

By: Representatives Harness, Holloway,
Denton, Foster, Paden, Thompson

To: Universities and
Colleges; Appropriations

HOUSE BILL NO. 614

1 AN ACT TO ESTABLISH THE "COLLEGIATE COMPUTERIZED EDUCATIONAL
2 DEVICE (C-COMPED) ACT" TO BE ADMINISTERED BY THE MISSISSIPPI
3 DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES TO PROVIDE GUIDANCE
4 AND TECHNICAL SUPPORT TO STATE-SUPPORTED POSTSECONDARY EDUCATIONAL
5 INSTITUTIONS TO PROVIDE WIRELESS COMMUNICATION DEVICES, DISTANCE
6 LEARNING AND ONLINE SERVICES TO STUDENTS ENROLLED THEREIN FOR THE
7 FACILITATION OF REMOTE LEARNING IN CERTAIN INSTANCES OF PUBLIC
8 HEALTH HAZARDS WHICH CAUSE AN INTERRUPTION IN LEARNING; TO DEFINE
9 TERMS; TO PROVIDE THAT ALLOCATIONS UNDER THE PROGRAM SHALL BE MADE
10 BASED ON THE PREVIOUS YEAR'S TOTAL OF ACTIVELY ENROLLED FULL-TIME
11 STUDENTS; TO HIGHLY ENCOURAGE EACH POSTSECONDARY EDUCATIONAL
12 INSTITUTION TO COMMIT ANY AVAILABLE FUNDS TOWARDS THE PURCHASE
13 EQUIPMENT FOR ITS DISTANCE LEARNING PLAN; TO REQUIRE THE BOARD OF
14 TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING AND THE
15 MISSISSIPPI COMMUNITY COLLEGE BOARD TO INFORM EACH INSTITUTION
16 UNDER ITS CONTROL OF ITS PORTION OF AVAILABLE FUNDS; TO AUTHORIZE
17 THE DEPARTMENT TO DEVELOP REGULATIONS AND PROCEDURES TO GOVERN THE
18 ACT, AND TO COMPILE AN EXPRESS PRODUCTS LIST; TO AMEND SECTION
19 25-53-191, MISSISSIPPI CODE OF 1972, TO EXEMPT STATE-SUPPORTED
20 POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM THE PROHIBITION OF
21 PROCURING WIRELESS COMMUNICATION DEVICES FOR STUDENTS; TO AMEND
22 SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
23 PURCHASES UNDER THE C-COMPED ACT AND THE DIRECTIVE THAT SCHOOL
24 DISTRICTS CREATE A DISTANCE LEARNING PLAN AND FULFILL TECHNOLOGY
25 NEEDS EXPEDITIOUSLY SHALL BE DEEMED AN EMERGENCY PURCHASE FOR
26 PURPOSES OF THE PROCUREMENT AND COMPETITIVE BIDDING LAW; AND FOR
27 RELATED PURPOSES.

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

29 **SECTION 1.** This act shall be known and may be cited as the
30 "Collegiate Computerized Educational Device (C-CompED) Act."



31 **SECTION 2.** (1) The Mississippi Legislature finds the
32 following:

33 (a) The existence of a declared state of emergency
34 creating ongoing public health crisis related to an unsuspecting
35 and debilitating pandemic that has the ability to cause an
36 interruption in learning by presenting a sequence of complex
37 challenges to the traditional approach of in-person, face-to-face
38 instruction and learning at the elementary, secondary and
39 postsecondary education levels.

40 (b) Because the possibility that COVID-19 could mutate
41 into a more severe strain or another infectious disease with
42 implications of problematic symptoms, severe illness and increased
43 mortality could evolve into a public health hazard, the status of
44 the state's postsecondary education system requires all
45 state-supported two-year and four-year postsecondary educational
46 institutions to plan and implement distance learning programs, and
47 plan to facilitate remote instruction; and

48 (c) In recognition that every institution's technology
49 needs are different and the necessity to reduce the disparity that
50 exists among actively enrolled full-time students in the state's
51 postsecondary educational institutions who are unable to afford
52 wireless communication devices, this act establishes the
53 Collegiate Computerized Educational Device (C-CompED) Act to
54 authorize the postsecondary educational institutions under the
55 governing authority of the Board of Trustees of State Institutions



56 of Higher Learning or the Mississippi Community College Board to
57 expend any available funds to procure wireless communication
58 devices, within the relevant statutory provisions of this act and
59 the regulations promulgated therefrom, which are directly related
60 to assisting the various institutions under their respective
61 governance in expeditiously implementing distance learning
62 programs and facilitating remote instruction, by providing each
63 actively enrolled full-time student with a wireless communication
64 device.

65 (2) Therefore, the intent of the Mississippi Legislature is:

66 (a) To provide authority to postsecondary educational
67 institutions to procure devices and other technology, including
68 technology related to connectivity and online access, sufficient
69 for students, instructors, and administrators and other staff for
70 the purpose of issuing such devices to actively enrolled full-time
71 students to facilitate their ability to engage in distance
72 learning aligned with curriculum and accreditation standards
73 adopted for the institution, and providing remote instruction; and

74 (b) To authorize postsecondary educational institutions
75 to provide technical support and professional development to
76 facilitate distance learning and remote instruction.

77 **SECTION 3.** For purposes of this act, the following words
78 shall have the meanings ascribed herein unless the context
79 otherwise requires:



80 (a) "Board" means the Board of Trustees of State
81 Institutions of Higher Learning or the Mississippi Community
82 College Board, which shall be applicable in context appropriate to
83 the postsecondary educational institutions over which they have
84 governance.

85 (b) "COVID-19" means the Coronavirus Disease 2019.

86 (c) "Department" means the Mississippi Department of
87 Information Technology Services (MDITS).

88 (d) "Learning management system" means a software
89 application for the administration, documentation, tracking,
90 reporting, automation and delivery of educational courses,
91 training programs, or learning and development programs.

92 (e) "Postsecondary educational institutions" means a
93 state-supported two-year community college or four-year college or
94 university.

95 (f) "State of Emergency" means any state of emergency
96 declared by executive order of the Governor of the State of
97 Mississippi and any amendments thereto or subsequent orders or
98 amendments thereto issued in response to a natural or manmade
99 disaster or to an infectious disease that is a substantial public
100 health hazard.

101 (g) "Express Product List" or "EPL" means the
102 compilation of vendors and products adopted by the department for
103 use by state agencies, as defined in Section 25-53-191, and
104 postsecondary educational institutions for the purchase of



105 devices, software, online tools, and other equipment and
106 technology necessary to support distance learning and remote
107 instruction.

108 (h) "Eligible expenses" mean costs incurred by a
109 postsecondary educational institution, pursuant to this act, to
110 procure wireless communications devices to facilitate or enhance
111 distance learning capabilities and remote instruction due to a
112 state of emergency which causes an interruption in learning,
113 including:

114 (i) The purchase of laptop computers, tablets,
115 assisted learning devices or other devices which can be used
116 personally by a student or instructor in their home or in the
117 classroom;

118 (ii) The purchase of learning management systems,
119 software and other online tools;

120 (iii) The purchase and installation of hardware to
121 provide for or enhance the Internet connectivity of a
122 postsecondary educational institution's students, including the
123 cost of establishing personal or centrally located hotspots; and

124 (iv) The enhancement of security related to
125 devices or connectivity to comply with state and federal law, and
126 to protect students, instructors and administrators and other
127 staff working within the postsecondary educational institution.

128 (i) "Interruption in learning" means disruption of
129 regular educational instruction at a postsecondary educational



130 institution facility resulting from required or voluntary closure
131 related to a state of emergency declared as the result of an
132 ongoing public health crisis.

