation * * *;

664 (v) Any personal service contracts entered into by
665 the Department of Human Services through June 30, 2019, which the
666 Executive Director of the Department of Human Services determines
667 would be useful in establishing and operating the Department of
668 Child Protection Services * * *;



669 (vi) Any personal service contracts entered into
670 by the Department of Child Protection Services through June 30,
671 2019 * * *;

672 (vii) Any contracts for entertainers and/or
673 performers at the Mississippi State Fairgrounds entered into by
674 the Mississippi Fair Commission * * *;

675 (viii) Any contracts entered into by the
676 Department of Finance and Administration when procuring aircraft
677 maintenance, parts, equipment and/or services * * *;

678 (ix) Any contract entered into by the Department
679 of Public Safety for service on specialized equipment and/or
680 software required for the operation at such specialized equipment
681 for use by the Office of Forensics Laboratories * * *;

682 (x) Any personal or professional service contract
683 entered into by the Mississippi Department of Health * * * or the
684 Department of Revenue solely in connection with their respective
685 responsibilities under the Mississippi Medical Cannabis Act from
686 February 2, 2022, through June 30, * * * 2026;

687 (xi) Any contract for attorney, accountant,
688 actuary auditor, architect, engineer, anatomical pathologist, or
689 utility rate expert services * * *;

690 (xii) Any personal service contracts approved by
691 the Executive Director of the Department of Finance and
692 Administration and entered into by the Coordinator of Mental
693 Health Accessibility through June 30, 2022 * * *;



694 (xiii) Any personal or professional services
695 contract entered into by the State Department of Health in
696 carrying out its responsibilities under the ARPA Rural Water
697 Associations Infrastructure Grant Program through June 30,
698 2026 * * *; and

699 (xiv) Any personal or professional services
700 contract entered into by the Mississippi Department of
701 Environmental Quality in carrying out its responsibilities under
702 the Mississippi Municipality and County Water Infrastructure Grant
703 Program Act of 2022, through June 30, 2026.

704 Any such rules and regulations shall provide for maintaining
705 continuous internal audit covering the activities of such agency
706 affecting its revenue and expenditures as required under Section
707 7-7-3(6) (d). Any rules and regulation changes related to personal
708 and professional services contracts that the Public Procurement
709 Review Board may propose shall be submitted to the Chairs of the
710 Accountability, Efficiency and Transparency Committees of the
711 Senate and House of Representatives and the Chairs of the
712 Appropriation Committees of the Senate and House of
713 Representatives at least fifteen (15) days before the board votes
714 on the proposed changes, and those rules and regulation changes,
715 if adopted, shall be promulgated in accordance with the
716 Mississippi Administrative Procedures Act;

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



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

721 (h) Develop mandatory standards with respect to
722 contractual services personnel that require invitations for public
723 bid, requests for proposals, record keeping and financial
724 responsibility of contractors. The Public Procurement Review
725 Board shall, unless exempted under this paragraph (h) or under
726 paragraph (i) or (o) of this subsection (2), require the agency
727 involved to submit the procurement to a competitive procurement
728 process, and may reserve the right to reject any or all resulting
729 procurements;

730 (i) Prescribe certain circumstances by which agency
731 heads may enter into contracts for personal and professional
732 services without receiving prior approval from the Public
733 Procurement Review Board. The Public Procurement Review Board may
734 establish a preapproved list of providers of various personal and
735 professional services for set prices with which state agencies may
736 contract without bidding or prior approval from the board;

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



743 shall still be submitted for approval to the Public Procurement
744 Review Board.

745 (ii) Contracts between two (2) state agencies,
746 both under Public Procurement Review Board purview, shall not
747 require Public Procurement Review Board approval. However, the
748 contracts shall still be entered into the enterprise resource
749 planning system;

750 (j) Provide standards for the issuance of requests for
751 proposals, the evaluation of proposals received, consideration of
752 costs and quality of services proposed, contract negotiations, the
753 administrative monitoring of contract performance by the agency
754 and successful steps in terminating a contract;

755 (k) Present recommendations for governmental
756 privatization and to evaluate privatization proposals submitted by
757 any state agency;

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

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



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

772 (o) Develop and implement the following standards and
773 procedures for the approval of any sole source contract for
774 personal and professional services regardless of the value of the
775 procurement:

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

779 (ii) An agency that has been issued a binding,
780 valid court order mandating that a particular source or provider
781 must be used for the required service must include a copy of the
782 applicable court order in all future sole source contract reviews
783 for the particular personal or professional service referenced in
784 the court order.

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



- 793 1. The personal or professional service
794 offered in the contract;
- 795 2. An explanation of why the personal or
796 professional service is the only one that can meet the needs of
797 the agency;
- 798 3. An explanation of why the source is the
799 only person or entity that can provide the required personal or
800 professional service;
- 801 4. An explanation of why the amount to be
802 expended for the personal or professional service is reasonable;
803 and
- 804 5. The efforts that the agency went through
805 to obtain the best possible price for the personal or professional
806 service.

807 (iv) If any person or entity objects and proposes
808 that the personal or professional service published under
809 subparagraph (iii) of this paragraph (o) is not a sole source
810 service and can be provided by another person or entity, then the
811 objecting person or entity shall notify the Public Procurement
812 Review Board and the agency that published the proposed sole
813 source contract with a detailed explanation of why the personal or
814 professional service is not a sole source service.

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



818 agency must withdraw the sole source contract publication from the
819 procurement portal website and submit the procurement of the
820 personal or professional service to an advertised competitive bid
821 or selection process.

822 2. If the agency determines after review that
823 there is only one (1) source for the required personal or
824 professional service, then the agency may appeal to the Public
825 Procurement Review Board. The agency has the burden of proving
826 that the personal or professional service is only provided by one
827 (1) source.

828 3. If the Public Procurement Review Board has
829 any reasonable doubt as to whether the personal or professional
830 service can only be provided by one (1) source, then the agency
831 must submit the procurement of the personal or professional
832 service to an advertised competitive bid or selection process. No
833 action taken by the Public Procurement Review Board in this appeal
834 process shall be valid unless approved by a majority of the
835 members of the Public Procurement Review Board present and voting.

836 (vi) The Public Procurement Review Board shall
837 prepare and submit a quarterly report to the House of
838 Representatives and Senate Accountability, Efficiency and
839 Transparency Committees that details the sole source contracts
840 presented to the Public Procurement Review Board and the reasons
841 that the Public Procurement Review Board approved or rejected each
842 contract. These quarterly reports shall also include the



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

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

849 (3) All submissions shall be made sufficiently in advance of
850 each monthly meeting of the Public Procurement Review Board as
851 prescribed by the Public Procurement Review Board. If the Public
852 Procurement Review Board rejects any contract submitted for review
853 or approval, the Public Procurement Review Board shall clearly set
854 out the reasons for its action, including, but not limited to, the
855 policy that the agency has violated in its submitted contract and
856 any corrective actions that the agency may take to amend the
857 contract to comply with the rules and regulations of the Public
858 Procurement Review Board.

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



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

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

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

874 (c) Explanation of why the price is considered
875 reasonable; and

876 (d) Description of the efforts that were made to
877 conduct a noncompetitive negotiation to get the best possible
878 price for the taxpayers.

