

By: Representative Weathersby

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 875

1 AN ACT TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE ANY SOLICITATION FOR CONSTRUCTION IN EXCESS OF \$5,000.00
 3 TO INCLUDE DRAWINGS, RENDERINGS OR SPECIFICATIONS OF SUFFICIENT
 4 DETAIL TO DEFINE THE WORK OR REQUIRE THAT COST PROPOSALS BE BROKEN
 5 DOWN BY COMPONENTS; TO PROVIDE THAT AGENCY PURCHASES FOR BUILDINGS
 6 DESIGNATED BY THE DEPARTMENT OF ARCHIVES AND HISTORY OF TRUSTEES
 7 AS MISSISSIPPI LANDMARKS REQUIRES REQUESTS FOR QUALIFICATIONS FOR
 8 PREQUALIFIED BIDDERS TO BE ESTABLISHED AND MAINTAINED BY DFA FOR
 9 NOT LESS THAN 15 WORKING DAYS BEFORE THE DATE ESTABLISHED FOR
 10 RECEIPT OF SUCH QUALIFICATIONS; TO PRESCRIBE THE DECISION
 11 PROCEDURE TO BE USED BY AN AGENCY OR GOVERNING AUTHORITY FOR HIGH
 12 COMPLEXITY CONSTRUCTION PROJECTS; TO PROVIDE AN EXCEPTION FROM
 13 BIDDING REQUIREMENTS FOR CERTAIN PURCHASES MADE FOR THE
 14 RENOVATION, REPAIR, RESTORATION OR IMPROVEMENT TO BUILDINGS
 15 DESIGNATED AS MISSISSIPPI LANDMARKS LOCATED WITHIN THE CAPITOL
 16 COMPLEX THAT DO NOT EXCEED \$500,000.00; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 31-7-13, Mississippi Code of 1972, is
 19 amended as follows:

20 31-7-13. All agencies and governing authorities shall
 21 purchase their commodities and printing; contract for garbage
 22 collection or disposal; contract for solid waste collection or
 23 disposal; contract for sewage collection or disposal; contract for
 24 public construction; and contract for rentals as herein provided.



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

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

33 (b) **Bidding procedure for purchases over \$5,000.00 but**
34 **not over \$75,000.00.** Purchases which involve an expenditure of
35 more than Five Thousand Dollars (\$5,000.00) but not more than
36 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
37 and shipping charges, may be made from the lowest and best bidder
38 without publishing or posting advertisement for bids, provided at
39 least two (2) competitive written bids have been obtained. Any
40 state agency or community/junior college purchasing commodities or
41 procuring construction pursuant to this paragraph (b) may
42 authorize its purchasing agent, or his designee, to accept the
43 lowest competitive written bid under Seventy-five Thousand Dollars
44 (\$75,000.00). Any governing authority purchasing commodities
45 pursuant to this paragraph (b) may authorize its purchasing agent,
46 or his designee, with regard to governing authorities other than
47 counties, or its purchase clerk, or his designee, with regard to
48 counties, to accept the lowest and best competitive written bid.
49 Such authorization shall be made in writing by the governing



50 authority and shall be maintained on file in the primary office of
51 the agency and recorded in the official minutes of the governing
52 authority, as appropriate. The purchasing agent or the purchase
53 clerk, or his designee, as the case may be, and not the governing
54 authority, shall be liable for any penalties and/or damages as may
55 be imposed by law for any act or omission of the purchasing agent
56 or purchase clerk, or his designee, constituting a violation of
57 law in accepting any bid without approval by the governing
58 authority. The term "competitive written bid" shall mean a bid
59 submitted on a bid form furnished by the buying agency or
60 governing authority and signed by authorized personnel
61 representing the vendor, or a bid submitted on a vendor's
62 letterhead or identifiable bid form and signed by authorized
63 personnel representing the vendor. "Competitive" shall mean that
64 the bids are developed based upon comparable identification of the
65 needs and are developed independently and without knowledge of
66 other bids or prospective bids. Any * * * solicitation for
67 construction in excess of Five Thousand Dollars (\$5,000.00) shall
68 include drawings, renderings or specifications of sufficient
69 detail defining the work to be performed or shall require that
70 cost proposals be broken down by components to provide detail of
71 component description and pricing. These details shall be
72 submitted with the written bids and become part of the bid
73 evaluation criteria. Bids may be submitted by facsimile,
74 electronic mail or other generally accepted method of information



75 distribution. Bids submitted by electronic transmission shall not
76 require the signature of the vendor's representative unless
77 required by agencies or governing authorities.