133 **SECTION 4.** (1) There is established the Collegiate
134 Computerized Educational Device (C-CompED) Program which shall be
135 administered by the Mississippi Department of Information
136 Technology Services, with the assistance of the Board of Trustees
137 of State Institutions of Higher Learning and the Mississippi
138 Community College Board, for the purpose of assisting
139 postsecondary educational institutions with the procurement of
140 wireless communication devices to be issued to actively enrolled
141 full-time students for the institution's implementation of
142 distance learning protocols and facilitation of remote
143 instruction.

144 (2) Subject to appropriations made to the Board of Trustees
145 of State Institutions of Higher Learning and the Mississippi
146 Community College Board by the Legislature, allocations to
147 postsecondary educational institutions shall be made annually
148 based on the actual number of actively enrolled full-time students
149 during the immediately preceding scholastic year.

150 (3) Postsecondary educational institutions are highly
151 encouraged to commit a portion of any available funds at their
152 disposal, except CARES Acts fund, as supplemental matching funds
153 to offset the total cost of purchasing sufficient electronic



154 devices, technological supports and systems of service for its
155 distance learning plan.

156 **SECTION 5.** (1) The boards shall:

157 (a) Inform each postsecondary educational institution
158 under its respective governing authority of its portion of the
159 funds appropriated as provided for in Section 4(2) of this act;

160 (b) Develop regulations and procedures to govern the
161 administration of the program, to include:

162 (i) Providing guidance to postsecondary
163 educational institutions in the development of a technology
164 sustainability plan, addressing how devices and other technology
165 purchased and used by the institution, students, instructors and
166 other administrators and staff, will be maintained throughout
167 their usage; and

168 (ii) Providing guidance to institutions in the
169 development of a responsible use policy for students, instructors
170 and administrators or other staff to govern the use of devices and
171 other technology purchased under the authority of this act;

172 (c) Provide guidance to schools on the development and
173 implementation of a distance learning plan;

174 (d) Collaborate with MDITS to solicit bid proposals
175 from vendors to establish an EPL;

176 (e) Seek an emergency exemption from the procurement
177 laws and bidding procedures established in Section 31-7-13 to
178 expedite the compilation of an EPL and to minimize the cost of



179 relevant devices or other technology for postsecondary educational
180 institutions through bulk purchasing; and

181 (f) Seek an exemption from the stipulation established
182 in Section 25-53-191 to provide postsecondary educational
183 institutions with the authority to purchase wireless communication
184 devices for students.

185 (2) The Mississippi Department of Information Technology
186 Services may revise the adopted EPL based upon purchasing demands
187 as needed to provide institutions with choice in the selection of
188 the electronic devices.

189 **SECTION 6.** Postsecondary educational institutions shall:

190 (a) Issue every actively enrolled full-time student
191 with a device as recommended by the institution before incurring
192 the other expenses listed in Section 3(h)(ii) or (iii) of this
193 act, which shall receive next priority after the products listed
194 in Section 3(h)(i) of this act;

195 (b) Purchase products from vendors listed on the EPL,
196 if using funds under this grant program, unless the institution
197 can demonstrate, to the department, that the products it purchases
198 from vendors not listed on the EPL:

199 (i) Meet or exceed the technological specification
200 and functionality required by the department; and

201 (ii) Can be purchased at a price that is less than
202 any of the prices listed on the EPL for a comparable product;



203 (c) Maintain the original, itemized receipt of purchase
204 or an authentic copy of the receipt for auditing purposes for a
205 period not less than five (5) years;

206 (d) Develop and submit to the department, by September
207 1 of each year:

208 (i) A technology sustainability plan addressing
209 how devices and other technology purchased and used by the
210 institution, and students, instructors and other administrators
211 and staff, will be maintained throughout their usage and replaced
212 before the expiration of the term of their expected useful life
213 without additional state funds; and

214 (ii) A responsible use policy, addressing the use
215 of devices and other technology purchased, which includes a
216 provision requiring students, instructors, administrators and
217 other staff to agree in writing to the provisions in the policy,
218 and may include fines for intentional loss or damage to devices.
219 The policy shall also include a provision acknowledging that the
220 institution shall assume the control of ownership and liability
221 for personal devices and other equipment purchased under this
222 grant program until the personal device or other equipment:

223 1. No longer serves the institution or
224 related institutional purposes for which it was acquired and is
225 sold by public auction under Section 17-25-25; or

226 2. Is traded in to a vendor as part of a
227 subsequent purchase; and



228 (e) Compile and maintain an inventory list of all
229 devices purchased and issued to students, instructors and
230 administrators and other staff, as well as any supporting
231 technology or equipment used to support the institution's distance
232 learning plan.

233 **SECTION 7.** The department shall provide a comprehensive
234 report on the use of funds allocated to postsecondary educational
235 institutions for the purchase of wireless communications devices
236 and the effectiveness of distance learning protocols adopted by
237 institutions to the Governor, Lieutenant Governor, Speaker of the
238 House of Representatives, and Chairs of the Senate and House
239 Appropriations and Education Committees by October 1, 2024, and
240 each year thereafter.

241 **SECTION 8.** Section 25-53-191, Mississippi Code of 1972, is
242 amended as follows:

243 25-53-191. (1) For the purposes of this section, the
244 following terms shall have the meanings ascribed to them in this
245 section unless the context otherwise clearly requires:

246 (a) "Department" means the Mississippi Department of
247 Information Technology.

248 (b) "State agency" means any agency, department,
249 commission, board, bureau, institution, postsecondary educational
250 institution or other instrumentality of the state.



251 (c) "Wireless communication device" means a cellular
252 telephone, pager or a personal digital assistant device having
253 wireless communication capability.

254 (2) Before a wireless communication device may be assigned,
255 issued or made available to an agency officer or employee, the
256 agency head, or his designee, shall sign a statement certifying
257 the need or reason for issuing the device. No officer or employee
258 of any state agency, except for an officer or employee of the
259 Mississippi Emergency Management Agency, shall be assigned or
260 issued more than one (1) such wireless communication device. No
261 officer or employee of any state agency to whom has been assigned,
262 issued or made available the use of a wireless communication
263 device, the cost of which is paid through the use of public funds,
264 shall use such device for personal use.

265 (3) A state agency shall not reimburse any officer or
266 employee for use of his or her personal wireless communication
267 device.

268 (4) Every state agency that, at the expense of the state
269 agency, assigns, issues or makes available to any of its officers
270 or employees a wireless communication device shall obtain and
271 maintain detailed billing for every wireless communication device
272 account. A list of approved vendors for the procurement of
273 wireless communication devices and the delivery of wireless
274 communication device services shall be developed for all state
275 agencies by the Mississippi Department of Information Technology



276 Services in conjunction with the Wireless Communication Commission
277 created in Section 25-53-171. The department, in conjunction with
278 the Wireless Communication Commission, shall exercise the option
279 of selecting one (1) vendor from which to procure wireless
280 communication devices and to provide wireless communication device
281 services, or if it deems such to be most advantageous to the state
282 agencies, it may select multiple vendors. The department, in
283 conjunction with the Wireless Communication Commission, shall
284 select a vendor or vendors on the basis of lowest and best bid
285 proposals. A state agency may not procure a wireless
286 communication device from any vendor or contract for wireless
287 communication device services with any vendor unless the vendor
288 appears on the list approved by the department, in conjunction
289 with the Wireless Communication Commission. A contract entered
290 into in violation of this section shall be void and unenforceable.

291 (5) The department shall promulgate a model acceptable use
292 policy defining the appropriate use of all wireless communication
293 devices. The acceptable use policy should specify that these
294 resources, including both devices and services, are provided at
295 the state agency's expense as tools for accomplishing the business
296 missions of the state agency; that all those resources are for
297 business use; and that more than incidental personal use of those
298 resources is prohibited. The acceptable use policy should require
299 that each official and employee issued one (1) of the above
300 devices or authorized to access one (1) of the above services sign



301 the policy and that the signed copy be placed in the personnel
302 file of the official or employee. The acceptable use policy
303 should also require that the use of these resources be tracked,
304 verified and signed by the official or employee and the supervisor
305 of the official or employee at each billing cycle or other
306 appropriate interval. All state agencies shall adopt the model
307 policy or adopt a policy that is, at minimum, as stringent as the
308 model policy and shall provide a copy of the policy to the
309 department.

