

By: Representative Massengill

To: Transportation

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1032

1 AN ACT TO CREATE THE "MISSISSIPPI SECURITY DRONE ACT OF 2023"  
2 FOR PURPOSES OF PROHIBITING GOVERNMENT ENTITIES FROM PURCHASING  
3 COVERED UNMANNED AIRCRAFT SYSTEMS THAT ARE NOT MANUFACTURED BY  
4 COMPANIES BASED IN THE UNITED STATES OR IN ANY TERRITORY OR  
5 COMMONWEALTH UNDER THE JURISDICTION OF THE UNITED STATES; TO  
6 PROVIDE EXEMPTIONS TO THE MISSISSIPPI OFFICE OF HOMELAND SECURITY  
7 AND THE MISSISSIPPI NATIONAL GUARD UNDER CERTAIN CONDITIONS; TO  
8 PRESCRIBE PROCEDURES BY WHICH COVERED UNMANNED AIRCRAFT SYSTEMS  
9 MANUFACTURED BY COMPANIES BASED IN THE UNITED STATES OR IN ANY  
10 TERRITORY OR COMMONWEALTH THEREOF MAY BE PROCURED; TO REQUIRE ALL  
11 STATE AGENCIES, STATE DEPARTMENTS, MUNICIPAL OR COUNTY  
12 GOVERNMENTS, OR ANY POLITICAL SUBDIVISIONS OF THE STATE TO ACCOUNT  
13 FOR EXISTING INVENTORIES OF COVERED UNMANNED AIRCRAFT SYSTEMS  
14 MANUFACTURED OR ASSEMBLED BY A COVERED FOREIGN ENTITY IN THEIR  
15 PERSONAL PROPERTY INVENTORY AND ACCOUNTING SYSTEMS; TO REQUIRE THE  
16 EXECUTIVE DIRECTOR OF THE MISSISSIPPI OFFICE OF HOMELAND SECURITY,  
17 IN CONJUNCTION WITH THE DEPARTMENT OF FINANCE AND ADMINISTRATION  
18 TO PRESCRIBE REGULATIONS OR GUIDANCE TO IMPLEMENT AND ADMINISTER  
19 THE ACT; TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, IN  
20 CONFORMITY THERETO; TO EXEMPT A CERTAIN INSTITUTION OF HIGHER  
21 LEARNING FROM THE COMPLIANCE REQUIREMENTS OF THIS ACT; AND FOR  
22 RELATED PURPOSES.

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

24 **SECTION 1.** This act shall be known and may be cited as the  
25 "Mississippi Security Drone Act of 2023."

26 **SECTION 2.** As used in this act, the following terms shall  
27 have the meanings ascribed herein unless context of use indicates  
28 otherwise:



29           (a) "Covered foreign entity" means an entity that is  
30 not a manufacturer with its principal place of business located in  
31 the United States or in one (1) of the five (5) territories or  
32 commonwealths under the jurisdiction of the United States, and  
33 more specifically those entities included on a list developed and  
34 maintained by the Federal Acquisition Security Council and  
35 provided by the Secretary of Homeland Security to the executive  
36 directors of the various states' Office of Homeland Security.

37 This list include entities in the following categories:

38           (i) An entity included on the Consolidated  
39 Screening List;

40           (ii) Any entity that is subject to extrajudicial  
41 direction from a foreign government, as determined by the  
42 Executive Director of the Mississippi Office of Homeland Security;

43           (iii) Any entity the Executive Director of the  
44 Mississippi Office of Homeland Security, in coordination with the  
45 Director of National Intelligence and the Secretary of Defense,  
46 determines poses a national security risk;

47           (iv) Any entity domiciled in the People's Republic  
48 of China or subject to influence or control by the Government of  
49 the People Republic of China or the Communist Party of the  
50 People's Republic of China, as determined by the Executive  
51 Director of the Mississippi Office of Homeland Security; and

52           (v) Any subsidiary or affiliate of an entity  
53 described in subparagraphs (i) through (iv).



54 (b) "Covered unmanned aircraft system" means unmanned  
55 aircraft and associated elements, including communication links  
56 and the components that control the unmanned aircraft, which are  
57 required for the operator to operate safely and efficiently in the  
58 national airspace system.

59 (c) "Secretary" means the Secretary of the United  
60 States Department of Homeland Security.

61 (d) "Executive Director" means the Executive Director  
62 of the Mississippi Office of Homeland Security.