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

79 (i) **Publication requirement.**

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

92 2. Reverse auctions shall be the primary
93 method for receiving bids during the bidding process. If a
94 purchasing entity determines that a reverse auction is not in the
95 best interest of the state, then that determination must be
96 approved by the Public Procurement Review Board. The purchasing
97 entity shall submit a detailed explanation of why a reverse
98 auction would not be in the best interest of the state and present
99 an alternative process to be approved by the Public Procurement



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



125 Qualifications which promotes open competition and meets the
126 requirements of the Office of Purchasing and Travel.

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



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



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

193 (ii) **Bidding process amendment procedure.** If all
194 plans and/or specifications are published in the notification,
195 then the plans and/or specifications may not be amended. If all
196 plans and/or specifications are not published in the notification,
197 then amendments to the plans/specifications, bid opening date, bid
198 opening time and place may be made, provided that the agency or
199 governing authority maintains a list of all prospective bidders



200 who are known to have received a copy of the bid documents and all
201 such prospective bidders are sent copies of all amendments. This
202 notification of amendments may be made via mail, facsimile,
203 electronic mail or other generally accepted method of information
204 distribution. No addendum to bid specifications may be issued
205 within two (2) working days of the time established for the
206 receipt of bids unless such addendum also amends the bid opening
207 to a date not less than five (5) working days after the date of
208 the addendum.

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

218 (iv) **Specification restrictions.**

219 1. Specifications pertinent to such bidding
220 shall be written so as not to exclude comparable equipment of
221 domestic manufacture. However, if valid justification is
222 presented, the Department of Finance and Administration or the
223 board of a governing authority may approve a request for specific
224 equipment necessary to perform a specific job. Further, such



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

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

243 (v) **Electronic bids.** Agencies and governing
244 authorities shall provide a secure electronic interactive system
245 for the submittal of bids requiring competitive bidding that shall
246 be an additional bidding option for those bidders who choose to
247 submit their bids electronically. The Department of Finance and
248 Administration shall provide, by regulation, the standards that
249 agencies must follow when receiving electronic bids. Agencies and



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

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

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



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

288 (ii) **Decision procedure for Certified Purchasing**
289 **Offices.** In addition to the decision procedure set forth in
290 subparagraph (i) of this paragraph (d), Certified Purchasing
291 Offices may also use the following procedure: Purchases may be
292 made from the bidder offering the best value. In determining the
293 best value bid, freight and shipping charges shall be included.
294 Life-cycle costing, total cost bids, warranties, guaranteed
295 buy-back provisions, documented previous experience, training
296 costs and other relevant provisions, including, but not limited
297 to, a bidder having a local office and inventory located within
298 the jurisdiction of the governing authority, may be included in
299 the best value calculation. This provision shall authorize



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

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

307 **Landmarks.** In addition to the decision procedure set forth in
308 subparagraph (i) of this paragraph (d), where purchase involves
309 renovation, restoration, or both, of the State Capitol Building or
310 any other historical building designated * * * as a Mississippi
311 Landmark by the Board of Trustees of the Department of Archives
312 and History under the authority of Sections 39-7-7 and 39-7-11, or
313 at any building that is determined by the Mississippi Department
314 of Archives and History as being potentially eligible for such
315 designation, excepting those buildings having such designation
316 which are located within the Capitol Complex, the agency or
317 governing authority may use the following procedure: Purchases
318 may be made from the lowest and best prequalified bidder.
319 Requests for qualifications for bidders shall be posted on the
320 procurement portal established and maintained by the Department of
321 Finance and Administration for not less than fifteen (15) working
322 days prior to the date established for receipt of such
323 qualifications. Prequalification of bidders shall be
324 determined * * * on or before the first published notice of bid



325 opening. Prequalification criteria shall be limited to bidder's
326 and proposed subcontractor's knowledge and experience in
327 historical restoration, preservation and renovation. In
328 determining the lowest and best bid, freight and shipping charges
329 shall be included. Life-cycle costing, total cost bids,
330 warranties, guaranteed buy-back provisions and other relevant
331 provisions may be included in the best bid calculation. All best
332 bid and prequalification procedures for state agencies must be in
333 compliance with regulations established by the Department of
334 Finance and Administration. If any governing authority accepts a
335 bid other than the lowest bid actually submitted, it shall place
336 on its minutes detailed calculations and narrative summary showing
337 that the accepted bid was determined to be the lowest and best
338 bid, including the dollar amount of the accepted bid and the
339 dollar amount of the lowest bid. No agency or governing authority
340 shall accept a bid based on items not included in the
341 specifications.