879 (5) In conjunction with the State Personnel Board, the
880 Public Procurement Review Board shall develop and promulgate rules
881 and regulations to define the allowable legal relationship between
882 contract employees and the contracting departments, agencies and
883 institutions of state government under the jurisdiction of the
884 State Personnel Board, in compliance with the applicable rules and
885 regulations of the federal Internal Revenue Service (IRS) for
886 federal employment tax purposes. Under these regulations, the
887 usual common law rules are applicable to determine and require
888 that such worker is an independent contractor and not an employee,
889 requiring evidence of lawful behavioral control, lawful financial
890 control and lawful relationship of the parties. Any state
891 department, agency or institution shall only be authorized to



892 contract for personnel services in compliance with those
893 regulations.

894 (6) No member of the Public Procurement Review Board shall
895 use his or her official authority or influence to coerce, by
896 threat of discharge from employment, or otherwise, the purchase of
897 commodities, the contracting for personal or professional
898 services, or the contracting for public construction under this
899 chapter.

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

903 (8) Nothing in this section shall impair or limit the
904 authority of the Board of Trustees of the Public Employees'
905 Retirement System to enter into any personal or professional
906 services contracts directly related to their constitutional
907 obligation to manage the trust funds, including, but not limited
908 to, actuarial, custodial banks, cash management, investment
909 consultant and investment management contracts.

910 (9) Notwithstanding the exemption of personal and
911 professional services contracts entered into by the Department of
912 Human Services and personal and professional services contracts
913 entered into by the Department of Child Protection Services from
914 the provisions of this section under subsection (2)(f), before the
915 Department of Human Services or the Department of Child Protection
916 Services may enter into a personal or professional service



917 contract, the department(s) shall give notice of the proposed
918 personal or professional service contract to the Public
919 Procurement Review Board for any recommendations by the board.
920 Upon receipt of the notice, the board shall post the notice on its
921 website and on the procurement portal website established by
922 Sections 25-53-151 and 27-104-165. If the board does not respond
923 to the department(s) within seven (7) calendar days after
924 receiving the notice, the department(s) may enter the proposed
925 personal or professional service contract. If the board responds
926 to the department(s) within seven (7) calendar days, then the
927 board has seven (7) calendar days from the date of its initial
928 response to provide any additional recommendations. After the end
929 of the second seven-day period, the department(s) may enter the
930 proposed personal or professional service contract. The board is
931 not authorized to disapprove any proposed personal or professional
932 services contracts. This subsection shall stand repealed on July
933 1, 2022.

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

936 31-7-13. All agencies and governing authorities shall
937 purchase their commodities and printing; contract for garbage
938 collection or disposal; contract for solid waste collection or
939 disposal; contract for sewage collection or disposal; contract for
940 public construction; and contract for rentals as herein provided.



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

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

949 (b) **Bidding procedure for purchases over \$5,000.00 but**
950 **not over \$75,000.00.** Purchases which involve an expenditure of
951 more than Five Thousand Dollars (\$5,000.00) but not more than
952 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
953 and shipping charges, may be made from the lowest and best bidder
954 without publishing or posting advertisement for bids, provided at
955 least two (2) competitive written bids have been obtained. Any
956 state agency or community or junior college purchasing commodities
957 or procuring construction pursuant to this paragraph (b) may
958 authorize its purchasing agent, or his designee, to accept the
959 lowest competitive written bid under Seventy-five Thousand Dollars
960 (\$75,000.00). Any governing authority purchasing commodities
961 pursuant to this paragraph (b) may authorize its purchasing agent,
962 or his designee, with regard to governing authorities other than
963 counties, or its purchase clerk, or his designee, with regard to
964 counties, to accept the lowest and best competitive written bid.
965 Such authorization shall be made in writing by the governing



966 authority and shall be maintained on file in the primary office of
967 the agency and recorded in the official minutes of the governing
968 authority, as appropriate. The purchasing agent or the purchase
969 clerk, or his designee, as the case may be, and not the governing
970 authority, shall be liable for any penalties and/or damages as may
971 be imposed by law for any act or omission of the purchasing agent
972 or purchase clerk, or his designee, constituting a violation of
973 law in accepting any bid without approval by the governing
974 authority. The term "competitive written bid" shall mean a bid
975 submitted on a bid form furnished by the buying agency or
976 governing authority and signed by authorized personnel
977 representing the vendor, or a bid submitted on a vendor's
978 letterhead or identifiable bid form and signed by authorized
979 personnel representing the vendor. "Competitive" shall mean that
980 the bids are developed based upon comparable identification of the
981 needs and are developed independently and without knowledge of
982 other bids or prospective bids. Any bid item for construction in
983 excess of Five Thousand Dollars (\$5,000.00) shall be broken down
984 by components to provide detail of component description and
985 pricing. These details shall be submitted with the written bids
986 and become part of the bid evaluation criteria. Bids may be
987 submitted by facsimile, electronic mail or other generally
988 accepted method of information distribution. Bids submitted by
989 electronic transmission shall not require the signature of the



990 vendor's representative unless required by agencies or governing
991 authorities.

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

993 (i) **Publication requirement.**

994 1. Purchases which involve an expenditure of
995 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of
996 freight and shipping charges, may be made from the lowest and best
997 bidder after advertising for competitive bids once each week for
998 two (2) consecutive weeks in a regular newspaper published in the
999 county or municipality in which such agency or governing authority
1000 is located. However, all American Recovery and Reinvestment Act
1001 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
1002 shall be bid. All references to American Recovery and
1003 Reinvestment Act projects in this section shall not apply to
1004 programs identified in Division B of the American Recovery and
1005 Reinvestment Act.

1006 2. Reverse auctions shall be the primary
1007 method for receiving bids during the bidding process. If a
1008 purchasing entity determines that a reverse auction is not in the
1009 best interest of the state, then that determination must be
1010 approved by the Public Procurement Review Board. The purchasing
1011 entity shall submit a detailed explanation of why a reverse
1012 auction would not be in the best interest of the state and present
1013 an alternative process to be approved by the Public Procurement
1014 Review Board. If the Public Procurement Review Board authorizes



1015 the purchasing entity to solicit bids with a method other than
1016 reverse auction, then the purchasing entity may designate the
1017 other methods by which the bids will be received, including, but
1018 not limited to, bids sealed in an envelope, bids received
1019 electronically in a secure system, or bids received by any other
1020 method that promotes open competition and has been approved by the
1021 Office of Purchasing and Travel. However, reverse auction shall
1022 not be used for any public contract for design, construction,
1023 improvement, repair or remodeling of any public facilities,
1024 including the purchase of materials, supplies, equipment or goods
1025 for same and including buildings, roads and bridges. The Public
1026 Procurement Review Board must approve any contract entered into by
1027 alternative process. The provisions of this item 2 shall not
1028 apply to the individual state institutions of higher learning.
1029 The provisions of this item 2 requiring reverse auction as the
1030 primary method of receiving bids shall not apply to term contract
1031 purchases as provided in paragraph (n) of this section; however, a
1032 purchasing entity may, in its discretion, utilize reverse auction
1033 for such purchases. The provisions of this item 2 shall not apply
1034 to individual public schools, including public charter schools and
1035 public school districts, only when purchasing copyrighted
1036 educational supplemental materials and software as a service
1037 product. For such purchases, a local school board may authorize a
1038 purchasing entity in its jurisdiction to use a Request for



1039 Qualifications which promotes open competition and meets the
1040 requirements of the Office of Purchasing and Travel.