310 (6) All state agencies shall purchase or acquire only the
311 lowest cost cellular telephone, pager or personal digital
312 assistance device which will carry out its intended use.

313 (7) The University of Mississippi Medical Center and its
314 employees, the Mississippi State University Extension Service and
315 its agents and faculty members, the Mississippi State University
316 Agricultural and Forestry Experiment Station and its faculty
317 members, the Mississippi State University Forestry and Wildlife
318 Research Center and its faculty members, * * * the Mississippi
319 State University College of Veterinary Medicine and its faculty
320 members, and each state-supported postsecondary educational
321 institution and its students and faculty members shall be exempt
322 from the application of this section.

323 (8) The State Auditor shall conduct necessary audits to
324 ensure compliance with the provisions of this section.



325 **SECTION 9.** Section 31-7-13, Mississippi Code of 1972, is
326 amended as follows:

327 31-7-13. All agencies and governing authorities shall
328 purchase their commodities and printing; contract for garbage
329 collection or disposal; contract for solid waste collection or
330 disposal; contract for sewage collection or disposal; contract for
331 public construction; and contract for rentals as herein provided.

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

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

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

342 more than Five Thousand Dollars (\$5,000.00) but not more than
343 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
344 and shipping charges, may be made from the lowest and best bidder
345 without publishing or posting advertisement for bids, provided at
346 least two (2) competitive written bids have been obtained. Any
347 state agency or community/junior college purchasing commodities or
348 procuring construction pursuant to this paragraph (b) may
349 authorize its purchasing agent, or his designee, to accept the



350 lowest competitive written bid under Seventy-five Thousand Dollars
351 (\$75,000.00). Any governing authority purchasing commodities
352 pursuant to this paragraph (b) may authorize its purchasing agent,
353 or his designee, with regard to governing authorities other than
354 counties, or its purchase clerk, or his designee, with regard to
355 counties, to accept the lowest and best competitive written bid.
356 Such authorization shall be made in writing by the governing
357 authority and shall be maintained on file in the primary office of
358 the agency and recorded in the official minutes of the governing
359 authority, as appropriate. The purchasing agent or the purchase
360 clerk, or his designee, as the case may be, and not the governing
361 authority, shall be liable for any penalties and/or damages as may
362 be imposed by law for any act or omission of the purchasing agent
363 or purchase clerk, or his designee, constituting a violation of
364 law in accepting any bid without approval by the governing
365 authority. The term "competitive written bid" shall mean a bid
366 submitted on a bid form furnished by the buying agency or
367 governing authority and signed by authorized personnel
368 representing the vendor, or a bid submitted on a vendor's
369 letterhead or identifiable bid form and signed by authorized
370 personnel representing the vendor. "Competitive" shall mean that
371 the bids are developed based upon comparable identification of the
372 needs and are developed independently and without knowledge of
373 other bids or prospective bids. Any bid item for construction in
374 excess of Five Thousand Dollars (\$5,000.00) shall be broken down



375 by components to provide detail of component description and
376 pricing. These details shall be submitted with the written bids
377 and become part of the bid evaluation criteria. Bids may be
378 submitted by facsimile, electronic mail or other generally
379 accepted method of information distribution. Bids submitted by
380 electronic transmission shall not require the signature of the
381 vendor's representative unless required by agencies or governing
382 authorities.

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

384 (i) **Publication requirement.**

385 1. Purchases which involve an expenditure of
386 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of
387 freight and shipping charges, may be made from the lowest and best
388 bidder after advertising for competitive bids once each week for
389 two (2) consecutive weeks in a regular newspaper published in the
390 county or municipality in which such agency or governing authority
391 is located. However, all American Recovery and Reinvestment Act
392 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
393 shall be bid. All references to American Recovery and
394 Reinvestment Act projects in this section shall not apply to
395 programs identified in Division B of the American Recovery and
396 Reinvestment Act.

397 2. Reverse auctions shall be the primary
398 method for receiving bids during the bidding process. If a
399 purchasing entity determines that a reverse auction is not in the



400 best interest of the state, then that determination must be
401 approved by the Public Procurement Review Board. The purchasing
402 entity shall submit a detailed explanation of why a reverse
403 auction would not be in the best interest of the state and present
404 an alternative process to be approved by the Public Procurement
405 Review Board. If the Public Procurement Review Board authorizes
406 the purchasing entity to solicit bids with a method other than
407 reverse auction, then the purchasing entity may designate the
408 other methods by which the bids will be received, including, but
409 not limited to, bids sealed in an envelope, bids received
410 electronically in a secure system, or bids received by any other
411 method that promotes open competition and has been approved by the
412 Office of Purchasing and Travel. However, reverse auction shall
413 not be used for any public contract for design, construction,
414 improvement, repair or remodeling of any public facilities,
415 including the purchase of materials, supplies, equipment or goods
416 for same and including buildings, roads and bridges. The Public
417 Procurement Review Board must approve any contract entered into by
418 alternative process. The provisions of this item 2 shall not
419 apply to the individual state institutions of higher learning.
420 The provisions of this item 2 requiring reverse auction as the
421 primary method of receiving bids shall not apply to term contract
422 purchases as provided in paragraph (n) of this section; however, a
423 purchasing entity may, in its discretion, utilize reverse auction
424 for such purchases. The provisions of this item 2 shall not apply



425 to individual public schools, including public charter schools and
426 public school districts, only when purchasing copyrighted
427 educational supplemental materials and software as a service
428 product. For such purchases, a local school board may authorize a
429 purchasing entity in its jurisdiction to use a Request for
430 Qualifications which promotes open competition and meets the
431 requirements of the Office of Purchasing and Travel.

432 3. The date as published for the bid opening
433 shall not be less than seven (7) working days after the last
434 published notice; however, if the purchase involves a construction
435 project in which the estimated cost is in excess of Seventy-five
436 Thousand Dollars (\$75,000.00), such bids shall not be opened in
437 less than fifteen (15) working days after the last notice is
438 published and the notice for the purchase of such construction
439 shall be published once each week for two (2) consecutive weeks.
440 However, all American Recovery and Reinvestment Act projects in
441 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.
442 For any projects in excess of Twenty-five Thousand Dollars
443 (\$25,000.00) under the American Recovery and Reinvestment Act,
444 publication shall be made one (1) time and the bid opening for
445 construction projects shall not be less than ten (10) working days
446 after the date of the published notice. The notice of intention
447 to let contracts or purchase equipment shall state the time and
448 place at which bids shall be received, list the contracts to be
449 made or types of equipment or supplies to be purchased, and, if



450 all plans and/or specifications are not published, refer to the
451 plans and/or specifications on file. If there is no newspaper
452 published in the county or municipality, then such notice shall be
453 given by posting same at the courthouse, or for municipalities at
454 the city hall, and at two (2) other public places in the county or
455 municipality, and also by publication once each week for two (2)
456 consecutive weeks in some newspaper having a general circulation
457 in the county or municipality in the above-provided manner. On
458 the same date that the notice is submitted to the newspaper for
459 publication, the agency or governing authority involved shall mail
460 written notice to, or provide electronic notification to the main
461 office of the Mississippi Procurement Technical Assistance Program
462 under the Mississippi Development Authority that contains the same
463 information as that in the published notice. Submissions received
464 by the Mississippi Procurement Technical Assistance Program for
465 projects funded by the American Recovery and Reinvestment Act
466 shall be displayed on a separate and unique Internet web page
467 accessible to the public and maintained by the Mississippi
468 Development Authority for the Mississippi Procurement Technical
469 Assistance Program. Those American Recovery and Reinvestment Act
470 related submissions shall be publicly posted within twenty-four
471 (24) hours of receipt by the Mississippi Development Authority and
472 the bid opening shall not occur until the submission has been
473 posted for ten (10) consecutive days. The Department of Finance
474 and Administration shall maintain information regarding contracts