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

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

348 (v) **Decision procedure for high complexity**

349 **construction projects.** In addition to the decision procedure set



350 forth in paragraph (d)(i), where a purchase involves construction,
351 renovation, or both, of buildings or facilities of high
352 complexity, the agency or governing authority may use the
353 following procedure: Purchases may be made from the lowest and
354 best prequalified bidder. Requests for qualifications for bidders
355 shall be posted on the procurement portal established and
356 maintained by the Department of Finance and Administration for not
357 less than fifteen (15) working days prior to the date established
358 for receipt of such qualifications. Prequalification of bidders
359 shall be determined on or before the first published notice of bid
360 opening. Prequalification criteria shall be limited to bidder's
361 and proposed sub-contractor's knowledge and experience in high
362 complexity projects. For the purpose of this section, the term
363 "high complexity construction project" means medical, clinical,
364 research, laboratory, archival, museum, data center and similar
365 buildings or facilities at which the criticality and integration
366 of installed systems or components necessitate the use of highly
367 skilled and experienced contractors. In determining the lowest
368 and best bid, freight and shipping charges shall be included.
369 Life-cycle costing, total cost bids, warranties, guaranteed
370 buy-back provisions and other relevant provisions may be included
371 in the best bid calculation. All best bid and prequalification
372 procedures for state agencies must be in compliance with
373 regulations established by the Department of Finance and
374 Administration. If any governing authority accepts a bid other



375 than the lowest bid actually submitted, it shall place on its
376 minutes detailed calculations and narrative summary showing that
377 the accepted bid was determined to be the lowest and best bid,
378 including the dollar amount of the accepted bid and the dollar
379 amount of the lowest bid. No agency or governing authority shall
380 accept a bid based on items not included in the specifications.

381 (e) **Lease-purchase authorization.** For the purposes of
382 this section, the term "equipment" shall mean equipment, furniture
383 and, if applicable, associated software and other applicable
384 direct costs associated with the acquisition. Any lease-purchase
385 of equipment which an agency is not required to lease-purchase
386 under the master lease-purchase program pursuant to Section
387 31-7-10 and any lease-purchase of equipment which a governing
388 authority elects to lease-purchase may be acquired by a
389 lease-purchase agreement under this paragraph (e). Lease-purchase
390 financing may also be obtained from the vendor or from a
391 third-party source after having solicited and obtained at least
392 two (2) written competitive bids, as defined in paragraph (b) of
393 this section, for such financing without advertising for such
394 bids. Solicitation for the bids for financing may occur before or
395 after acceptance of bids for the purchase of such equipment or,
396 where no such bids for purchase are required, at any time before
397 the purchase thereof. No such lease-purchase agreement shall be
398 for an annual rate of interest which is greater than the overall
399 maximum interest rate to maturity on general obligation



400 indebtedness permitted under Section 75-17-101, and the term of
401 such lease-purchase agreement shall not exceed the useful life of
402 equipment covered thereby as determined according to the upper
403 limit of the asset depreciation range (ADR) guidelines for the
404 Class Life Asset Depreciation Range System established by the
405 Internal Revenue Service pursuant to the United States Internal
406 Revenue Code and regulations thereunder as in effect on December
407 31, 1980, or comparable depreciation guidelines with respect to
408 any equipment not covered by ADR guidelines. Any lease-purchase
409 agreement entered into pursuant to this paragraph (e) may contain
410 any of the terms and conditions which a master lease-purchase
411 agreement may contain under the provisions of Section 31-7-10(5),
412 and shall contain an annual allocation dependency clause
413 substantially similar to that set forth in Section 31-7-10(8).
414 Each agency or governing authority entering into a lease-purchase
415 transaction pursuant to this paragraph (e) shall maintain with
416 respect to each such lease-purchase transaction the same
417 information as required to be maintained by the Department of
418 Finance and Administration pursuant to Section 31-7-10(13).
419 However, nothing contained in this section shall be construed to
420 permit agencies to acquire items of equipment with a total
421 acquisition cost in the aggregate of less than Ten Thousand
422 Dollars (\$10,000.00) by a single lease-purchase transaction. All
423 equipment, and the purchase thereof by any lessor, acquired by
424 lease-purchase under this paragraph and all lease-purchase



425 payments with respect thereto shall be exempt from all Mississippi
426 sales, use and ad valorem taxes. Interest paid on any
427 lease-purchase agreement under this section shall be exempt from
428 State of Mississippi income taxation.

429 (f) **Alternate bid authorization.** When necessary to
430 ensure ready availability of commodities for public works and the
431 timely completion of public projects, no more than two (2)
432 alternate bids may be accepted by a governing authority for
433 commodities. No purchases may be made through use of such
434 alternate bids procedure unless the lowest and best bidder cannot
435 deliver the commodities contained in his bid. In that event,
436 purchases of such commodities may be made from one (1) of the
437 bidders whose bid was accepted as an alternate.