1041 3. The date as published for the bid opening
1042 shall not be less than seven (7) working days after the last
1043 published notice; however, if the purchase involves a construction
1044 project in which the estimated cost is in excess of Seventy-five
1045 Thousand Dollars (\$75,000.00), such bids shall not be opened in
1046 less than fifteen (15) working days after the last notice is
1047 published and the notice for the purchase of such construction
1048 shall be published once each week for two (2) consecutive weeks.
1049 However, all American Recovery and Reinvestment Act projects in
1050 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.
1051 For any projects in excess of Twenty-five Thousand Dollars
1052 (\$25,000.00) under the American Recovery and Reinvestment Act,
1053 publication shall be made one (1) time and the bid opening for
1054 construction projects shall not be less than ten (10) working days
1055 after the date of the published notice. The notice of intention
1056 to let contracts or purchase equipment shall state the time and
1057 place at which bids shall be received, list the contracts to be
1058 made or types of equipment or supplies to be purchased, and, if
1059 all plans and/or specifications are not published, refer to the
1060 plans and/or specifications on file. If there is no newspaper
1061 published in the county or municipality, then such notice shall be
1062 given by posting same at the courthouse, or for municipalities at
1063 the city hall, and at two (2) other public places in the county or



1064 municipality, and also by publication once each week for two (2)
1065 consecutive weeks in some newspaper having a general circulation
1066 in the county or municipality in the above-provided manner. On
1067 the same date that the notice is submitted to the newspaper for
1068 publication, the agency or governing authority involved shall mail
1069 written notice to, or provide electronic notification to the main
1070 office of the Mississippi Procurement Technical Assistance Program
1071 under the Mississippi Development Authority that contains the same
1072 information as that in the published notice. Submissions received
1073 by the Mississippi Procurement Technical Assistance Program for
1074 projects funded by the American Recovery and Reinvestment Act
1075 shall be displayed on a separate and unique Internet web page
1076 accessible to the public and maintained by the Mississippi
1077 Development Authority for the Mississippi Procurement Technical
1078 Assistance Program. Those American Recovery and Reinvestment Act
1079 related submissions shall be publicly posted within twenty-four
1080 (24) hours of receipt by the Mississippi Development Authority and
1081 the bid opening shall not occur until the submission has been
1082 posted for ten (10) consecutive days. The Department of Finance
1083 and Administration shall maintain information regarding contracts
1084 and other expenditures from the American Recovery and Reinvestment
1085 Act, on a unique Internet web page accessible to the public. The
1086 Department of Finance and Administration shall promulgate rules
1087 regarding format, content and deadlines, unless otherwise
1088 specified by law, of the posting of award notices, contract



1089 execution and subsequent amendments, links to the contract
1090 documents, expenditures against the awarded contracts and general
1091 expenditures of funds from the American Recovery and Reinvestment
1092 Act. Within one (1) working day of the contract award, the agency
1093 or governing authority shall post to the designated web page
1094 maintained by the Department of Finance and Administration, notice
1095 of the award, including the award recipient, the contract amount,
1096 and a brief summary of the contract in accordance with rules
1097 promulgated by the department. Within one (1) working day of the
1098 contract execution, the agency or governing authority shall post
1099 to the designated web page maintained by the Department of Finance
1100 and Administration a summary of the executed contract and make a
1101 copy of the appropriately redacted contract documents available
1102 for linking to the designated web page in accordance with the
1103 rules promulgated by the department. The information provided by
1104 the agency or governing authority shall be posted to the web page
1105 for the duration of the American Recovery and Reinvestment Act
1106 funding or until the project is completed, whichever is longer.

1107 (ii) **Bidding process amendment procedure.** If all
1108 plans and/or specifications are published in the notification,
1109 then the plans and/or specifications may not be amended. If all
1110 plans and/or specifications are not published in the notification,
1111 then amendments to the plans/specifications, bid opening date, bid
1112 opening time and place may be made, provided that the agency or
1113 governing authority maintains a list of all prospective bidders



1114 who are known to have received a copy of the bid documents and all
1115 such prospective bidders are sent copies of all amendments. This
1116 notification of amendments may be made via mail, facsimile,
1117 electronic mail or other generally accepted method of information
1118 distribution. No addendum to bid specifications may be issued
1119 within two (2) working days of the time established for the
1120 receipt of bids unless such addendum also amends the bid opening
1121 to a date not less than five (5) working days after the date of
1122 the addendum.

1123 (iii) **Filing requirement.** In all cases involving
1124 governing authorities, before the notice shall be published or
1125 posted, the plans or specifications for the construction or
1126 equipment being sought shall be filed with the clerk of the board
1127 of the governing authority. In addition to these requirements, a
1128 bid file shall be established which shall indicate those vendors
1129 to whom such solicitations and specifications were issued, and
1130 such file shall also contain such information as is pertinent to
1131 the bid.

1132 (iv) **Specification restrictions.**

1133 1. Specifications pertinent to such bidding
1134 shall be written so as not to exclude comparable equipment of
1135 domestic manufacture. However, if valid justification is
1136 presented, the Department of Finance and Administration or the
1137 board of a governing authority may approve a request for specific
1138 equipment necessary to perform a specific job. Further, such



1139 justification, when placed on the minutes of the board of a
1140 governing authority, may serve as authority for that governing
1141 authority to write specifications to require a specific item of
1142 equipment needed to perform a specific job. In addition to these
1143 requirements, from and after July 1, 1990, vendors of relocatable
1144 classrooms and the specifications for the purchase of such
1145 relocatable classrooms published by local school boards shall meet
1146 all pertinent regulations of the State Board of Education,
1147 including prior approval of such bid by the State Department of
1148 Education.

1149 2. Specifications for construction projects
1150 may include an allowance for commodities, equipment, furniture,
1151 construction materials or systems in which prospective bidders are
1152 instructed to include in their bids specified amounts for such
1153 items so long as the allowance items are acquired by the vendor in
1154 a commercially reasonable manner and approved by the
1155 agency/governing authority. Such acquisitions shall not be made
1156 to circumvent the public purchasing laws.

1157 (v) **Electronic bids.** Agencies and governing
1158 authorities shall provide a secure electronic interactive system
1159 for the submittal of bids requiring competitive bidding that shall
1160 be an additional bidding option for those bidders who choose to
1161 submit their bids electronically. The Department of Finance and
1162 Administration shall provide, by regulation, the standards that
1163 agencies must follow when receiving electronic bids. Agencies and



1164 governing authorities shall make the appropriate provisions
1165 necessary to accept electronic bids from those bidders who choose
1166 to submit their bids electronically for all purchases requiring
1167 competitive bidding under this section. Any special condition or
1168 requirement for the electronic bid submission shall be specified
1169 in the advertisement for bids required by this section. Agencies
1170 or governing authorities that are currently without available high
1171 speed Internet access shall be exempt from the requirement of this
1172 subparagraph (v) until such time that high speed Internet access
1173 becomes available. Any county having a population of less than
1174 twenty thousand (20,000) shall be exempt from the provisions of
1175 this subparagraph (v). Any municipality having a population of
1176 less than ten thousand (10,000) shall be exempt from the
1177 provisions of this subparagraph (v). The provisions of this
1178 subparagraph (v) shall not require any bidder to submit bids
1179 electronically. When construction bids are submitted
1180 electronically, the requirement for including a certificate of
1181 responsibility, or a statement that the bid enclosed does not
1182 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
1183 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
1184 deemed in compliance with by including same as an attachment with
1185 the electronic bid submittal.