63 (e) "Government entity" means a state agency, state  
64 department, municipal or county government, or any political  
65 subdivision of the state.

66 **SECTION 3.** (1) Except as provided under subsection (2), the  
67 head of a state agency, state department, municipal or county  
68 government, or any political subdivision of the state may not  
69 procure or operate any covered unmanned aircraft system that are  
70 manufactured or assembled by a covered foreign entity, which  
71 includes associated elements consisting of communication links and  
72 the components that control the unmanned aircraft which are  
73 required for the operator to operate safely and efficiently in the  
74 national airspace system. The Executive Director of the  
75 Mississippi Office of Homeland Security shall maintain a list of  
76 all associated elements developed and updated by the Federal  
77 Acquisition Security Council, in coordination with the Secretary  
78 of the United States Department of Transportation.



79           (2)   (a)   The Executive Director of the Mississippi Office of  
80 Homeland Security and the Adjutant General of the Mississippi  
81 National Guard Secretary are exempt from the restriction imposed  
82 under subsection (1) if the operation or procurement is for the  
83 sole purposes of research, evaluation, training, testing, or  
84 analysis for:

- 85                       (i)   Electronic warfare;
- 86                       (ii)   Information warfare operations;
- 87                       (iii)   Development of unmanned aircraft system or  
88 counter-unmanned aircraft system technology;
- 89                       (iv)   Counterterrorism or counterintelligence  
90 activities;
- 91                       (v)   State or federal criminal investigation; or
- 92                       (vi)   State or national security investigations,  
93 including forensic examinations.

94           (b)   The Mississippi Department of Transportation, in  
95 consultation with the Executive Director of the Mississippi Office  
96 of Homeland Security, is exempt from the restriction under  
97 subsection (1) if the operation or procurement is necessary for  
98 the sole purpose of conducting safety investigations in  
99 conjunction with the National Transportation Safety Board (NTSB).

100           (3)   The prohibition under subsection (1) applies to any  
101 covered unmanned aircraft systems that are being used by any state  
102 agency, state department, municipal or county government, or any



103 political subdivision of the state through the method of  
104 contracting for the services of covered unmanned aircraft systems.

105 **SECTION 4.** The procurement of covered unmanned aircraft  
106 systems by state agencies, state departments, municipal or county  
107 governments, or any political subdivisions of the state, as  
108 authorized under the provisions of Section 3 of this act shall be  
109 acquired in compliance with the public purchasing law established  
110 under Section 31-7-13, provided that:

111 (a) All covered unmanned aircraft systems purchased in  
112 the State of Mississippi after July 1, 2023, must be purchased  
113 from a covered unmanned aircraft system manufacturer based in the  
114 United States or in one (1) of the five (5) territories or  
115 commonwealths under the jurisdiction of the United States;

116 (b) American-based covered unmanned aircraft system  
117 manufacturers with its principal location of manufacture in the  
118 State of Mississippi shall have priority on bid over  
119 American-based manufacturers located out of the State of  
120 Mississippi, provided that the price is equal;

121 (c) Covered unmanned aircraft systems purchased are  
122 required to have collision detection and avoidance software  
123 capabilities;

124 (d) Procurement of covered unmanned aircraft system  
125 services in Mississippi for government entities must be done by  
126 covered unmanned aircraft system service providers using  
127 American-made covered unmanned aircraft system; and



128 (e) Covered unmanned aircraft system service providers  
129 using covered unmanned aircraft systems manufactured by  
130 Mississippi-based covered unmanned aircraft system manufacturers  
131 shall have priority over all other manufacturers of covered  
132 unmanned aircraft systems in the United States or in one (1) of  
133 the five (5) territories or commonwealths under the jurisdiction  
134 of the United States.

135 **SECTION 5.** (1) Beginning on July 1, 2023, except as  
136 provided in subsection (2), no state or federal funds awarded  
137 through a contract, grant or cooperative agreement, or otherwise  
138 made available may be used:

139 (a) To purchase a covered unmanned aircraft system, or  
140 a system to counter unmanned aircraft systems, that is  
141 manufactured or assembled by a covered foreign entity; or

142 (b) In connection with the operation of such a drone or  
143 unmanned aircraft system.