438 (g) **Construction contract change authorization.** In the
439 event a determination is made by an agency or governing authority
440 after a construction contract is let that changes or modifications
441 to the original contract are necessary or would better serve the
442 purpose of the agency or the governing authority, such agency or
443 governing authority may, in its discretion, order such changes
444 pertaining to the construction that are necessary under the
445 circumstances without the necessity of further public bids;
446 provided that such change shall be made in a commercially
447 reasonable manner and shall not be made to circumvent the public
448 purchasing statutes. In addition to any other authorized person,
449 the architect or engineer hired by an agency or governing



450 authority with respect to any public construction contract shall
451 have the authority, when granted by an agency or governing
452 authority, to authorize changes or modifications to the original
453 contract without the necessity of prior approval of the agency or
454 governing authority when any such change or modification is less
455 than one percent (1%) of the total contract amount. The agency or
456 governing authority may limit the number, manner or frequency of
457 such emergency changes or modifications.

458 (h) **Petroleum purchase alternative.** In addition to
459 other methods of purchasing authorized in this chapter, when any
460 agency or governing authority shall have a need for gas, diesel
461 fuel, oils and/or other petroleum products in excess of the amount
462 set forth in paragraph (a) of this section, such agency or
463 governing authority may purchase the commodity after having
464 solicited and obtained at least two (2) competitive written bids,
465 as defined in paragraph (b) of this section. If two (2)
466 competitive written bids are not obtained, the entity shall comply
467 with the procedures set forth in paragraph (c) of this section.
468 In the event any agency or governing authority shall have
469 advertised for bids for the purchase of gas, diesel fuel, oils and
470 other petroleum products and coal and no acceptable bids can be
471 obtained, such agency or governing authority is authorized and
472 directed to enter into any negotiations necessary to secure the
473 lowest and best contract available for the purchase of such
474 commodities.



475 (i) **Road construction petroleum products price**
476 **adjustment clause authorization.** Any agency or governing
477 authority authorized to enter into contracts for the construction,
478 maintenance, surfacing or repair of highways, roads or streets,
479 may include in its bid proposal and contract documents a price
480 adjustment clause with relation to the cost to the contractor,
481 including taxes, based upon an industry-wide cost index, of
482 petroleum products including asphalt used in the performance or
483 execution of the contract or in the production or manufacture of
484 materials for use in such performance. Such industry-wide index
485 shall be established and published monthly by the Mississippi
486 Department of Transportation with a copy thereof to be mailed,
487 upon request, to the clerks of the governing authority of each
488 municipality and the clerks of each board of supervisors
489 throughout the state. The price adjustment clause shall be based
490 on the cost of such petroleum products only and shall not include
491 any additional profit or overhead as part of the adjustment. The
492 bid proposals or document contract shall contain the basis and
493 methods of adjusting unit prices for the change in the cost of
494 such petroleum products.

495 (j) **State agency emergency purchase procedure.** If the
496 governing board or the executive head, or his designees, of any
497 agency of the state shall determine that an emergency exists in
498 regard to the purchase of any commodities or repair contracts, so
499 that the delay incident to giving opportunity for competitive



500 bidding would be detrimental to the interests of the state, then
501 the head of such agency, or his designees, shall file with the
502 Department of Finance and Administration (i) a statement
503 explaining the conditions and circumstances of the emergency,
504 which shall include a detailed description of the events leading
505 up to the situation and the negative impact to the entity if the
506 purchase is made following the statutory requirements set forth in
507 paragraph (a), (b) or (c) of this section, and (ii) a certified
508 copy of the appropriate minutes of the board of such agency
509 requesting the emergency purchase, if applicable. Upon receipt of
510 the statement and applicable board certification, the State Fiscal
511 Officer, or his designees, may, in writing, authorize the purchase
512 or repair without having to comply with competitive bidding
513 requirements.

514 If the governing board or the executive head, or his
515 designees, of any agency determines that an emergency exists in
516 regard to the purchase of any commodities or repair contracts, so
517 that the delay incident to giving opportunity for competitive
518 bidding would threaten the health or safety of any person, or the
519 preservation or protection of property, then the provisions in
520 this section for competitive bidding shall not apply, and any
521 officer or agent of the agency having general or specific
522 authority for making the purchase or repair contract shall approve
523 the bill presented for payment, and he shall certify in writing



524 from whom the purchase was made, or with whom the repair contract
525 was made.

526 Total purchases made under this paragraph (j) shall only be
527 for the purpose of meeting needs created by the emergency
528 situation. Following the emergency purchase, documentation of the
529 purchase, including a description of the commodity purchased, the
530 purchase price thereof and the nature of the emergency shall be
531 filed with the Department of Finance and Administration. Any
532 contract awarded pursuant to this paragraph (j) shall not exceed a
533 term of one (1) year.

534 Purchases under the grant program established under Section
535 37-68-7 in response to COVID-19 and the directive that school
536 districts create a distance learning plan and fulfill technology
537 needs expeditiously shall be deemed an emergency purchase for
538 purposes of this paragraph (j).