1186 (d) **Lowest and best bid decision procedure.**

1187 (i) **Decision procedure.** Purchases may be made
1188 from the lowest and best bidder. In determining the lowest and



1189 best bid, freight and shipping charges shall be included.
1190 Life-cycle costing, total cost bids, warranties, guaranteed
1191 buy-back provisions and other relevant provisions may be included
1192 in the best bid calculation. All best bid procedures for state
1193 agencies must be in compliance with regulations established by the
1194 Department of Finance and Administration. If any governing
1195 authority accepts a bid other than the lowest bid actually
1196 submitted, it shall place on its minutes detailed calculations and
1197 narrative summary showing that the accepted bid was determined to
1198 be the lowest and best bid, including the dollar amount of the
1199 accepted bid and the dollar amount of the lowest bid. No agency
1200 or governing authority shall accept a bid based on items not
1201 included in the specifications.

1202 (ii) **Decision procedure for Certified Purchasing**
1203 **Offices.** In addition to the decision procedure set forth in
1204 subparagraph (i) of this paragraph (d), Certified Purchasing
1205 Offices may also use the following procedure: Purchases may be
1206 made from the bidder offering the best value. In determining the
1207 best value bid, freight and shipping charges shall be included.
1208 Life-cycle costing, total cost bids, warranties, guaranteed
1209 buy-back provisions, documented previous experience, training
1210 costs and other relevant provisions, including, but not limited
1211 to, a bidder having a local office and inventory located within
1212 the jurisdiction of the governing authority, may be included in
1213 the best value calculation. This provision shall authorize



1214 Certified Purchasing Offices to utilize a Request For Proposals
1215 (RFP) process when purchasing commodities. All best value
1216 procedures for state agencies must be in compliance with
1217 regulations established by the Department of Finance and
1218 Administration. No agency or governing authority shall accept a
1219 bid based on items or criteria not included in the specifications.

1220 (iii) **Decision procedure for Mississippi**

1221 **Landmarks.** In addition to the decision procedure set forth in
1222 subparagraph (i) of this paragraph (d), where purchase involves
1223 renovation, restoration, or both, of the State Capitol Building or
1224 any other historical building designated for at least five (5)
1225 years as a Mississippi Landmark by the Board of Trustees of the
1226 Department of Archives and History under the authority of Sections
1227 39-7-7 and 39-7-11, the agency or governing authority may use the
1228 following procedure: Purchases may be made from the lowest and
1229 best prequalified bidder. Prequalification of bidders shall be
1230 determined not less than fifteen (15) working days before the
1231 first published notice of bid opening. Prequalification criteria
1232 shall be limited to bidder's knowledge and experience in
1233 historical restoration, preservation and renovation. In
1234 determining the lowest and best bid, freight and shipping charges
1235 shall be included. Life-cycle costing, total cost bids,
1236 warranties, guaranteed buy-back provisions and other relevant
1237 provisions may be included in the best bid calculation. All best
1238 bid and prequalification procedures for state agencies must be in



1239 compliance with regulations established by the Department of
1240 Finance and Administration. If any governing authority accepts a
1241 bid other than the lowest bid actually submitted, it shall place
1242 on its minutes detailed calculations and narrative summary showing
1243 that the accepted bid was determined to be the lowest and best
1244 bid, including the dollar amount of the accepted bid and the
1245 dollar amount of the lowest bid. No agency or governing authority
1246 shall accept a bid based on items not included in the
1247 specifications.

1248 (iv) **Construction project negotiations authority.**

1249 If the lowest and best bid is not more than ten percent (10%)
1250 above the amount of funds allocated for a public construction or
1251 renovation project, then the agency or governing authority shall
1252 be permitted to negotiate with the lowest bidder in order to enter
1253 into a contract for an amount not to exceed the funds allocated.

1254 (e) **Lease-purchase authorization.** For the purposes of
1255 this section, the term "equipment" shall mean equipment, furniture
1256 and, if applicable, associated software and other applicable
1257 direct costs associated with the acquisition. Any lease-purchase
1258 of equipment which an agency is not required to lease-purchase
1259 under the master lease-purchase program pursuant to Section
1260 31-7-10 and any lease-purchase of equipment which a governing
1261 authority elects to lease-purchase may be acquired by a
1262 lease-purchase agreement under this paragraph (e). Lease-purchase
1263 financing may also be obtained from the vendor or from a



1264 third-party source after having solicited and obtained at least
1265 two (2) written competitive bids, as defined in paragraph (b) of
1266 this section, for such financing without advertising for such
1267 bids. Solicitation for the bids for financing may occur before or
1268 after acceptance of bids for the purchase of such equipment or,
1269 where no such bids for purchase are required, at any time before
1270 the purchase thereof. No such lease-purchase agreement shall be
1271 for an annual rate of interest which is greater than the overall
1272 maximum interest rate to maturity on general obligation
1273 indebtedness permitted under Section 75-17-101, and the term of
1274 such lease-purchase agreement shall not exceed the useful life of
1275 equipment covered thereby as determined according to the upper
1276 limit of the asset depreciation range (ADR) guidelines for the
1277 Class Life Asset Depreciation Range System established by the
1278 Internal Revenue Service pursuant to the United States Internal
1279 Revenue Code and regulations thereunder as in effect on December
1280 31, 1980, or comparable depreciation guidelines with respect to
1281 any equipment not covered by ADR guidelines. Any lease-purchase
1282 agreement entered into pursuant to this paragraph (e) may contain
1283 any of the terms and conditions which a master lease-purchase
1284 agreement may contain under the provisions of Section 31-7-10(5),
1285 and shall contain an annual allocation dependency clause
1286 substantially similar to that set forth in Section 31-7-10(8).
1287 Each agency or governing authority entering into a lease-purchase
1288 transaction pursuant to this paragraph (e) shall maintain with



1289 respect to each such lease-purchase transaction the same
1290 information as required to be maintained by the Department of
1291 Finance and Administration pursuant to Section 31-7-10(13).
1292 However, nothing contained in this section shall be construed to
1293 permit agencies to acquire items of equipment with a total
1294 acquisition cost in the aggregate of less than Ten Thousand
1295 Dollars (\$10,000.00) by a single lease-purchase transaction. All
1296 equipment, and the purchase thereof by any lessor, acquired by
1297 lease-purchase under this paragraph and all lease-purchase
1298 payments with respect thereto shall be exempt from all Mississippi
1299 sales, use and ad valorem taxes. Interest paid on any
1300 lease-purchase agreement under this section shall be exempt from
1301 State of Mississippi income taxation.

1302 (f) **Alternate bid authorization.** When necessary to
1303 ensure ready availability of commodities for public works and the
1304 timely completion of public projects, no more than two (2)
1305 alternate bids may be accepted by a governing authority for
1306 commodities. No purchases may be made through use of such
1307 alternate bids procedure unless the lowest and best bidder cannot
1308 deliver the commodities contained in his bid. In that event,
1309 purchases of such commodities may be made from one (1) of the
1310 bidders whose bid was accepted as an alternate.