144 (2) A state agency, state department, municipal or county  
145 government or any political subdivision of the state is exempt  
146 from the restriction under subsection (1) if:

147 (a) The contract, grant or cooperative agreement was  
148 awarded before July 1, 2023; or

149 (b) The operation or procurement is for the sole  
150 purposes of research, evaluation, training, testing, or analysis,  
151 as determined by the Executive Director of the Mississippi Office



152 of Homeland Security or Adjutant General of the Mississippi  
153 National Guard for:

- 154 (i) Electronic warfare;
- 155 (ii) Information warfare operations;
- 156 (iii) Development of unmanned aircraft system or  
157 counter-unmanned aircraft system technology;
- 158 (iv) Counterterrorism or counterintelligence  
159 activities;
- 160 (v) State or federal criminal investigation; or
- 161 (vi) State or national security investigations,  
162 including forensic examinations; or
- 163 (vii) The safe integration of unmanned aircraft  
164 systems in state and national airspace as determined by Federal  
165 Aviation Administration in consultation with regional Flight  
166 Standards District Offices within the State of Mississippi.

167 **SECTION 6.** (1) All state agencies, state departments,  
168 municipal or county governments, or any political subdivisions of  
169 the state must account for existing inventories of covered  
170 unmanned aircraft systems manufactured or assembled by a covered  
171 foreign entity in their personal property inventory and accounting  
172 systems, regardless of the original procurement cost, or the  
173 purpose of procurement due to the special monitoring, inventory  
174 and accounting measures necessary to track the items'  
175 capabilities.



176 (2) Due to the sensitive nature of missions and operations  
177 conducted by the Mississippi Office of Homeland Security and  
178 Mississippi National Guard, inventory data related to covered  
179 unmanned aircraft systems manufactured or assembled by a covered  
180 foreign entity may be excluded from the full inventory process,  
181 upon a showing by such agencies that:

182 (a) The unmanned aircraft systems are deemed expendable  
183 due to mission risk, such as recovery issues; or

184 (b) The unmanned aircraft systems are one-time-use  
185 covered unmanned aircraft due to requirements and low cost.

186 **SECTION 7.** (1) Not later than ninety (90) days after the  
187 effective date of the enactment of this act, the Executive  
188 Director of the Mississippi Office of Homeland Security, in  
189 conjunction with the Department of Finance and Administration  
190 shall prescribe regulations or guidance to implement and  
191 administer Sections 1 through 6 of this act.

192 (2) This act shall not apply to an institutions of higher  
193 learning with a federally designated research center on uncrewed  
194 systems and related matters;

195 **SECTION 8.** Section 31-7-13, Mississippi Code of 1972, is  
196 amended as follows:

197 31-7-13. Except as otherwise provided under Sections 3 and 4  
198 of this act, all agencies and governing authorities shall purchase  
199 their commodities and printing; contract for garbage collection or  
200 disposal; contract for solid waste collection or disposal;





201 contract for sewage collection or disposal; contract for public  
202 construction; and contract for rentals as herein provided.

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

204 Purchases which do not involve an expenditure of more than Five  
205 Thousand Dollars (\$5,000.00), exclusive of freight or shipping  
206 charges, may be made without advertising or otherwise requesting  
207 competitive bids. However, nothing contained in this paragraph

208 (a) shall be construed to prohibit any agency or governing  
209 authority from establishing procedures which require competitive  
210 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

211 (b) **Bidding procedure for purchases over \$5,000.00 but**

212 **not over \$75,000.00.** Purchases which involve an expenditure of  
213 more than Five Thousand Dollars (\$5,000.00) but not more than  
214 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
215 and shipping charges, may be made from the lowest and best bidder  
216 without publishing or posting advertisement for bids, provided at  
217 least two (2) competitive written bids have been obtained. Any  
218 state agency or community/junior college purchasing commodities or  
219 procuring construction pursuant to this paragraph (b) may  
220 authorize its purchasing agent, or his designee, to accept the  
221 lowest competitive written bid under Seventy-five Thousand Dollars  
222 (\$75,000.00). Any governing authority purchasing commodities  
223 pursuant to this paragraph (b) may authorize its purchasing agent,  
224 or his designee, with regard to governing authorities other than  
225 counties, or its purchase clerk, or his designee, with regard to