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

540 If the governing authority, or the governing authority acting
541 through its designee, shall determine that an emergency exists in
542 regard to the purchase of any commodities or repair contracts, so
543 that the delay incident to giving opportunity for competitive
544 bidding would be detrimental to the interest of the governing
545 authority, then the provisions herein for competitive bidding
546 shall not apply and any officer or agent of such governing
547 authority having general or special authority therefor in making
548 such purchase or repair shall approve the bill presented therefor,



549 and he shall certify in writing thereon from whom such purchase
550 was made, or with whom such a repair contract was made. At the
551 board meeting next following the emergency purchase or repair
552 contract, documentation of the purchase or repair contract,
553 including a description of the commodity purchased, the price
554 thereof and the nature of the emergency shall be presented to the
555 board and shall be placed on the minutes of the board of such
556 governing authority. Purchases under the grant program
557 established under Section 37-68-7 in response to COVID-19 and the
558 directive that school districts create a distance learning plan
559 and fulfill technology needs expeditiously shall be deemed an
560 emergency purchase for purposes of this paragraph (k).

561 (1) **Hospital purchase, lease-purchase and lease**
562 **authorization.**

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

568 (ii) In addition to the authority granted in
569 subparagraph (i) of this paragraph (1), the commissioners or board
570 of trustees is authorized to enter into contracts for the lease of
571 equipment or services, or both, which it considers necessary for
572 the proper care of patients if, in its opinion, it is not
573 financially feasible to purchase the necessary equipment or



574 services. Any such contract for the lease of equipment or
575 services executed by the commissioners or board shall not exceed a
576 maximum of five (5) years' duration and shall include a
577 cancellation clause based on unavailability of funds. If such
578 cancellation clause is exercised, there shall be no further
579 liability on the part of the lessee. Any such contract for the
580 lease of equipment or services executed on behalf of the
581 commissioners or board that complies with the provisions of this
582 subparagraph (ii) shall be excepted from the bid requirements set
583 forth in this section.

584 (m) **Exceptions from bidding requirements.** Excepted
585 from bid requirements are:

586 (i) **Purchasing agreements approved by department.**
587 Purchasing agreements, contracts and maximum price regulations
588 executed or approved by the Department of Finance and
589 Administration.

590 (ii) **Outside equipment repairs.** Repairs to
591 equipment, when such repairs are made by repair facilities in the
592 private sector; however, engines, transmissions, rear axles and/or
593 other such components shall not be included in this exemption when
594 replaced as a complete unit instead of being repaired and the need
595 for such total component replacement is known before disassembly
596 of the component; however, invoices identifying the equipment,
597 specific repairs made, parts identified by number and name,
598 supplies used in such repairs, and the number of hours of labor



599 and costs therefor shall be required for the payment for such
600 repairs.

601 (iii) **In-house equipment repairs.** Purchases of
602 parts for repairs to equipment, when such repairs are made by
603 personnel of the agency or governing authority; however, entire
604 assemblies, such as engines or transmissions, shall not be
605 included in this exemption when the entire assembly is being
606 replaced instead of being repaired.

607 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
608 of gravel or fill dirt which are to be removed and transported by
609 the purchaser.

610 (v) **Governmental equipment auctions.** Motor
611 vehicles or other equipment purchased from a federal agency or
612 authority, another governing authority or state agency of the
613 State of Mississippi, or any governing authority or state agency
614 of another state at a public auction held for the purpose of
615 disposing of such vehicles or other equipment. Any purchase by a
616 governing authority under the exemption authorized by this
617 subparagraph (v) shall require advance authorization spread upon
618 the minutes of the governing authority to include the listing of
619 the item or items authorized to be purchased and the maximum bid
620 authorized to be paid for each item or items.

621 (vi) **Intergovernmental sales and transfers.**
622 Purchases, sales, transfers or trades by governing authorities or
623 state agencies when such purchases, sales, transfers or trades are



624 made by a private treaty agreement or through means of
625 negotiation, from any federal agency or authority, another
626 governing authority or state agency of the State of Mississippi,
627 or any state agency or governing authority of another state.
628 Nothing in this section shall permit such purchases through public
629 auction except as provided for in subparagraph (v) of this
630 paragraph (m). It is the intent of this section to allow
631 governmental entities to dispose of and/or purchase commodities
632 from other governmental entities at a price that is agreed to by
633 both parties. This shall allow for purchases and/or sales at
634 prices which may be determined to be below the market value if the
635 selling entity determines that the sale at below market value is
636 in the best interest of the taxpayers of the state. Governing
637 authorities shall place the terms of the agreement and any
638 justification on the minutes, and state agencies shall obtain
639 approval from the Department of Finance and Administration, prior
640 to releasing or taking possession of the commodities.