1311 (g) **Construction contract change authorization.** In the
1312 event a determination is made by an agency or governing authority
1313 after a construction contract is let that changes or modifications



1314 to the original contract are necessary or would better serve the
1315 purpose of the agency or the governing authority, such agency or
1316 governing authority may, in its discretion, order such changes
1317 pertaining to the construction that are necessary under the
1318 circumstances without the necessity of further public bids;
1319 provided that such change shall be made in a commercially
1320 reasonable manner and shall not be made to circumvent the public
1321 purchasing statutes. In addition to any other authorized person,
1322 the architect or engineer hired by an agency or governing
1323 authority with respect to any public construction contract shall
1324 have the authority, when granted by an agency or governing
1325 authority, to authorize changes or modifications to the original
1326 contract without the necessity of prior approval of the agency or
1327 governing authority when any such change or modification is less
1328 than one percent (1%) of the total contract amount. The agency or
1329 governing authority may limit the number, manner or frequency of
1330 such emergency changes or modifications.

1331 (h) **Petroleum purchase alternative.** In addition to
1332 other methods of purchasing authorized in this chapter, when any
1333 agency or governing authority shall have a need for gas, diesel
1334 fuel, oils and/or other petroleum products in excess of the amount
1335 set forth in paragraph (a) of this section, such agency or
1336 governing authority may purchase the commodity after having
1337 solicited and obtained at least two (2) competitive written bids,
1338 as defined in paragraph (b) of this section. If two (2)



1339 competitive written bids are not obtained, the entity shall comply
1340 with the procedures set forth in paragraph (c) of this section.
1341 In the event any agency or governing authority shall have
1342 advertised for bids for the purchase of gas, diesel fuel, oils and
1343 other petroleum products and coal and no acceptable bids can be
1344 obtained, such agency or governing authority is authorized and
1345 directed to enter into any negotiations necessary to secure the
1346 lowest and best contract available for the purchase of such
1347 commodities.

1348 (i) **Road construction petroleum products price**
1349 **adjustment clause authorization.** Any agency or governing
1350 authority authorized to enter into contracts for the construction,
1351 maintenance, surfacing or repair of highways, roads or streets,
1352 may include in its bid proposal and contract documents a price
1353 adjustment clause with relation to the cost to the contractor,
1354 including taxes, based upon an industry-wide cost index, of
1355 petroleum products including asphalt used in the performance or
1356 execution of the contract or in the production or manufacture of
1357 materials for use in such performance. Such industry-wide index
1358 shall be established and published monthly by the Mississippi
1359 Department of Transportation with a copy thereof to be mailed,
1360 upon request, to the clerks of the governing authority of each
1361 municipality and the clerks of each board of supervisors
1362 throughout the state. The price adjustment clause shall be based
1363 on the cost of such petroleum products only and shall not include



1364 any additional profit or overhead as part of the adjustment. The
1365 bid proposals or document contract shall contain the basis and
1366 methods of adjusting unit prices for the change in the cost of
1367 such petroleum products.

1368 (j) **State agency emergency purchase procedure.** If the
1369 governing board or the executive head, or his designees, of any
1370 agency of the state shall determine that an emergency exists in
1371 regard to the purchase of any commodities or repair contracts, so
1372 that the delay incident to giving opportunity for competitive
1373 bidding would be detrimental to the interests of the state, then
1374 the head of such agency, or his designees, shall file with the
1375 Department of Finance and Administration (i) a statement
1376 explaining the conditions and circumstances of the emergency,
1377 which shall include a detailed description of the events leading
1378 up to the situation and the negative impact to the entity if the
1379 purchase is made following the statutory requirements set forth in
1380 paragraph (a), (b) or (c) of this section, and (ii) a certified
1381 copy of the appropriate minutes of the board of such agency
1382 requesting the emergency purchase, if applicable. Upon receipt of
1383 the statement and applicable board certification, the State Fiscal
1384 Officer, or his designees, may, in writing, authorize the purchase
1385 or repair without having to comply with competitive bidding
1386 requirements.

1387 If the governing board or the executive head, or his
1388 designees, of any agency determines that an emergency exists in



1389 regard to the purchase of any commodities or repair contracts, so
1390 that the delay incident to giving opportunity for competitive
1391 bidding would threaten the health or safety of any person, or the
1392 preservation or protection of property, then the provisions in
1393 this section for competitive bidding shall not apply, and any
1394 officer or agent of the agency having general or specific
1395 authority for making the purchase or repair contract shall approve
1396 the bill presented for payment, and he shall certify in writing
1397 from whom the purchase was made, or with whom the repair contract
1398 was made.

1399 Total purchases made under this paragraph (j) shall only be
1400 for the purpose of meeting needs created by the emergency
1401 situation. Following the emergency purchase, documentation of the
1402 purchase, including a description of the commodity purchased, the
1403 purchase price thereof and the nature of the emergency shall be
1404 filed with the Department of Finance and Administration. Any
1405 contract awarded pursuant to this paragraph (j) shall not exceed a
1406 term of one (1) year.

1407 Purchases under the grant program established under Section
1408 37-68-7 in response to COVID-19 and the directive that school
1409 districts create a distance learning plan and fulfill technology
1410 needs expeditiously shall be deemed an emergency purchase for
1411 purposes of this paragraph (j).

1412 (k) **Governing authority emergency purchase procedure.**

1413 If the governing authority, or the governing authority acting



1414 through its designee, shall determine that an emergency exists in
1415 regard to the purchase of any commodities or repair contracts, so
1416 that the delay incident to giving opportunity for competitive
1417 bidding would be detrimental to the interest of the governing
1418 authority, then the provisions herein for competitive bidding
1419 shall not apply and any officer or agent of such governing
1420 authority having general or special authority therefor in making
1421 such purchase or repair shall approve the bill presented therefor,
1422 and he shall certify in writing thereon from whom such purchase
1423 was made, or with whom such a repair contract was made. At the
1424 board meeting next following the emergency purchase or repair
1425 contract, documentation of the purchase or repair contract,
1426 including a description of the commodity purchased, the price
1427 thereof and the nature of the emergency shall be presented to the
1428 board and shall be placed on the minutes of the board of such
1429 governing authority. Purchases under the grant program
1430 established under Section 37-68-7 in response to COVID-19 and the
1431 directive that school districts create a distance learning plan
1432 and fulfill technology needs expeditiously shall be deemed an
1433 emergency purchase for purposes of this paragraph (k).

1434 (1) **Hospital purchase, lease-purchase and lease**
1435 **authorization.**

1436 (i) The commissioners or board of trustees of any
1437 public hospital may contract with such lowest and best bidder for
1438 the purchase or lease-purchase of any commodity under a contract



1439 of purchase or lease-purchase agreement whose obligatory payment
1440 terms do not exceed five (5) years.

1441 (ii) In addition to the authority granted in
1442 subparagraph (i) of this paragraph (1), the commissioners or board
1443 of trustees is authorized to enter into contracts for the lease of
1444 equipment or services, or both, which it considers necessary for
1445 the proper care of patients if, in its opinion, it is not
1446 financially feasible to purchase the necessary equipment or
1447 services. Any such contract for the lease of equipment or
1448 services executed by the commissioners or board shall not exceed a
1449 maximum of five (5) years' duration and shall include a
1450 cancellation clause based on unavailability of funds. If such
1451 cancellation clause is exercised, there shall be no further
1452 liability on the part of the lessee. Any such contract for the
1453 lease of equipment or services executed on behalf of the
1454 commissioners or board that complies with the provisions of this
1455 subparagraph (ii) shall be excepted from the bid requirements set
1456 forth in this section.