226 counties, to accept the lowest and best competitive written bid.  
227 Such authorization shall be made in writing by the governing  
228 authority and shall be maintained on file in the primary office of  
229 the agency and recorded in the official minutes of the governing  
230 authority, as appropriate. The purchasing agent or the purchase  
231 clerk, or his designee, as the case may be, and not the governing  
232 authority, shall be liable for any penalties and/or damages as may  
233 be imposed by law for any act or omission of the purchasing agent  
234 or purchase clerk, or his designee, constituting a violation of  
235 law in accepting any bid without approval by the governing  
236 authority. The term "competitive written bid" shall mean a bid  
237 submitted on a bid form furnished by the buying agency or  
238 governing authority and signed by authorized personnel  
239 representing the vendor, or a bid submitted on a vendor's  
240 letterhead or identifiable bid form and signed by authorized  
241 personnel representing the vendor. "Competitive" shall mean that  
242 the bids are developed based upon comparable identification of the  
243 needs and are developed independently and without knowledge of  
244 other bids or prospective bids. Any bid item for construction in  
245 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
246 by components to provide detail of component description and  
247 pricing. These details shall be submitted with the written bids  
248 and become part of the bid evaluation criteria. Bids may be  
249 submitted by facsimile, electronic mail or other generally  
250 accepted method of information distribution. Bids submitted by



251 electronic transmission shall not require the signature of the  
252 vendor's representative unless required by agencies or governing  
253 authorities.

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

255 (i) **Publication requirement.**

256 1. Purchases which involve an expenditure of  
257 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
258 freight and shipping charges, may be made from the lowest and best  
259 bidder after advertising for competitive bids once each week for  
260 two (2) consecutive weeks in a regular newspaper published in the  
261 county or municipality in which such agency or governing authority  
262 is located. However, all American Recovery and Reinvestment Act  
263 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
264 shall be bid. All references to American Recovery and  
265 Reinvestment Act projects in this section shall not apply to  
266 programs identified in Division B of the American Recovery and  
267 Reinvestment Act.

268 2. Reverse auctions shall be the primary  
269 method for receiving bids during the bidding process. If a  
270 purchasing entity determines that a reverse auction is not in the  
271 best interest of the state, then that determination must be  
272 approved by the Public Procurement Review Board. The purchasing  
273 entity shall submit a detailed explanation of why a reverse  
274 auction would not be in the best interest of the state and present  
275 an alternative process to be approved by the Public Procurement



276 Review Board. If the Public Procurement Review Board authorizes  
277 the purchasing entity to solicit bids with a method other than  
278 reverse auction, then the purchasing entity may designate the  
279 other methods by which the bids will be received, including, but  
280 not limited to, bids sealed in an envelope, bids received  
281 electronically in a secure system, or bids received by any other  
282 method that promotes open competition and has been approved by the  
283 Office of Purchasing and Travel. However, reverse auction shall  
284 not be used for any public contract for design, construction,  
285 improvement, repair or remodeling of any public facilities,  
286 including the purchase of materials, supplies, equipment or goods  
287 for same and including buildings, roads and bridges. The Public  
288 Procurement Review Board must approve any contract entered into by  
289 alternative process. The provisions of this item 2 shall not  
290 apply to the individual state institutions of higher learning.  
291 The provisions of this item 2 requiring reverse auction as the  
292 primary method of receiving bids shall not apply to term contract  
293 purchases as provided in paragraph (n) of this section; however, a  
294 purchasing entity may, in its discretion, utilize reverse auction  
295 for such purchases. The provisions of this item 2 shall not apply  
296 to individual public schools, including public charter schools and  
297 public school districts, only when purchasing copyrighted  
298 educational supplemental materials and software as a service  
299 product. For such purchases, a local school board may authorize a  
300 purchasing entity in its jurisdiction to use a Request for



301 Qualifications which promotes open competition and meets the  
302 requirements of the Office of Purchasing and Travel.

303                   3. The date as published for the bid opening  
304 shall not be less than seven (7) working days after the last  
305 published notice; however, if the purchase involves a construction  
306 project in which the estimated cost is in excess of Seventy-five  
307 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
308 less than fifteen (15) working days after the last notice is  
309 published and the notice for the purchase of such construction  
310 shall be published once each week for two (2) consecutive weeks.  
311 However, all American Recovery and Reinvestment Act projects in  
312 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
313 For any projects in excess of Twenty-five Thousand Dollars  
314 (\$25,000.00) under the American Recovery and Reinvestment Act,  
315 publication shall be made one (1) time and the bid opening for  
316 construction projects shall not be less than ten (10) working days  
317 after the date of the published notice. The notice of intention  
318 to let contracts or purchase equipment shall state the time and  
319 place at which bids shall be received, list the contracts to be  
320 made or types of equipment or supplies to be purchased, and, if  
321 all plans and/or specifications are not published, refer to the  
322 plans and/or specifications on file. If there is no newspaper  
323 published in the county or municipality, then such notice shall be  
324 given by posting same at the courthouse, or for municipalities at  
325 the city hall, and at two (2) other public places in the county or