641 (vii) **Perishable supplies or food.** Perishable
642 supplies or food purchased for use in connection with hospitals,
643 the school lunch programs, homemaking programs and for the feeding
644 of county or municipal prisoners.

645 (viii) **Single-source items.** Noncompetitive items
646 available from one (1) source only. In connection with the
647 purchase of noncompetitive items only available from one (1)
648 source, a certification of the conditions and circumstances



649 requiring the purchase shall be filed by the agency with the
650 Department of Finance and Administration and by the governing
651 authority with the board of the governing authority. Upon receipt
652 of that certification the Department of Finance and Administration
653 or the board of the governing authority, as the case may be, may,
654 in writing, authorize the purchase, which authority shall be noted
655 on the minutes of the body at the next regular meeting thereafter.
656 In those situations, a governing authority is not required to
657 obtain the approval of the Department of Finance and
658 Administration. Following the purchase, the executive head of the
659 state agency, or his designees, shall file with the Department of
660 Finance and Administration, documentation of the purchase,
661 including a description of the commodity purchased, the purchase
662 price thereof and the source from whom it was purchased.

663 (ix) **Waste disposal facility construction**
664 **contracts.** Construction of incinerators and other facilities for
665 disposal of solid wastes in which products either generated
666 therein, such as steam, or recovered therefrom, such as materials
667 for recycling, are to be sold or otherwise disposed of; however,
668 in constructing such facilities, a governing authority or agency
669 shall publicly issue requests for proposals, advertised for in the
670 same manner as provided herein for seeking bids for public
671 construction projects, concerning the design, construction,
672 ownership, operation and/or maintenance of such facilities,
673 wherein such requests for proposals when issued shall contain



674 terms and conditions relating to price, financial responsibility,
675 technology, environmental compatibility, legal responsibilities
676 and such other matters as are determined by the governing
677 authority or agency to be appropriate for inclusion; and after
678 responses to the request for proposals have been duly received,
679 the governing authority or agency may select the most qualified
680 proposal or proposals on the basis of price, technology and other
681 relevant factors and from such proposals, but not limited to the
682 terms thereof, negotiate and enter contracts with one or more of
683 the persons or firms submitting proposals.

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

687 (xi) **Information technology products.** Purchases
688 of information technology products made by governing authorities
689 under the provisions of purchase schedules, or contracts executed
690 or approved by the Mississippi Department of Information
691 Technology Services and designated for use by governing
692 authorities.

693 (xii) **Energy efficiency services and equipment.**
694 Energy efficiency services and equipment acquired by school
695 districts, community and junior colleges, institutions of higher
696 learning and state agencies or other applicable governmental
697 entities on a shared-savings, lease or lease-purchase basis
698 pursuant to Section 31-7-14.



699 (xiii) **Municipal electrical utility system fuel.**

700 Purchases of coal and/or natural gas by municipally owned electric
701 power generating systems that have the capacity to use both coal
702 and natural gas for the generation of electric power.

703 (xiv) **Library books and other reference materials.**

704 Purchases by libraries or for libraries of books and periodicals;
705 processed film, videocassette tapes, filmstrips and slides;
706 recorded audiotapes, cassettes and diskettes; and any such items
707 as would be used for teaching, research or other information
708 distribution; however, equipment such as projectors, recorders,
709 audio or video equipment, and monitor televisions are not exempt
710 under this subparagraph.

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

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

717 (xvii) **Multichannel interactive video systems.**
718 From and after July 1, 1990, contracts by Mississippi Authority
719 for Educational Television with any private educational
720 institution or private nonprofit organization whose purposes are
721 educational in regard to the construction, purchase, lease or
722 lease-purchase of facilities and equipment and the employment of



723 personnel for providing multichannel interactive video systems
724 (ITSF) in the school districts of this state.

725 (xviii) **Purchases of prison industry products by**
726 **the Department of Corrections, regional correctional facilities or**
727 **privately owned prisons.** Purchases made by the Mississippi
728 Department of Corrections, regional correctional facilities or
729 privately owned prisons involving any item that is manufactured,
730 processed, grown or produced from the state's prison industries.

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

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

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

745 (xxii) **Garbage, solid waste and sewage contracts.**
746 Contracts for garbage collection or disposal, contracts for solid



747 waste collection or disposal and contracts for sewage collection
748 or disposal.

749 (xxiii) **Municipal water tank maintenance**
750 **contracts.** Professional maintenance program contracts for the
751 repair or maintenance of municipal water tanks, which provide
752 professional services needed to maintain municipal water storage
753 tanks for a fixed annual fee for a duration of two (2) or more
754 years.

755 (xxiv) **Purchases of Mississippi Industries for the**
756 **Blind products.** Purchases made by state agencies or governing
757 authorities involving any item that is manufactured, processed or
758 produced by the Mississippi Industries for the Blind.