1457 (m) **Exceptions from bidding requirements.** Excepted
1458 from bid requirements are:

1459 (i) **Purchasing agreements approved by department.**
1460 Purchasing agreements, contracts and maximum price regulations
1461 executed or approved by the Department of Finance and
1462 Administration.



1463 (ii) **Outside equipment repairs.** Repairs to
1464 equipment, when such repairs are made by repair facilities in the
1465 private sector; however, engines, transmissions, rear axles and/or
1466 other such components shall not be included in this exemption when
1467 replaced as a complete unit instead of being repaired and the need
1468 for such total component replacement is known before disassembly
1469 of the component; however, invoices identifying the equipment,
1470 specific repairs made, parts identified by number and name,
1471 supplies used in such repairs, and the number of hours of labor
1472 and costs therefor shall be required for the payment for such
1473 repairs.

1474 (iii) **In-house equipment repairs.** Purchases of
1475 parts for repairs to equipment, when such repairs are made by
1476 personnel of the agency or governing authority; however, entire
1477 assemblies, such as engines or transmissions, shall not be
1478 included in this exemption when the entire assembly is being
1479 replaced instead of being repaired.

1480 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
1481 of gravel or fill dirt which are to be removed and transported by
1482 the purchaser.

1483 (v) **Governmental equipment auctions.** Motor
1484 vehicles or other equipment purchased from a federal agency or
1485 authority, another governing authority or state agency of the
1486 State of Mississippi, or any governing authority or state agency
1487 of another state at a public auction held for the purpose of



1488 disposing of such vehicles or other equipment. Any purchase by a
1489 governing authority under the exemption authorized by this
1490 subparagraph (v) shall require advance authorization spread upon
1491 the minutes of the governing authority to include the listing of
1492 the item or items authorized to be purchased and the maximum bid
1493 authorized to be paid for each item or items.

1494 (vi) **Intergovernmental sales and transfers.**

1495 Purchases, sales, transfers or trades by governing authorities or
1496 state agencies when such purchases, sales, transfers or trades are
1497 made by a private treaty agreement or through means of
1498 negotiation, from any federal agency or authority, another
1499 governing authority or state agency of the State of Mississippi,
1500 or any state agency or governing authority of another state.
1501 Nothing in this section shall permit such purchases through public
1502 auction except as provided for in subparagraph (v) of this
1503 paragraph (m). It is the intent of this section to allow
1504 governmental entities to dispose of and/or purchase commodities
1505 from other governmental entities at a price that is agreed to by
1506 both parties. This shall allow for purchases and/or sales at
1507 prices which may be determined to be below the market value if the
1508 selling entity determines that the sale at below market value is
1509 in the best interest of the taxpayers of the state. Governing
1510 authorities shall place the terms of the agreement and any
1511 justification on the minutes, and state agencies shall obtain



1512 approval from the Department of Finance and Administration, prior
1513 to releasing or taking possession of the commodities.

1514 (vii) **Perishable supplies or food.** Perishable
1515 supplies or food purchased for use in connection with hospitals,
1516 the school lunch programs, homemaking programs and for the feeding
1517 of county or municipal prisoners.

1518 (viii) **Single-source items.** Noncompetitive items
1519 available from one (1) source only. In connection with the
1520 purchase of noncompetitive items only available from one (1)
1521 source, a certification of the conditions and circumstances
1522 requiring the purchase shall be filed by the agency with the
1523 Department of Finance and Administration and by the governing
1524 authority with the board of the governing authority. Upon receipt
1525 of that certification the Department of Finance and Administration
1526 or the board of the governing authority, as the case may be, may,
1527 in writing, authorize the purchase, which authority shall be noted
1528 on the minutes of the body at the next regular meeting thereafter.
1529 In those situations, a governing authority is not required to
1530 obtain the approval of the Department of Finance and
1531 Administration. Following the purchase, the executive head of the
1532 state agency, or his designees, shall file with the Department of
1533 Finance and Administration, documentation of the purchase,
1534 including a description of the commodity purchased, the purchase
1535 price thereof and the source from whom it was purchased.



1536 (ix) **Waste disposal facility construction**
1537 **contracts.** Construction of incinerators and other facilities for
1538 disposal of solid wastes in which products either generated
1539 therein, such as steam, or recovered therefrom, such as materials
1540 for recycling, are to be sold or otherwise disposed of; however,
1541 in constructing such facilities, a governing authority or agency
1542 shall publicly issue requests for proposals, advertised for in the
1543 same manner as provided herein for seeking bids for public
1544 construction projects, concerning the design, construction,
1545 ownership, operation and/or maintenance of such facilities,
1546 wherein such requests for proposals when issued shall contain
1547 terms and conditions relating to price, financial responsibility,
1548 technology, environmental compatibility, legal responsibilities
1549 and such other matters as are determined by the governing
1550 authority or agency to be appropriate for inclusion; and after
1551 responses to the request for proposals have been duly received,
1552 the governing authority or agency may select the most qualified
1553 proposal or proposals on the basis of price, technology and other
1554 relevant factors and from such proposals, but not limited to the
1555 terms thereof, negotiate and enter contracts with one or more of
1556 the persons or firms submitting proposals.

1557 (x) **Hospital group purchase contracts.** Supplies,
1558 commodities and equipment purchased by hospitals through group
1559 purchase programs pursuant to Section 31-7-38.



1560 (xi) **Information technology products.** Purchases
1561 of information technology products made by governing authorities
1562 under the provisions of purchase schedules, or contracts executed
1563 or approved by the Mississippi Department of Information
1564 Technology Services and designated for use by governing
1565 authorities.

1566 (xii) **Energy efficiency services and equipment.**
1567 Energy efficiency services and equipment acquired by school
1568 districts, community and junior colleges, institutions of higher
1569 learning and state agencies or other applicable governmental
1570 entities on a shared-savings, lease or lease-purchase basis
1571 pursuant to Section 31-7-14.

1572 (xiii) **Municipal electrical utility system fuel.**
1573 Purchases of coal and/or natural gas by municipally owned electric
1574 power generating systems that have the capacity to use both coal
1575 and natural gas for the generation of electric power.

1576 (xiv) **Library books and other reference materials.**
1577 Purchases by libraries or for libraries of books and periodicals;
1578 processed film, videocassette tapes, filmstrips and slides;
1579 recorded audiotapes, cassettes and diskettes; and any such items
1580 as would be used for teaching, research or other information
1581 distribution; however, equipment such as projectors, recorders,
1582 audio or video equipment, and monitor televisions are not exempt
1583 under this subparagraph.



1584 (xv) **Unmarked vehicles.** Purchases of unmarked
1585 vehicles when such purchases are made in accordance with
1586 purchasing regulations adopted by the Department of Finance and
1587 Administration pursuant to Section 31-7-9(2).

1588 (xvi) **Election ballots.** Purchases of ballots
1589 printed pursuant to Section 23-15-351.