326 municipality, and also by publication once each week for two (2)  
327 consecutive weeks in some newspaper having a general circulation  
328 in the county or municipality in the above-provided manner. On  
329 the same date that the notice is submitted to the newspaper for  
330 publication, the agency or governing authority involved shall mail  
331 written notice to, or provide electronic notification to the main  
332 office of the Mississippi Procurement Technical Assistance Program  
333 under the Mississippi Development Authority that contains the same  
334 information as that in the published notice. Submissions received  
335 by the Mississippi Procurement Technical Assistance Program for  
336 projects funded by the American Recovery and Reinvestment Act  
337 shall be displayed on a separate and unique Internet web page  
338 accessible to the public and maintained by the Mississippi  
339 Development Authority for the Mississippi Procurement Technical  
340 Assistance Program. Those American Recovery and Reinvestment Act  
341 related submissions shall be publicly posted within twenty-four  
342 (24) hours of receipt by the Mississippi Development Authority and  
343 the bid opening shall not occur until the submission has been  
344 posted for ten (10) consecutive days. The Department of Finance  
345 and Administration shall maintain information regarding contracts  
346 and other expenditures from the American Recovery and Reinvestment  
347 Act, on a unique Internet web page accessible to the public. The  
348 Department of Finance and Administration shall promulgate rules  
349 regarding format, content and deadlines, unless otherwise  
350 specified by law, of the posting of award notices, contract



351 execution and subsequent amendments, links to the contract  
352 documents, expenditures against the awarded contracts and general  
353 expenditures of funds from the American Recovery and Reinvestment  
354 Act. Within one (1) working day of the contract award, the agency  
355 or governing authority shall post to the designated web page  
356 maintained by the Department of Finance and Administration, notice  
357 of the award, including the award recipient, the contract amount,  
358 and a brief summary of the contract in accordance with rules  
359 promulgated by the department. Within one (1) working day of the  
360 contract execution, the agency or governing authority shall post  
361 to the designated web page maintained by the Department of Finance  
362 and Administration a summary of the executed contract and make a  
363 copy of the appropriately redacted contract documents available  
364 for linking to the designated web page in accordance with the  
365 rules promulgated by the department. The information provided by  
366 the agency or governing authority shall be posted to the web page  
367 for the duration of the American Recovery and Reinvestment Act  
368 funding or until the project is completed, whichever is longer.

369 (ii) **Bidding process amendment procedure.** If all  
370 plans and/or specifications are published in the notification,  
371 then the plans and/or specifications may not be amended. If all  
372 plans and/or specifications are not published in the notification,  
373 then amendments to the plans/specifications, bid opening date, bid  
374 opening time and place may be made, provided that the agency or  
375 governing authority maintains a list of all prospective bidders



376 who are known to have received a copy of the bid documents and all  
377 such prospective bidders are sent copies of all amendments. This  
378 notification of amendments may be made via mail, facsimile,  
379 electronic mail or other generally accepted method of information  
380 distribution. No addendum to bid specifications may be issued  
381 within two (2) working days of the time established for the  
382 receipt of bids unless such addendum also amends the bid opening  
383 to a date not less than five (5) working days after the date of  
384 the addendum.

385 (iii) **Filing requirement.** In all cases involving  
386 governing authorities, before the notice shall be published or  
387 posted, the plans or specifications for the construction or  
388 equipment being sought shall be filed with the clerk of the board  
389 of the governing authority. In addition to these requirements, a  
390 bid file shall be established which shall indicate those vendors  
391 to whom such solicitations and specifications were issued, and  
392 such file shall also contain such information as is pertinent to  
393 the bid.