759 (xxv) **Purchases of state-adopted textbooks.**
760 Purchases of state-adopted textbooks by public school districts.

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

764 (xxvii) **Used heavy or specialized machinery or**
765 **equipment for installation of soil and water conservation**
766 **practices purchased at auction.** Used heavy or specialized
767 machinery or equipment used for the installation and
768 implementation of soil and water conservation practices or
769 measures purchased subject to the restrictions provided in
770 Sections 69-27-331 through 69-27-341. Any purchase by the State
771 Soil and Water Conservation Commission under the exemption



772 authorized by this subparagraph shall require advance
773 authorization spread upon the minutes of the commission to include
774 the listing of the item or items authorized to be purchased and
775 the maximum bid authorized to be paid for each item or items.

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

777 Leases by hospitals of equipment or services if the leases are in
778 compliance with paragraph (1)(ii).

779 (xxix) **Purchases made pursuant to qualified**

780 **cooperative purchasing agreements.** Purchases made by certified
781 purchasing offices of state agencies or governing authorities
782 under cooperative purchasing agreements previously approved by the
783 Office of Purchasing and Travel and established by or for any
784 municipality, county, parish or state government or the federal
785 government, provided that the notification to potential
786 contractors includes a clause that sets forth the availability of
787 the cooperative purchasing agreement to other governmental
788 entities. Such purchases shall only be made if the use of the
789 cooperative purchasing agreements is determined to be in the best
790 interest of the governmental entity.

791 (xxx) **School yearbooks.** Purchases of school

792 yearbooks by state agencies or governing authorities; provided,
793 however, that state agencies and governing authorities shall use
794 for these purchases the RFP process as set forth in the
795 Mississippi Procurement Manual adopted by the Office of Purchasing
796 and Travel.



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

800 (xxxiii) **Toll roads and bridge construction**
801 **projects.** Contracts entered into under the provisions of Section
802 65-43-1 or 65-43-3.

803 (xxxiiii) **Certain purchases under Section 57-1-221.**
804 Contracts entered into pursuant to the provisions of Section
805 57-1-221.

806 (xxxv) **Certain transfers made pursuant to the**
807 **provisions of Section 57-105-1(7).** Transfers of public property
808 or facilities under Section 57-105-1(7) and construction related
809 to such public property or facilities.

810 (xxxvi) **Certain purchases or transfers entered into**
811 **with local electrical power associations.** Contracts or agreements
812 entered into under the provisions of Section 55-3-33.

813 (xxxvii) **Certain purchases by an academic medical**
814 **center or health sciences school.** Purchases by an academic
815 medical center or health sciences school, as defined in Section
816 37-115-50, of commodities that are used for clinical purposes and
817 1. intended for use in the diagnosis of disease or other
818 conditions or in the cure, mitigation, treatment or prevention of
819 disease, and 2. medical devices, biological, drugs and
820 radiation-emitting devices as defined by the United States Food
821 and Drug Administration.



822 (xxxvii) **Certain purchases made under the Alyce G.**
823 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
824 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
825 Lottery Law.

826 (xxxviii) **Certain purchases made by the Department**
827 **of Health and the Department of Revenue.** Purchases made by the
828 Department of Health and/or the Department of Revenue solely for
829 the purpose of fulfilling their respective responsibilities under
830 the Mississippi Medical Cannabis Act. This subparagraph shall
831 stand repealed on June 30, 2023.

832 (xxxviii) **Certain purchases at buildings designated**
833 **as a Mississippi Landmark.** Purchases of not more Five Hundred
834 Thousand Dollars (\$500,000.00) made by the Department of Finance
835 and Administration for the renovation, repair, restoration or
836 improvements to the State Capitol Building or any other historical
837 building under the general supervision and care of the department
838 located within the Capitol Complex which is designated as a
839 Mississippi Landmark by the Board of Trustees of the Department of
840 Archives and History under the authority of Sections 39-7-7 and
841 39-7-11.

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

844 (i) All contracts for the purchase of commodities,
845 equipment and public construction (including, but not limited to,
846 repair and maintenance), may be let for periods of not more than



847 sixty (60) months in advance, subject to applicable statutory
848 provisions prohibiting the letting of contracts during specified
849 periods near the end of terms of office. Term contracts for a
850 period exceeding twenty-four (24) months shall also be subject to
851 ratification or cancellation by governing authority boards taking
852 office subsequent to the governing authority board entering the
853 contract.