475 and other expenditures from the American Recovery and Reinvestment
476 Act, on a unique Internet web page accessible to the public. The
477 Department of Finance and Administration shall promulgate rules
478 regarding format, content and deadlines, unless otherwise
479 specified by law, of the posting of award notices, contract
480 execution and subsequent amendments, links to the contract
481 documents, expenditures against the awarded contracts and general
482 expenditures of funds from the American Recovery and Reinvestment
483 Act. Within one (1) working day of the contract award, the agency
484 or governing authority shall post to the designated web page
485 maintained by the Department of Finance and Administration, notice
486 of the award, including the award recipient, the contract amount,
487 and a brief summary of the contract in accordance with rules
488 promulgated by the department. Within one (1) working day of the
489 contract execution, the agency or governing authority shall post
490 to the designated web page maintained by the Department of Finance
491 and Administration a summary of the executed contract and make a
492 copy of the appropriately redacted contract documents available
493 for linking to the designated web page in accordance with the
494 rules promulgated by the department. The information provided by
495 the agency or governing authority shall be posted to the web page
496 for the duration of the American Recovery and Reinvestment Act
497 funding or until the project is completed, whichever is longer.

498 (ii) **Bidding process amendment procedure.** If all
499 plans and/or specifications are published in the notification,



500 then the plans and/or specifications may not be amended. If all
501 plans and/or specifications are not published in the notification,
502 then amendments to the plans/specifications, bid opening date, bid
503 opening time and place may be made, provided that the agency or
504 governing authority maintains a list of all prospective bidders
505 who are known to have received a copy of the bid documents and all
506 such prospective bidders are sent copies of all amendments. This
507 notification of amendments may be made via mail, facsimile,
508 electronic mail or other generally accepted method of information
509 distribution. No addendum to bid specifications may be issued
510 within two (2) working days of the time established for the
511 receipt of bids unless such addendum also amends the bid opening
512 to a date not less than five (5) working days after the date of
513 the addendum.

514 (iii) **Filing requirement.** In all cases involving
515 governing authorities, before the notice shall be published or
516 posted, the plans or specifications for the construction or
517 equipment being sought shall be filed with the clerk of the board
518 of the governing authority. In addition to these requirements, a
519 bid file shall be established which shall indicate those vendors
520 to whom such solicitations and specifications were issued, and
521 such file shall also contain such information as is pertinent to
522 the bid.

523 (iv) **Specification restrictions.**



524 1. Specifications pertinent to such bidding
525 shall be written so as not to exclude comparable equipment of
526 domestic manufacture. However, if valid justification is
527 presented, the Department of Finance and Administration or the
528 board of a governing authority may approve a request for specific
529 equipment necessary to perform a specific job. Further, such
530 justification, when placed on the minutes of the board of a
531 governing authority, may serve as authority for that governing
532 authority to write specifications to require a specific item of
533 equipment needed to perform a specific job. In addition to these
534 requirements, from and after July 1, 1990, vendors of relocatable
535 classrooms and the specifications for the purchase of such
536 relocatable classrooms published by local school boards shall meet
537 all pertinent regulations of the State Board of Education,
538 including prior approval of such bid by the State Department of
539 Education.

540 2. Specifications for construction projects
541 may include an allowance for commodities, equipment, furniture,
542 construction materials or systems in which prospective bidders are
543 instructed to include in their bids specified amounts for such
544 items so long as the allowance items are acquired by the vendor in
545 a commercially reasonable manner and approved by the
546 agency/governing authority. Such acquisitions shall not be made
547 to circumvent the public purchasing laws.



548 (v) **Electronic bids.** Agencies and governing
549 authorities shall provide a secure electronic interactive system
550 for the submittal of bids requiring competitive bidding that shall
551 be an additional bidding option for those bidders who choose to
552 submit their bids electronically. The Department of Finance and
553 Administration shall provide, by regulation, the standards that
554 agencies must follow when receiving electronic bids. Agencies and
555 governing authorities shall make the appropriate provisions
556 necessary to accept electronic bids from those bidders who choose
557 to submit their bids electronically for all purchases requiring
558 competitive bidding under this section. Any special condition or
559 requirement for the electronic bid submission shall be specified
560 in the advertisement for bids required by this section. Agencies
561 or governing authorities that are currently without available high
562 speed Internet access shall be exempt from the requirement of this
563 subparagraph (v) until such time that high speed Internet access
564 becomes available. Any county having a population of less than
565 twenty thousand (20,000) shall be exempt from the provisions of
566 this subparagraph (v). Any municipality having a population of
567 less than ten thousand (10,000) shall be exempt from the
568 provisions of this subparagraph (v). The provisions of this
569 subparagraph (v) shall not require any bidder to submit bids
570 electronically. When construction bids are submitted
571 electronically, the requirement for including a certificate of
572 responsibility, or a statement that the bid enclosed does not



573 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
574 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
575 deemed in compliance with by including same as an attachment with
576 the electronic bid submittal.

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

578 (i) **Decision procedure.** Purchases may be made
579 from the lowest and best bidder. In determining the lowest and
580 best bid, freight and shipping charges shall be included.
581 Life-cycle costing, total cost bids, warranties, guaranteed
582 buy-back provisions and other relevant provisions may be included
583 in the best bid calculation. All best bid procedures for state
584 agencies must be in compliance with regulations established by the
585 Department of Finance and Administration. If any governing
586 authority accepts a bid other than the lowest bid actually
587 submitted, it shall place on its minutes detailed calculations and
588 narrative summary showing that the accepted bid was determined to
589 be the lowest and best bid, including the dollar amount of the
590 accepted bid and the dollar amount of the lowest bid. No agency
591 or governing authority shall accept a bid based on items not
592 included in the specifications.

593 (ii) **Decision procedure for Certified Purchasing**
594 **Offices.** In addition to the decision procedure set forth in
595 subparagraph (i) of this paragraph (d), Certified Purchasing
596 Offices may also use the following procedure: Purchases may be
597 made from the bidder offering the best value. In determining the



598 best value bid, freight and shipping charges shall be included.
599 Life-cycle costing, total cost bids, warranties, guaranteed
600 buy-back provisions, documented previous experience, training
601 costs and other relevant provisions, including, but not limited
602 to, a bidder having a local office and inventory located within
603 the jurisdiction of the governing authority, may be included in
604 the best value calculation. This provision shall authorize
605 Certified Purchasing Offices to utilize a Request For Proposals
606 (RFP) process when purchasing commodities. All best value
607 procedures for state agencies must be in compliance with
608 regulations established by the Department of Finance and
609 Administration. No agency or governing authority shall accept a
610 bid based on items or criteria not included in the specifications.

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

612 **Landmarks.** In addition to the decision procedure set forth in
613 subparagraph (i) of this paragraph (d), where purchase involves
614 renovation, restoration, or both, of the State Capitol Building or
615 any other historical building designated for at least five (5)
616 years as a Mississippi Landmark by the Board of Trustees of the
617 Department of Archives and History under the authority of Sections
618 39-7-7 and 39-7-11, the agency or governing authority may use the
619 following procedure: Purchases may be made from the lowest and
620 best prequalified bidder. Prequalification of bidders shall be
621 determined not less than fifteen (15) working days before the
622 first published notice of bid opening. Prequalification criteria



623 shall be limited to bidder's knowledge and experience in
624 historical restoration, preservation and renovation. In
625 determining the lowest and best bid, freight and shipping charges
626 shall be included. Life-cycle costing, total cost bids,
627 warranties, guaranteed buy-back provisions and other relevant
628 provisions may be included in the best bid calculation. All best
629 bid and prequalification procedures for state agencies must be in
630 compliance with regulations established by the Department of
631 Finance and Administration. If any governing authority accepts a
632 bid other than the lowest bid actually submitted, it shall place
633 on its minutes detailed calculations and narrative summary showing
634 that the accepted bid was determined to be the lowest and best
635 bid, including the dollar amount of the accepted bid and the
636 dollar amount of the lowest bid. No agency or governing authority
637 shall accept a bid based on items not included in the
638 specifications.