394 (iv) **Specification restrictions.**

395 1. Specifications pertinent to such bidding  
396 shall be written so as not to exclude comparable equipment of  
397 domestic manufacture. However, if valid justification is  
398 presented, the Department of Finance and Administration or the  
399 board of a governing authority may approve a request for specific  
400 equipment necessary to perform a specific job. Further, such





401 justification, when placed on the minutes of the board of a  
402 governing authority, may serve as authority for that governing  
403 authority to write specifications to require a specific item of  
404 equipment needed to perform a specific job. In addition to these  
405 requirements, from and after July 1, 1990, vendors of relocatable  
406 classrooms and the specifications for the purchase of such  
407 relocatable classrooms published by local school boards shall meet  
408 all pertinent regulations of the State Board of Education,  
409 including prior approval of such bid by the State Department of  
410 Education.

411           2. Specifications for construction projects  
412 may include an allowance for commodities, equipment, furniture,  
413 construction materials or systems in which prospective bidders are  
414 instructed to include in their bids specified amounts for such  
415 items so long as the allowance items are acquired by the vendor in  
416 a commercially reasonable manner and approved by the  
417 agency/governing authority. Such acquisitions shall not be made  
418 to circumvent the public purchasing laws.

419           (v) **Electronic bids.** Agencies and governing  
420 authorities shall provide a secure electronic interactive system  
421 for the submittal of bids requiring competitive bidding that shall  
422 be an additional bidding option for those bidders who choose to  
423 submit their bids electronically. The Department of Finance and  
424 Administration shall provide, by regulation, the standards that  
425 agencies must follow when receiving electronic bids. Agencies and



426 governing authorities shall make the appropriate provisions  
427 necessary to accept electronic bids from those bidders who choose  
428 to submit their bids electronically for all purchases requiring  
429 competitive bidding under this section. Any special condition or  
430 requirement for the electronic bid submission shall be specified  
431 in the advertisement for bids required by this section. Agencies  
432 or governing authorities that are currently without available high  
433 speed Internet access shall be exempt from the requirement of this  
434 subparagraph (v) until such time that high speed Internet access  
435 becomes available. Any county having a population of less than  
436 twenty thousand (20,000) shall be exempt from the provisions of  
437 this subparagraph (v). Any municipality having a population of  
438 less than ten thousand (10,000) shall be exempt from the  
439 provisions of this subparagraph (v). The provisions of this  
440 subparagraph (v) shall not require any bidder to submit bids  
441 electronically. When construction bids are submitted  
442 electronically, the requirement for including a certificate of  
443 responsibility, or a statement that the bid enclosed does not  
444 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
445 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
446 deemed in compliance with by including same as an attachment with  
447 the electronic bid submittal.

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

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



451 best bid, freight and shipping charges shall be included.  
452 Life-cycle costing, total cost bids, warranties, guaranteed  
453 buy-back provisions and other relevant provisions may be included  
454 in the best bid calculation. All best bid procedures for state  
455 agencies must be in compliance with regulations established by the  
456 Department of Finance and Administration. If any governing  
457 authority accepts a bid other than the lowest bid actually  
458 submitted, it shall place on its minutes detailed calculations and  
459 narrative summary showing that the accepted bid was determined to  
460 be the lowest and best bid, including the dollar amount of the  
461 accepted bid and the dollar amount of the lowest bid. No agency  
462 or governing authority shall accept a bid based on items not  
463 included in the specifications.

464 (ii) **Decision procedure for Certified Purchasing**  
465 **Offices.** In addition to the decision procedure set forth in  
466 subparagraph (i) of this paragraph (d), Certified Purchasing  
467 Offices may also use the following procedure: Purchases may be  
468 made from the bidder offering the best value. In determining the  
469 best value bid, freight and shipping charges shall be included.  
470 Life-cycle costing, total cost bids, warranties, guaranteed  
471 buy-back provisions, documented previous experience, training  
472 costs and other relevant provisions, including, but not limited  
473 to, a bidder having a local office and inventory located within  
474 the jurisdiction of the governing authority, may be included in  
475 the best value calculation. This provision shall authorize