1590 (xvii) **Multichannel interactive video systems.**
1591 From and after July 1, 1990, contracts by Mississippi Authority
1592 for Educational Television with any private educational
1593 institution or private nonprofit organization whose purposes are
1594 educational in regard to the construction, purchase, lease or
1595 lease-purchase of facilities and equipment and the employment of
1596 personnel for providing multichannel interactive video systems
1597 (ITSF) in the school districts of this state.

1598 (xviii) **Purchases of prison industry products by**
1599 **the Department of Corrections, regional correctional facilities or**
1600 **privately owned prisons.** Purchases made by the Mississippi
1601 Department of Corrections, regional correctional facilities or
1602 privately owned prisons involving any item that is manufactured,
1603 processed, grown or produced from the state's prison industries.

1604 (xix) **Undercover operations equipment.** Purchases
1605 of surveillance equipment or any other high-tech equipment to be
1606 used by law enforcement agents in undercover operations, provided
1607 that any such purchase shall be in compliance with regulations
1608 established by the Department of Finance and Administration.



1609 (xx) **Junior college books for rent.** Purchases by
1610 community or junior colleges of textbooks which are obtained for
1611 the purpose of renting such books to students as part of a book
1612 service system.

1613 (xxi) **Certain school district purchases.**
1614 Purchases of commodities made by school districts from vendors
1615 with which any levying authority of the school district, as
1616 defined in Section 37-57-1, has contracted through competitive
1617 bidding procedures for purchases of the same commodities.

1618 (xxii) **Garbage, solid waste and sewage contracts.**
1619 Contracts for garbage collection or disposal, contracts for solid
1620 waste collection or disposal and contracts for sewage collection
1621 or disposal.

1622 (xxiii) **Municipal water tank maintenance**
1623 **contracts.** Professional maintenance program contracts for the
1624 repair or maintenance of municipal water tanks, which provide
1625 professional services needed to maintain municipal water storage
1626 tanks for a fixed annual fee for a duration of two (2) or more
1627 years.

1628 (xxiv) **Purchases of Mississippi Industries for the**
1629 **Blind products or services.** Purchases made by state agencies or
1630 governing authorities involving any item that is manufactured,
1631 processed or produced by, or any services provided by, the
1632 Mississippi Industries for the Blind.



1633 (xxv) **Purchases of state-adopted textbooks.**
1634 Purchases of state-adopted textbooks by public school districts.
1635 (xxvi) **Certain purchases under the Mississippi**
1636 **Major Economic Impact Act.** Contracts entered into pursuant to the
1637 provisions of Section 57-75-9(2), (3) and (4).
1638 (xxvii) **Used heavy or specialized machinery or**
1639 **equipment for installation of soil and water conservation**
1640 **practices purchased at auction.** Used heavy or specialized
1641 machinery or equipment used for the installation and
1642 implementation of soil and water conservation practices or
1643 measures purchased subject to the restrictions provided in
1644 Sections 69-27-331 through 69-27-341. Any purchase by the State
1645 Soil and Water Conservation Commission under the exemption
1646 authorized by this subparagraph shall require advance
1647 authorization spread upon the minutes of the commission to include
1648 the listing of the item or items authorized to be purchased and
1649 the maximum bid authorized to be paid for each item or items.
1650 (xxviii) **Hospital lease of equipment or services.**
1651 Leases by hospitals of equipment or services if the leases are in
1652 compliance with paragraph (1)(ii).
1653 (xxix) **Purchases made pursuant to qualified**
1654 **cooperative purchasing agreements.** Purchases made by certified
1655 purchasing offices of state agencies or governing authorities
1656 under cooperative purchasing agreements previously approved by the
1657 Office of Purchasing and Travel and established by or for any



1658 municipality, county, parish or state government or the federal
1659 government, provided that the notification to potential
1660 contractors includes a clause that sets forth the availability of
1661 the cooperative purchasing agreement to other governmental
1662 entities. Such purchases shall only be made if the use of the
1663 cooperative purchasing agreements is determined to be in the best
1664 interest of the governmental entity.

1665 (xxx) **School yearbooks.** Purchases of school
1666 yearbooks by state agencies or governing authorities; * * *
1667 however, * * * state agencies and governing authorities shall use
1668 for these purchases the RFP process as set forth in the
1669 Mississippi Procurement Manual adopted by the Office of Purchasing
1670 and Travel.

1671 (xxxii) **Design-build method of contracting and**
1672 **certain other contracts.** Contracts entered into under the
1673 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1674 (xxxiii) **Toll roads and bridge construction**
1675 **projects.** Contracts entered into under the provisions of Section
1676 65-43-1 or 65-43-3.

1677 (xxxiiii) **Certain purchases under Section 57-1-221.**
1678 Contracts entered into pursuant to the provisions of Section
1679 57-1-221.

1680 (xxxiv) **Certain transfers made pursuant to the**
1681 **provisions of Section 57-105-1(7).** Transfers of public property



1682 or facilities under Section 57-105-1(7) and construction related
1683 to such public property or facilities.

1684 (xxxv) **Certain purchases or transfers entered into**
1685 **with local electrical power associations.** Contracts or agreements
1686 entered into under the provisions of Section 55-3-33.

1687 (xxxvi) **Certain purchases by an academic medical**
1688 **center or health sciences school.** Purchases by an academic
1689 medical center or health sciences school, as defined in Section
1690 37-115-50, of commodities that are used for clinical purposes and
1691 1. intended for use in the diagnosis of disease or other
1692 conditions or in the cure, mitigation, treatment or prevention of
1693 disease, and 2. medical devices, biological, drugs and
1694 radiation-emitting devices as defined by the United States Food
1695 and Drug Administration.

1696 (xxxvii) **Certain purchases made under the Alyce G.**
1697 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
1698 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
1699 Lottery Law.

1700 (xxxviii) **Certain purchases made by the Department**
1701 **of Health and the Department of Revenue.** Purchases made by the
1702 Department of Health * * * and the Department of Revenue solely
1703 for the purpose of fulfilling their respective responsibilities
1704 under the Mississippi Medical Cannabis Act. This subparagraph
1705 shall stand repealed on June 30, * * * 2026.



1706 (n) **Term contract authorization.** All contracts for the
1707 purchase of:

1708 (i) All contracts for the purchase of commodities,
1709 equipment and public construction (including, but not limited to,
1710 repair and maintenance), may be let for periods of not more than
1711 sixty (60) months in advance, subject to applicable statutory
1712 provisions prohibiting the letting of contracts during specified
1713 periods near the end of terms of office. Term contracts for a
1714 period exceeding twenty-four (24) months shall also be subject to
1715 ratification or cancellation by governing authority boards taking
1716 office subsequent to the governing authority board entering the
1717 contract.

1718 (ii) Bid proposals and contracts may include price
1719 adjustment clauses with relation to the cost to the contractor
1720 based upon a nationally published industry-wide or nationally
1721 published and recognized cost index. The cost index used in a
1722 price adjustment clause shall be determined by the Department of
1723 Finance and Administration for the state agencies and by the
1724 governing board for governing authorities. The bid proposal and
1725 contract documents utilizing a price adjustment clause shall
1726 contain the basis and method of adjusting unit prices for the
1727 change in the cost of such commodities, equipment and public
1728 construction.