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

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

645 (e) **Lease-purchase authorization.** For the purposes of
646 this section, the term "equipment" shall mean equipment, furniture
647 and, if applicable, associated software and other applicable



648 direct costs associated with the acquisition. Any lease-purchase
649 of equipment which an agency is not required to lease-purchase
650 under the master lease-purchase program pursuant to Section
651 31-7-10 and any lease-purchase of equipment which a governing
652 authority elects to lease-purchase may be acquired by a
653 lease-purchase agreement under this paragraph (e). Lease-purchase
654 financing may also be obtained from the vendor or from a
655 third-party source after having solicited and obtained at least
656 two (2) written competitive bids, as defined in paragraph (b) of
657 this section, for such financing without advertising for such
658 bids. Solicitation for the bids for financing may occur before or
659 after acceptance of bids for the purchase of such equipment or,
660 where no such bids for purchase are required, at any time before
661 the purchase thereof. No such lease-purchase agreement shall be
662 for an annual rate of interest which is greater than the overall
663 maximum interest rate to maturity on general obligation
664 indebtedness permitted under Section 75-17-101, and the term of
665 such lease-purchase agreement shall not exceed the useful life of
666 equipment covered thereby as determined according to the upper
667 limit of the asset depreciation range (ADR) guidelines for the
668 Class Life Asset Depreciation Range System established by the
669 Internal Revenue Service pursuant to the United States Internal
670 Revenue Code and regulations thereunder as in effect on December
671 31, 1980, or comparable depreciation guidelines with respect to
672 any equipment not covered by ADR guidelines. Any lease-purchase



673 agreement entered into pursuant to this paragraph (e) may contain
674 any of the terms and conditions which a master lease-purchase
675 agreement may contain under the provisions of Section 31-7-10(5),
676 and shall contain an annual allocation dependency clause
677 substantially similar to that set forth in Section 31-7-10(8).
678 Each agency or governing authority entering into a lease-purchase
679 transaction pursuant to this paragraph (e) shall maintain with
680 respect to each such lease-purchase transaction the same
681 information as required to be maintained by the Department of
682 Finance and Administration pursuant to Section 31-7-10(13).
683 However, nothing contained in this section shall be construed to
684 permit agencies to acquire items of equipment with a total
685 acquisition cost in the aggregate of less than Ten Thousand
686 Dollars (\$10,000.00) by a single lease-purchase transaction. All
687 equipment, and the purchase thereof by any lessor, acquired by
688 lease-purchase under this paragraph and all lease-purchase
689 payments with respect thereto shall be exempt from all Mississippi
690 sales, use and ad valorem taxes. Interest paid on any
691 lease-purchase agreement under this section shall be exempt from
692 State of Mississippi income taxation.

693 (f) **Alternate bid authorization.** When necessary to
694 ensure ready availability of commodities for public works and the
695 timely completion of public projects, no more than two (2)
696 alternate bids may be accepted by a governing authority for
697 commodities. No purchases may be made through use of such



698 alternate bids procedure unless the lowest and best bidder cannot
699 deliver the commodities contained in his bid. In that event,
700 purchases of such commodities may be made from one (1) of the
701 bidders whose bid was accepted as an alternate.

702 (g) **Construction contract change authorization.** In the
703 event a determination is made by an agency or governing authority
704 after a construction contract is let that changes or modifications
705 to the original contract are necessary or would better serve the
706 purpose of the agency or the governing authority, such agency or
707 governing authority may, in its discretion, order such changes
708 pertaining to the construction that are necessary under the
709 circumstances without the necessity of further public bids;
710 provided that such change shall be made in a commercially
711 reasonable manner and shall not be made to circumvent the public
712 purchasing statutes. In addition to any other authorized person,
713 the architect or engineer hired by an agency or governing
714 authority with respect to any public construction contract shall
715 have the authority, when granted by an agency or governing
716 authority, to authorize changes or modifications to the original
717 contract without the necessity of prior approval of the agency or
718 governing authority when any such change or modification is less
719 than one percent (1%) of the total contract amount. The agency or
720 governing authority may limit the number, manner or frequency of
721 such emergency changes or modifications.



722 (h) **Petroleum purchase alternative.** In addition to
723 other methods of purchasing authorized in this chapter, when any
724 agency or governing authority shall have a need for gas, diesel
725 fuel, oils and/or other petroleum products in excess of the amount
726 set forth in paragraph (a) of this section, such agency or
727 governing authority may purchase the commodity after having
728 solicited and obtained at least two (2) competitive written bids,
729 as defined in paragraph (b) of this section. If two (2)
730 competitive written bids are not obtained, the entity shall comply
731 with the procedures set forth in paragraph (c) of this section.
732 In the event any agency or governing authority shall have
733 advertised for bids for the purchase of gas, diesel fuel, oils and
734 other petroleum products and coal and no acceptable bids can be
735 obtained, such agency or governing authority is authorized and
736 directed to enter into any negotiations necessary to secure the
737 lowest and best contract available for the purchase of such
738 commodities.

739 (i) **Road construction petroleum products price**
740 **adjustment clause authorization.** Any agency or governing
741 authority authorized to enter into contracts for the construction,
742 maintenance, surfacing or repair of highways, roads or streets,
743 may include in its bid proposal and contract documents a price
744 adjustment clause with relation to the cost to the contractor,
745 including taxes, based upon an industry-wide cost index, of
746 petroleum products including asphalt used in the performance or



747 execution of the contract or in the production or manufacture of
748 materials for use in such performance. Such industry-wide index
749 shall be established and published monthly by the Mississippi
750 Department of Transportation with a copy thereof to be mailed,
751 upon request, to the clerks of the governing authority of each
752 municipality and the clerks of each board of supervisors
753 throughout the state. The price adjustment clause shall be based
754 on the cost of such petroleum products only and shall not include
755 any additional profit or overhead as part of the adjustment. The
756 bid proposals or document contract shall contain the basis and
757 methods of adjusting unit prices for the change in the cost of
758 such petroleum products.

759 (j) **State agency emergency purchase procedure.** If the
760 governing board or the executive head, or his designees, of any
761 agency of the state shall determine that an emergency exists in
762 regard to the purchase of any commodities or repair contracts, so
763 that the delay incident to giving opportunity for competitive
764 bidding would be detrimental to the interests of the state, then
765 the head of such agency, or his designees, shall file with the
766 Department of Finance and Administration (i) a statement
767 explaining the conditions and circumstances of the emergency,
768 which shall include a detailed description of the events leading
769 up to the situation and the negative impact to the entity if the
770 purchase is made following the statutory requirements set forth in
771 paragraph (a), (b) or (c) of this section, and (ii) a certified



772 copy of the appropriate minutes of the board of such agency
773 requesting the emergency purchase, if applicable. Upon receipt of
774 the statement and applicable board certification, the State Fiscal
775 Officer, or his designees, may, in writing, authorize the purchase
776 or repair without having to comply with competitive bidding
777 requirements.

778 If the governing board or the executive head, or his
779 designees, of any agency determines that an emergency exists in
780 regard to the purchase of any commodities or repair contracts, so
781 that the delay incident to giving opportunity for competitive
782 bidding would threaten the health or safety of any person, or the
783 preservation or protection of property, then the provisions in
784 this section for competitive bidding shall not apply, and any
785 officer or agent of the agency having general or specific
786 authority for making the purchase or repair contract shall approve
787 the bill presented for payment, and he shall certify in writing
788 from whom the purchase was made, or with whom the repair contract
789 was made.

790 Total purchases made under this paragraph (j) shall only be
791 for the purpose of meeting needs created by the emergency
792 situation. Following the emergency purchase, documentation of the
793 purchase, including a description of the commodity purchased, the
794 purchase price thereof and the nature of the emergency shall be
795 filed with the Department of Finance and Administration. Any



796 contract awarded pursuant to this paragraph (j) shall not exceed a
797 term of one (1) year.