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

865 (o) **Purchase law violation prohibition and vendor**
866 **penalty.** No contract or purchase as herein authorized shall be
867 made for the purpose of circumventing the provisions of this
868 section requiring competitive bids, nor shall it be lawful for any
869 person or concern to submit individual invoices for amounts within
870 those authorized for a contract or purchase where the actual value
871 of the contract or commodity purchased exceeds the authorized



872 amount and the invoices therefor are split so as to appear to be
873 authorized as purchases for which competitive bids are not
874 required. Submission of such invoices shall constitute a
875 misdemeanor punishable by a fine of not less than Five Hundred
876 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
877 or by imprisonment for thirty (30) days in the county jail, or
878 both such fine and imprisonment. In addition, the claim or claims
879 submitted shall be forfeited.

880 (p) **Electrical utility petroleum-based equipment**
881 **purchase procedure.** When in response to a proper advertisement
882 therefor, no bid firm as to price is submitted to an electric
883 utility for power transformers, distribution transformers, power
884 breakers, reclosers or other articles containing a petroleum
885 product, the electric utility may accept the lowest and best bid
886 therefor although the price is not firm.

887 (q) **Fuel management system bidding procedure.** Any
888 governing authority or agency of the state shall, before
889 contracting for the services and products of a fuel management or
890 fuel access system, enter into negotiations with not fewer than
891 two (2) sellers of fuel management or fuel access systems for
892 competitive written bids to provide the services and products for
893 the systems. In the event that the governing authority or agency
894 cannot locate two (2) sellers of such systems or cannot obtain
895 bids from two (2) sellers of such systems, it shall show proof
896 that it made a diligent, good-faith effort to locate and negotiate



897 with two (2) sellers of such systems. Such proof shall include,
898 but not be limited to, publications of a request for proposals and
899 letters soliciting negotiations and bids. For purposes of this
900 paragraph (q), a fuel management or fuel access system is an
901 automated system of acquiring fuel for vehicles as well as
902 management reports detailing fuel use by vehicles and drivers, and
903 the term "competitive written bid" shall have the meaning as
904 defined in paragraph (b) of this section. Governing authorities
905 and agencies shall be exempt from this process when contracting
906 for the services and products of fuel management or fuel access
907 systems under the terms of a state contract established by the
908 Office of Purchasing and Travel.

909 (r) **Solid waste contract proposal procedure.** Before
910 entering into any contract for garbage collection or disposal,
911 contract for solid waste collection or disposal or contract for
912 sewage collection or disposal, which involves an expenditure of
913 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
914 authority or agency shall issue publicly a request for proposals
915 concerning the specifications for such services which shall be
916 advertised for in the same manner as provided in this section for
917 seeking bids for purchases which involve an expenditure of more
918 than the amount provided in paragraph (c) of this section. Any
919 request for proposals when issued shall contain terms and
920 conditions relating to price, financial responsibility,
921 technology, legal responsibilities and other relevant factors as



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

944 (s) **Minority set-aside authorization.** Notwithstanding
945 any provision of this section to the contrary, any agency or
946 governing authority, by order placed on its minutes, may, in its



947 discretion, set aside not more than twenty percent (20%) of its
948 anticipated annual expenditures for the purchase of commodities
949 from minority businesses; however, all such set-aside purchases
950 shall comply with all purchasing regulations promulgated by the
951 Department of Finance and Administration and shall be subject to
952 bid requirements under this section. Set-aside purchases for
953 which competitive bids are required shall be made from the lowest
954 and best minority business bidder. For the purposes of this
955 paragraph, the term "minority business" means a business which is
956 owned by a majority of persons who are United States citizens or
957 permanent resident aliens (as defined by the Immigration and
958 Naturalization Service) of the United States, and who are Asian,
959 Black, Hispanic or Native American, according to the following
960 definitions:

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

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

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

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



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

980 (u) **Procurement of construction services by state**
981 **institutions of higher learning.** Contracts for privately financed
982 construction of auxiliary facilities on the campus of a state
983 institution of higher learning may be awarded by the Board of
984 Trustees of State Institutions of Higher Learning to the lowest
985 and best bidder, where sealed bids are solicited, or to the
986 offeror whose proposal is determined to represent the best value
987 to the citizens of the State of Mississippi, where requests for
988 proposals are solicited.

989 (v) **Insurability of bidders for public construction or**
990 **other public contracts.** In any solicitation for bids to perform
991 public construction or other public contracts to which this
992 section applies, including, but not limited to, contracts for
993 repair and maintenance, for which the contract will require
994 insurance coverage in an amount of not less than One Million
995 Dollars (\$1,000,000.00), bidders shall be permitted to either
996 submit proof of current insurance coverage in the specified amount



997 or demonstrate ability to obtain the required coverage amount of
998 insurance if the contract is awarded to the bidder. Proof of
999 insurance coverage shall be submitted within five (5) business
1000 days from bid acceptance.

1001 (w) **Purchase authorization clarification.** Nothing in
1002 this section shall be construed as authorizing any purchase not
1003 authorized by law.

1004 **SECTION 2.** This act shall take effect and be in force from
1005 and after July 1, 2023.