1729 (o) **Purchase law violation prohibition and vendor**
1730 **penalty.** No contract or purchase as herein authorized shall be



1731 made for the purpose of circumventing the provisions of this
1732 section requiring competitive bids, nor shall it be lawful for any
1733 person or concern to submit individual invoices for amounts within
1734 those authorized for a contract or purchase where the actual value
1735 of the contract or commodity purchased exceeds the authorized
1736 amount and the invoices therefor are split so as to appear to be
1737 authorized as purchases for which competitive bids are not
1738 required. Submission of such invoices shall constitute a
1739 misdemeanor punishable by a fine of not less than Five Hundred
1740 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1741 or by imprisonment for thirty (30) days in the county jail, or
1742 both such fine and imprisonment. In addition, the claim or claims
1743 submitted shall be forfeited.

1744 (p) **Electrical utility petroleum-based equipment**
1745 **purchase procedure.** When in response to a proper advertisement
1746 therefor, no bid firm as to price is submitted to an electric
1747 utility for power transformers, distribution transformers, power
1748 breakers, reclosers or other articles containing a petroleum
1749 product, the electric utility may accept the lowest and best bid
1750 therefor although the price is not firm.

1751 (q) **Fuel management system bidding procedure.** Any
1752 governing authority or agency of the state shall, before
1753 contracting for the services and products of a fuel management or
1754 fuel access system, enter into negotiations with not fewer than
1755 two (2) sellers of fuel management or fuel access systems for



1756 competitive written bids to provide the services and products for
1757 the systems. In the event that the governing authority or agency
1758 cannot locate two (2) sellers of such systems or cannot obtain
1759 bids from two (2) sellers of such systems, it shall show proof
1760 that it made a diligent, good-faith effort to locate and negotiate
1761 with two (2) sellers of such systems. Such proof shall include,
1762 but not be limited to, publications of a request for proposals and
1763 letters soliciting negotiations and bids. For purposes of this
1764 paragraph (q), a fuel management or fuel access system is an
1765 automated system of acquiring fuel for vehicles as well as
1766 management reports detailing fuel use by vehicles and drivers, and
1767 the term "competitive written bid" shall have the meaning as
1768 defined in paragraph (b) of this section. Governing authorities
1769 and agencies shall be exempt from this process when contracting
1770 for the services and products of fuel management or fuel access
1771 systems under the terms of a state contract established by the
1772 Office of Purchasing and Travel.

1773 (r) **Solid waste contract proposal procedure.** Before
1774 entering into any contract for garbage collection or disposal,
1775 contract for solid waste collection or disposal or contract for
1776 sewage collection or disposal, which involves an expenditure of
1777 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
1778 authority or agency shall issue publicly a request for proposals
1779 concerning the specifications for such services which shall be
1780 advertised for in the same manner as provided in this section for



1781 seeking bids for purchases which involve an expenditure of more
1782 than the amount provided in paragraph (c) of this section. Any
1783 request for proposals when issued shall contain terms and
1784 conditions relating to price, financial responsibility,
1785 technology, legal responsibilities and other relevant factors as
1786 are determined by the governing authority or agency to be
1787 appropriate for inclusion; all factors determined relevant by the
1788 governing authority or agency or required by this paragraph (r)
1789 shall be duly included in the advertisement to elicit proposals.
1790 After responses to the request for proposals have been duly
1791 received, the governing authority or agency shall select the most
1792 qualified proposal or proposals on the basis of price, technology
1793 and other relevant factors and from such proposals, but not
1794 limited to the terms thereof, negotiate and enter into contracts
1795 with one or more of the persons or firms submitting proposals. If
1796 the governing authority or agency deems none of the proposals to
1797 be qualified or otherwise acceptable, the request for proposals
1798 process may be reinitiated. Notwithstanding any other provisions
1799 of this paragraph, where a county with at least thirty-five
1800 thousand (35,000) nor more than forty thousand (40,000)
1801 population, according to the 1990 federal decennial census, owns
1802 or operates a solid waste landfill, the governing authorities of
1803 any other county or municipality may contract with the governing
1804 authorities of the county owning or operating the landfill,
1805 pursuant to a resolution duly adopted and spread upon the minutes



1806 of each governing authority involved, for garbage or solid waste
1807 collection or disposal services through contract negotiations.

1808 (s) **Minority set-aside authorization.** Notwithstanding
1809 any provision of this section to the contrary, any agency or
1810 governing authority, by order placed on its minutes, may, in its
1811 discretion, set aside not more than twenty percent (20%) of its
1812 anticipated annual expenditures for the purchase of commodities
1813 from minority businesses; however, all such set-aside purchases
1814 shall comply with all purchasing regulations promulgated by the
1815 Department of Finance and Administration and shall be subject to
1816 bid requirements under this section. Set-aside purchases for
1817 which competitive bids are required shall be made from the lowest
1818 and best minority business bidder. For the purposes of this
1819 paragraph, the term "minority business" means a business which is
1820 owned by a majority of persons who are United States citizens or
1821 permanent resident aliens (as defined by the Immigration and
1822 Naturalization Service) of the United States, and who are Asian,
1823 Black, Hispanic or Native American, according to the following
1824 definitions:

1825 (i) "Asian" means persons having origins in any of
1826 the original people of the Far East, Southeast Asia, the Indian
1827 subcontinent, or the Pacific Islands.

1828 (ii) "Black" means persons having origins in any
1829 black racial group of Africa.



1830 (iii) "Hispanic" means persons of Spanish or
1831 Portuguese culture with origins in Mexico, South or Central
1832 America, or the Caribbean Islands, regardless of race.

1833 (iv) "Native American" means persons having
1834 origins in any of the original people of North America, including
1835 American Indians, Eskimos and Aleuts.

1836 (t) **Construction punch list restriction.** The
1837 architect, engineer or other representative designated by the
1838 agency or governing authority that is contracting for public
1839 construction or renovation may prepare and submit to the
1840 contractor only one (1) preliminary punch list of items that do
1841 not meet the contract requirements at the time of substantial
1842 completion and one (1) final list immediately before final
1843 completion and final payment.

1844 (u) **Procurement of construction services by state**
1845 **institutions of higher learning.** Contracts for privately financed
1846 construction of auxiliary facilities on the campus of a state
1847 institution of higher learning may be awarded by the Board of
1848 Trustees of State Institutions of Higher Learning to the lowest
1849 and best bidder, where sealed bids are solicited, or to the
1850 offeror whose proposal is determined to represent the best value
1851 to the citizens of the State of Mississippi, where requests for
1852 proposals are solicited.

1853 (v) **Insurability of bidders for public construction or**
1854 **other public contracts.** In any solicitation for bids to perform



1855 public construction or other public contracts to which this
1856 section applies, including, but not limited to, contracts for
1857 repair and maintenance, for which the contract will require
1858 insurance coverage in an amount of not less than One Million
1859 Dollars (\$1,000,000.00), bidders shall be permitted to either
1860 submit proof of current insurance coverage in the specified amount
1861 or demonstrate ability to obtain the required coverage amount of
1862 insurance if the contract is awarded to the bidder. Proof of
1863 insurance coverage shall be submitted within five (5) business
1864 days from bid acceptance.

1865 (w) **Purchase authorization clarification.** Nothing in
1866 this section shall be construed as authorizing any purchase not
1867 authorized by law.

1868 **SECTION 7.** This act shall take effect and be in force from
1869 and after July 1, 2023.