798 Purchases under the grant program established under Section
799 37-68-7 in response to COVID-19 and the directive that school
800 districts create a distance learning plan and fulfill technology
801 needs expeditiously shall be deemed an emergency purchase for
802 purposes of this paragraph (j).

803 Purchases under the "Collegiate Computerized Educational
804 Device (C-CompED) Act" established under Sections 1 through 8 of
805 this act in response to COVID-19, any mutated strains thereof, or
806 any other infectious disease with implications of problematic
807 symptoms, severe illness and increased mortality could evolve into
808 a public health hazard, and the directive that postsecondary
809 educational institutions create a distance learning plan to
810 facilitate remote instruction and fulfill technology needs
811 expeditiously shall be deemed an emergency purchase for purposes
812 of this paragraph (j).

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

814 If the governing authority, or the governing authority acting
815 through its designee, shall determine that an emergency exists in
816 regard to the purchase of any commodities or repair contracts, so
817 that the delay incident to giving opportunity for competitive
818 bidding would be detrimental to the interest of the governing
819 authority, then the provisions herein for competitive bidding
820 shall not apply and any officer or agent of such governing



821 authority having general or special authority therefor in making
822 such purchase or repair shall approve the bill presented therefor,
823 and he shall certify in writing thereon from whom such purchase
824 was made, or with whom such a repair contract was made. At the
825 board meeting next following the emergency purchase or repair
826 contract, documentation of the purchase or repair contract,
827 including a description of the commodity purchased, the price
828 thereof and the nature of the emergency shall be presented to the
829 board and shall be placed on the minutes of the board of such
830 governing authority. Purchases under the grant program
831 established under Section 37-68-7 in response to COVID-19 and the
832 directive that school districts create a distance learning plan
833 and fulfill technology needs expeditiously shall be deemed an
834 emergency purchase for purposes of this paragraph (k). Purchases
835 under the "Collegiate Computerized Educational Device (C-CompED)
836 Act" established under Sections 1 through 8 of this act in
837 response to COVID-19, any mutated strains thereof, or any other
838 infectious disease with implications of problematic symptoms,
839 severe illness and increased mortality could evolve into a public
840 health hazard, and the directive that postsecondary educational
841 institution create a distance learning plan to facilitate remote
842 instruction and fulfill technology needs expeditiously shall be
843 deemed an emergency purchase for purposes of this paragraph (j).

844 (1) **Hospital purchase, lease-purchase and lease**
845 **authorization.**



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

851 (ii) In addition to the authority granted in
852 subparagraph (i) of this paragraph (1), the commissioners or board
853 of trustees is authorized to enter into contracts for the lease of
854 equipment or services, or both, which it considers necessary for
855 the proper care of patients if, in its opinion, it is not
856 financially feasible to purchase the necessary equipment or
857 services. Any such contract for the lease of equipment or
858 services executed by the commissioners or board shall not exceed a
859 maximum of five (5) years' duration and shall include a
860 cancellation clause based on unavailability of funds. If such
861 cancellation clause is exercised, there shall be no further
862 liability on the part of the lessee. Any such contract for the
863 lease of equipment or services executed on behalf of the
864 commissioners or board that complies with the provisions of this
865 subparagraph (ii) shall be excepted from the bid requirements set
866 forth in this section.

867 (m) **Exceptions from bidding requirements.** Excepted
868 from bid requirements are:

869 (i) **Purchasing agreements approved by department.**
870 Purchasing agreements, contracts and maximum price regulations



871 executed or approved by the Department of Finance and
872 Administration.

873 (ii) **Outside equipment repairs.** Repairs to
874 equipment, when such repairs are made by repair facilities in the
875 private sector; however, engines, transmissions, rear axles and/or
876 other such components shall not be included in this exemption when
877 replaced as a complete unit instead of being repaired and the need
878 for such total component replacement is known before disassembly
879 of the component; however, invoices identifying the equipment,
880 specific repairs made, parts identified by number and name,
881 supplies used in such repairs, and the number of hours of labor
882 and costs therefor shall be required for the payment for such
883 repairs.

884 (iii) **In-house equipment repairs.** Purchases of
885 parts for repairs to equipment, when such repairs are made by
886 personnel of the agency or governing authority; however, entire
887 assemblies, such as engines or transmissions, shall not be
888 included in this exemption when the entire assembly is being
889 replaced instead of being repaired.

890 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
891 of gravel or fill dirt which are to be removed and transported by
892 the purchaser.

893 (v) **Governmental equipment auctions.** Motor
894 vehicles or other equipment purchased from a federal agency or
895 authority, another governing authority or state agency of the



896 State of Mississippi, or any governing authority or state agency
897 of another state at a public auction held for the purpose of
898 disposing of such vehicles or other equipment. Any purchase by a
899 governing authority under the exemption authorized by this
900 subparagraph (v) shall require advance authorization spread upon
901 the minutes of the governing authority to include the listing of
902 the item or items authorized to be purchased and the maximum bid
903 authorized to be paid for each item or items.

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

905 Purchases, sales, transfers or trades by governing authorities or
906 state agencies when such purchases, sales, transfers or trades are
907 made by a private treaty agreement or through means of
908 negotiation, from any federal agency or authority, another
909 governing authority or state agency of the State of Mississippi,
910 or any state agency or governing authority of another state.
911 Nothing in this section shall permit such purchases through public
912 auction except as provided for in subparagraph (v) of this
913 paragraph (m). It is the intent of this section to allow
914 governmental entities to dispose of and/or purchase commodities
915 from other governmental entities at a price that is agreed to by
916 both parties. This shall allow for purchases and/or sales at
917 prices which may be determined to be below the market value if the
918 selling entity determines that the sale at below market value is
919 in the best interest of the taxpayers of the state. Governing
920 authorities shall place the terms of the agreement and any



921 justification on the minutes, and state agencies shall obtain
922 approval from the Department of Finance and Administration, prior
923 to releasing or taking possession of the commodities.

924 (vii) **Perishable supplies or food.** Perishable
925 supplies or food purchased for use in connection with hospitals,
926 the school lunch programs, homemaking programs and for the feeding
927 of county or municipal prisoners.

928 (viii) **Single-source items.** Noncompetitive items
929 available from one (1) source only. In connection with the
930 purchase of noncompetitive items only available from one (1)
931 source, a certification of the conditions and circumstances
932 requiring the purchase shall be filed by the agency with the
933 Department of Finance and Administration and by the governing
934 authority with the board of the governing authority. Upon receipt
935 of that certification the Department of Finance and Administration
936 or the board of the governing authority, as the case may be, may,
937 in writing, authorize the purchase, which authority shall be noted
938 on the minutes of the body at the next regular meeting thereafter.
939 In those situations, a governing authority is not required to
940 obtain the approval of the Department of Finance and
941 Administration. Following the purchase, the executive head of the
942 state agency, or his designees, shall file with the Department of
943 Finance and Administration, documentation of the purchase,
944 including a description of the commodity purchased, the purchase
945 price thereof and the source from whom it was purchased.



946 (ix) **Waste disposal facility construction**
947 **contracts.** Construction of incinerators and other facilities for
948 disposal of solid wastes in which products either generated
949 therein, such as steam, or recovered therefrom, such as materials
950 for recycling, are to be sold or otherwise disposed of; however,
951 in constructing such facilities, a governing authority or agency
952 shall publicly issue requests for proposals, advertised for in the
953 same manner as provided herein for seeking bids for public
954 construction projects, concerning the design, construction,
955 ownership, operation and/or maintenance of such facilities,
956 wherein such requests for proposals when issued shall contain
957 terms and conditions relating to price, financial responsibility,
958 technology, environmental compatibility, legal responsibilities
959 and such other matters as are determined by the governing
960 authority or agency to be appropriate for inclusion; and after
961 responses to the request for proposals have been duly received,
962 the governing authority or agency may select the most qualified
963 proposal or proposals on the basis of price, technology and other
964 relevant factors and from such proposals, but not limited to the
965 terms thereof, negotiate and enter contracts with one or more of
966 the persons or firms submitting proposals.

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



970 (xi) **Information technology products.** Purchases
971 of information technology products made by governing authorities
972 under the provisions of purchase schedules, or contracts executed
973 or approved by the Mississippi Department of Information
974 Technology Services and designated for use by governing
975 authorities.

976 (xii) **Energy efficiency services and equipment.**
977 Energy efficiency services and equipment acquired by school
978 districts, community and junior colleges, institutions of higher
979 learning and state agencies or other applicable governmental
980 entities on a shared-savings, lease or lease-purchase basis
981 pursuant to Section 31-7-14.

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

986 (xiv) **Library books and other reference materials.**
987 Purchases by libraries or for libraries of books and periodicals;
988 processed film, videocassette tapes, filmstrips and slides;
989 recorded audiotapes, cassettes and diskettes; and any such items
990 as would be used for teaching, research or other information
991 distribution; however, equipment such as projectors, recorders,
992 audio or video equipment, and monitor televisions are not exempt
993 under this subparagraph.



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

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

1000 (xvii) **Multichannel interactive video systems.**
1001 From and after July 1, 1990, contracts by Mississippi Authority
1002 for Educational Television with any private educational
1003 institution or private nonprofit organization whose purposes are
1004 educational in regard to the construction, purchase, lease or
1005 lease-purchase of facilities and equipment and the employment of
1006 personnel for providing multichannel interactive video systems
1007 (ITSF) in the school districts of this state.

1008 (xviii) **Purchases of prison industry products by**
1009 **the Department of Corrections, regional correctional facilities or**
1010 **privately owned prisons.** Purchases made by the Mississippi
1011 Department of Corrections, regional correctional facilities or
1012 privately owned prisons involving any item that is manufactured,
1013 processed, grown or produced from the state's prison industries.

1014 (xix) **Undercover operations equipment.** Purchases
1015 of surveillance equipment or any other high-tech equipment to be
1016 used by law enforcement agents in undercover operations, provided
1017 that any such purchase shall be in compliance with regulations
1018 established by the Department of Finance and Administration.



1019 (xx) **Junior college books for rent.** Purchases by
1020 community or junior colleges of textbooks which are obtained for
1021 the purpose of renting such books to students as part of a book
1022 service system.

1023 (xxi) **Certain school district purchases.**
1024 Purchases of commodities made by school districts from vendors
1025 with which any levying authority of the school district, as
1026 defined in Section 37-57-1, has contracted through competitive
1027 bidding procedures for purchases of the same commodities.

1028 (xxii) **Garbage, solid waste and sewage contracts.**
1029 Contracts for garbage collection or disposal, contracts for solid
1030 waste collection or disposal and contracts for sewage collection
1031 or disposal.

1032 (xxiii) **Municipal water tank maintenance**
1033 **contracts.** Professional maintenance program contracts for the
1034 repair or maintenance of municipal water tanks, which provide
1035 professional services needed to maintain municipal water storage
1036 tanks for a fixed annual fee for a duration of two (2) or more
1037 years.

1038 (xxiv) **Purchases of Mississippi Industries for the**
1039 **Blind products.** Purchases made by state agencies or governing
1040 authorities involving any item that is manufactured, processed or
1041 produced by the Mississippi Industries for the Blind.

1042 (xxv) **Purchases of state-adopted textbooks.**
1043 Purchases of state-adopted textbooks by public school districts.



1044 (xxvi) **Certain purchases under the Mississippi**
1045 **Major Economic Impact Act.** Contracts entered into pursuant to the
1046 provisions of Section 57-75-9(2), (3) and (4).

1047 (xxvii) **Used heavy or specialized machinery or**
1048 **equipment for installation of soil and water conservation**
1049 **practices purchased at auction.** Used heavy or specialized
1050 machinery or equipment used for the installation and
1051 implementation of soil and water conservation practices or
1052 measures purchased subject to the restrictions provided in
1053 Sections 69-27-331 through 69-27-341. Any purchase by the State
1054 Soil and Water Conservation Commission under the exemption
1055 authorized by this subparagraph shall require advance
1056 authorization spread upon the minutes of the commission to include
1057 the listing of the item or items authorized to be purchased and
1058 the maximum bid authorized to be paid for each item or items.

1059 (xxviii) **Hospital lease of equipment or services.**
1060 Leases by hospitals of equipment or services if the leases are in
1061 compliance with paragraph (1)(ii).

1062 (xxix) **Purchases made pursuant to qualified**
1063 **cooperative purchasing agreements.** Purchases made by certified
1064 purchasing offices of state agencies or governing authorities
1065 under cooperative purchasing agreements previously approved by the
1066 Office of Purchasing and Travel and established by or for any
1067 municipality, county, parish or state government or the federal
1068 government, provided that the notification to potential



1069 contractors includes a clause that sets forth the availability of
1070 the cooperative purchasing agreement to other governmental
1071 entities. Such purchases shall only be made if the use of the
1072 cooperative purchasing agreements is determined to be in the best
1073 interest of the governmental entity.

1074 (xxx) **School yearbooks.** Purchases of school
1075 yearbooks by state agencies or governing authorities; provided,
1076 however, that state agencies and governing authorities shall use
1077 for these purchases the RFP process as set forth in the
1078 Mississippi Procurement Manual adopted by the Office of Purchasing
1079 and Travel.

1080 (xxxii) **Design-build method of contracting and**
1081 **certain other contracts.** Contracts entered into under the
1082 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1083 (xxxiii) **Toll roads and bridge construction**
1084 **projects.** Contracts entered into under the provisions of Section
1085 65-43-1 or 65-43-3.

1086 (xxxiiii) **Certain purchases under Section 57-1-221.**
1087 Contracts entered into pursuant to the provisions of Section
1088 57-1-221.

1089 (xxxv) **Certain transfers made pursuant to the**
1090 **provisions of Section 57-105-1(7).** Transfers of public property
1091 or facilities under Section 57-105-1(7) and construction related
1092 to such public property or facilities.



1093 (xxxv) **Certain purchases or transfers entered into**
1094 **with local electrical power associations.** Contracts or agreements
1095 entered into under the provisions of Section 55-3-33.

1096 (xxxvi) **Certain purchases by an academic medical**
1097 **center or health sciences school.** Purchases by an academic
1098 medical center or health sciences school, as defined in Section
1099 37-115-50, of commodities that are used for clinical purposes and
1100 1. intended for use in the diagnosis of disease or other
1101 conditions or in the cure, mitigation, treatment or prevention of
1102 disease, and 2. medical devices, biological, drugs and
1103 radiation-emitting devices as defined by the United States Food
1104 and Drug Administration.

1105 (xxxvii) **Certain purchases made under the Alyce G.**
1106 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
1107 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
1108 Lottery Law.

1109 (xxxviii) **Certain purchases made by the Department**
1110 **of Health and the Department of Revenue.** Purchases made by the
1111 Department of Health and/or the Department of Revenue solely for
1112 the purpose of fulfilling their respective responsibilities under
1113 the Mississippi Medical Cannabis Act. This subparagraph shall
1114 stand repealed on June 30, 2023.

1115 (n) **Term contract authorization.** All contracts for the
1116 purchase of:



1117 (i) All contracts for the purchase of commodities,
1118 equipment and public construction (including, but not limited to,
1119 repair and maintenance), may be let for periods of not more than
1120 sixty (60) months in advance, subject to applicable statutory
1121 provisions prohibiting the letting of contracts during specified
1122 periods near the end of terms of office. Term contracts for a
1123 period exceeding twenty-four (24) months shall also be subject to
1124 ratification or cancellation by governing authority boards taking
1125 office subsequent to the governing authority board entering the
1126 contract.

1127 (ii) Bid proposals and contracts may include price
1128 adjustment clauses with relation to the cost to the contractor
1129 based upon a nationally published industry-wide or nationally
1130 published and recognized cost index. The cost index used in a
1131 price adjustment clause shall be determined by the Department of
1132 Finance and Administration for the state agencies and by the
1133 governing board for governing authorities. The bid proposal and
1134 contract documents utilizing a price adjustment clause shall
1135 contain the basis and method of adjusting unit prices for the
1136 change in the cost of such commodities, equipment and public
1137 construction.

1138 (o) **Purchase law violation prohibition and vendor**
1139 **penalty.** No contract or purchase as herein authorized shall be
1140 made for the purpose of circumventing the provisions of this
1141 section requiring competitive bids, nor shall it be lawful for any



1142 person or concern to submit individual invoices for amounts within
1143 those authorized for a contract or purchase where the actual value
1144 of the contract or commodity purchased exceeds the authorized
1145 amount and the invoices therefor are split so as to appear to be
1146 authorized as purchases for which competitive bids are not
1147 required. Submission of such invoices shall constitute a
1148 misdemeanor punishable by a fine of not less than Five Hundred
1149 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1150 or by imprisonment for thirty (30) days in the county jail, or
1151 both such fine and imprisonment. In addition, the claim or claims
1152 submitted shall be forfeited.

1153 (p) **Electrical utility petroleum-based equipment**
1154 **purchase procedure.** When in response to a proper advertisement
1155 therefor, no bid firm as to price is submitted to an electric
1156 utility for power transformers, distribution transformers, power
1157 breakers, reclosers or other articles containing a petroleum
1158 product, the electric utility may accept the lowest and best bid
1159 therefor although the price is not firm.

1160 (q) **Fuel management system bidding procedure.** Any
1161 governing authority or agency of the state shall, before
1162 contracting for the services and products of a fuel management or
1163 fuel access system, enter into negotiations with not fewer than
1164 two (2) sellers of fuel management or fuel access systems for
1165 competitive written bids to provide the services and products for
1166 the systems. In the event that the governing authority or agency



1167 cannot locate two (2) sellers of such systems or cannot obtain
1168 bids from two (2) sellers of such systems, it shall show proof
1169 that it made a diligent, good-faith effort to locate and negotiate
1170 with two (2) sellers of such systems. Such proof shall include,
1171 but not be limited to, publications of a request for proposals and
1172 letters soliciting negotiations and bids. For purposes of this
1173 paragraph (q), a fuel management or fuel access system is an
1174 automated system of acquiring fuel for vehicles as well as
1175 management reports detailing fuel use by vehicles and drivers, and
1176 the term "competitive written bid" shall have the meaning as
1177 defined in paragraph (b) of this section. Governing authorities
1178 and agencies shall be exempt from this process when contracting
1179 for the services and products of fuel management or fuel access
1180 systems under the terms of a state contract established by the
1181 Office of Purchasing and Travel.

1182 (r) **Solid waste contract proposal procedure.** Before
1183 entering into any contract for garbage collection or disposal,
1184 contract for solid waste collection or disposal or contract for
1185 sewage collection or disposal, which involves an expenditure of
1186 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
1187 authority or agency shall issue publicly a request for proposals
1188 concerning the specifications for such services which shall be
1189 advertised for in the same manner as provided in this section for
1190 seeking bids for purchases which involve an expenditure of more
1191 than the amount provided in paragraph (c) of this section. Any



1192 request for proposals when issued shall contain terms and
1193 conditions relating to price, financial responsibility,
1194 technology, legal responsibilities and other relevant factors as
1195 are determined by the governing authority or agency to be
1196 appropriate for inclusion; all factors determined relevant by the
1197 governing authority or agency or required by this paragraph (r)
1198 shall be duly included in the advertisement to elicit proposals.
1199 After responses to the request for proposals have been duly
1200 received, the governing authority or agency shall select the most
1201 qualified proposal or proposals on the basis of price, technology
1202 and other relevant factors and from such proposals, but not
1203 limited to the terms thereof, negotiate and enter into contracts
1204 with one or more of the persons or firms submitting proposals. If
1205 the governing authority or agency deems none of the proposals to
1206 be qualified or otherwise acceptable, the request for proposals
1207 process may be reinitiated. Notwithstanding any other provisions
1208 of this paragraph, where a county with at least thirty-five
1209 thousand (35,000) nor more than forty thousand (40,000)
1210 population, according to the 1990 federal decennial census, owns
1211 or operates a solid waste landfill, the governing authorities of
1212 any other county or municipality may contract with the governing
1213 authorities of the county owning or operating the landfill,
1214 pursuant to a resolution duly adopted and spread upon the minutes
1215 of each governing authority involved, for garbage or solid waste
1216 collection or disposal services through contract negotiations.



1217 (s) **Minority set-aside authorization.** Notwithstanding
1218 any provision of this section to the contrary, any agency or
1219 governing authority, by order placed on its minutes, may, in its
1220 discretion, set aside not more than twenty percent (20%) of its
1221 anticipated annual expenditures for the purchase of commodities
1222 from minority businesses; however, all such set-aside purchases
1223 shall comply with all purchasing regulations promulgated by the
1224 Department of Finance and Administration and shall be subject to
1225 bid requirements under this section. Set-aside purchases for
1226 which competitive bids are required shall be made from the lowest
1227 and best minority business bidder. For the purposes of this
1228 paragraph, the term "minority business" means a business which is
1229 owned by a majority of persons who are United States citizens or
1230 permanent resident aliens (as defined by the Immigration and
1231 Naturalization Service) of the United States, and who are Asian,
1232 Black, Hispanic or Native American, according to the following
1233 definitions:

1234 (i) "Asian" means persons having origins in any of
1235 the original people of the Far East, Southeast Asia, the Indian
1236 subcontinent, or the Pacific Islands.

1237 (ii) "Black" means persons having origins in any
1238 black racial group of Africa.

1239 (iii) "Hispanic" means persons of Spanish or
1240 Portuguese culture with origins in Mexico, South or Central
1241 America, or the Caribbean Islands, regardless of race.



1242 (iv) "Native American" means persons having
1243 origins in any of the original people of North America, including
1244 American Indians, Eskimos and Aleuts.

1245 (t) **Construction punch list restriction.** The
1246 architect, engineer or other representative designated by the
1247 agency or governing authority that is contracting for public
1248 construction or renovation may prepare and submit to the
1249 contractor only one (1) preliminary punch list of items that do
1250 not meet the contract requirements at the time of substantial
1251 completion and one (1) final list immediately before final
1252 completion and final payment.

1253 (u) **Procurement of construction services by state**
1254 **institutions of higher learning.** Contracts for privately financed
1255 construction of auxiliary facilities on the campus of a state
1256 institution of higher learning may be awarded by the Board of
1257 Trustees of State Institutions of Higher Learning to the lowest
1258 and best bidder, where sealed bids are solicited, or to the
1259 offeror whose proposal is determined to represent the best value
1260 to the citizens of the State of Mississippi, where requests for
1261 proposals are solicited.

1262 (v) **Insurability of bidders for public construction or**
1263 **other public contracts.** In any solicitation for bids to perform
1264 public construction or other public contracts to which this
1265 section applies, including, but not limited to, contracts for
1266 repair and maintenance, for which the contract will require



1267 insurance coverage in an amount of not less than One Million
1268 Dollars (\$1,000,000.00), bidders shall be permitted to either
1269 submit proof of current insurance coverage in the specified amount
1270 or demonstrate ability to obtain the required coverage amount of
1271 insurance if the contract is awarded to the bidder. Proof of
1272 insurance coverage shall be submitted within five (5) business
1273 days from bid acceptance.

1274 (w) **Purchase authorization clarification.** Nothing in
1275 this section shall be construed as authorizing any purchase not
1276 authorized by law.

1277 **SECTION 10.** This act shall take effect and be in force from
1278 and after July 1, 2023.