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

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

483 **Landmarks.** In addition to the decision procedure set forth in  
484 subparagraph (i) of this paragraph (d), where purchase involves  
485 renovation, restoration, or both, of the State Capitol Building or  
486 any other historical building designated for at least five (5)  
487 years as a Mississippi Landmark by the Board of Trustees of the  
488 Department of Archives and History under the authority of Sections  
489 39-7-7 and 39-7-11, the agency or governing authority may use the  
490 following procedure: Purchases may be made from the lowest and  
491 best prequalified bidder. Prequalification of bidders shall be  
492 determined not less than fifteen (15) working days before the  
493 first published notice of bid opening. Prequalification criteria  
494 shall be limited to bidder's knowledge and experience in  
495 historical restoration, preservation and renovation. In  
496 determining the lowest and best bid, freight and shipping charges  
497 shall be included. Life-cycle costing, total cost bids,  
498 warranties, guaranteed buy-back provisions and other relevant  
499 provisions may be included in the best bid calculation. All best  
500 bid and prequalification procedures for state agencies must be in



501 compliance with regulations established by the Department of  
502 Finance and Administration. If any governing authority accepts a  
503 bid other than the lowest bid actually submitted, it shall place  
504 on its minutes detailed calculations and narrative summary showing  
505 that the accepted bid was determined to be the lowest and best  
506 bid, including the dollar amount of the accepted bid and the  
507 dollar amount of the lowest bid. No agency or governing authority  
508 shall accept a bid based on items not included in the  
509 specifications.

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

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

516 (e) **Lease-purchase authorization.** For the purposes of  
517 this section, the term "equipment" shall mean equipment, furniture  
518 and, if applicable, associated software and other applicable  
519 direct costs associated with the acquisition. Any lease-purchase  
520 of equipment which an agency is not required to lease-purchase  
521 under the master lease-purchase program pursuant to Section  
522 31-7-10 and any lease-purchase of equipment which a governing  
523 authority elects to lease-purchase may be acquired by a  
524 lease-purchase agreement under this paragraph (e). Lease-purchase  
525 financing may also be obtained from the vendor or from a



526 third-party source after having solicited and obtained at least  
527 two (2) written competitive bids, as defined in paragraph (b) of  
528 this section, for such financing without advertising for such  
529 bids. Solicitation for the bids for financing may occur before or  
530 after acceptance of bids for the purchase of such equipment or,  
531 where no such bids for purchase are required, at any time before  
532 the purchase thereof. No such lease-purchase agreement shall be  
533 for an annual rate of interest which is greater than the overall  
534 maximum interest rate to maturity on general obligation  
535 indebtedness permitted under Section 75-17-101, and the term of  
536 such lease-purchase agreement shall not exceed the useful life of  
537 equipment covered thereby as determined according to the upper  
538 limit of the asset depreciation range (ADR) guidelines for the  
539 Class Life Asset Depreciation Range System established by the  
540 Internal Revenue Service pursuant to the United States Internal  
541 Revenue Code and regulations thereunder as in effect on December  
542 31, 1980, or comparable depreciation guidelines with respect to  
543 any equipment not covered by ADR guidelines. Any lease-purchase  
544 agreement entered into pursuant to this paragraph (e) may contain  
545 any of the terms and conditions which a master lease-purchase  
546 agreement may contain under the provisions of Section 31-7-10(5),  
547 and shall contain an annual allocation dependency clause  
548 substantially similar to that set forth in Section 31-7-10(8).  
549 Each agency or governing authority entering into a lease-purchase  
550 transaction pursuant to this paragraph (e) shall maintain with



551 respect to each such lease-purchase transaction the same  
552 information as required to be maintained by the Department of  
553 Finance and Administration pursuant to Section 31-7-10(13).  
554 However, nothing contained in this section shall be construed to  
555 permit agencies to acquire items of equipment with a total  
556 acquisition cost in the aggregate of less than Ten Thousand  
557 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
558 equipment, and the purchase thereof by any lessor, acquired by  
559 lease-purchase under this paragraph and all lease-purchase  
560 payments with respect thereto shall be exempt from all Mississippi  
561 sales, use and ad valorem taxes. Interest paid on any  
562 lease-purchase agreement under this section shall be exempt from  
563 State of Mississippi income taxation.

564 (f) **Alternate bid authorization.** When necessary to  
565 ensure ready availability of commodities for public works and the  
566 timely completion of public projects, no more than two (2)  
567 alternate bids may be accepted by a governing authority for  
568 commodities. No purchases may be made through use of such  
569 alternate bids procedure unless the lowest and best bidder cannot  
570 deliver the commodities contained in his bid. In that event,  
571 purchases of such commodities may be made from one (1) of the  
572 bidders whose bid was accepted as an alternate.

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



576 to the original contract are necessary or would better serve the  
577 purpose of the agency or the governing authority, such agency or  
578 governing authority may, in its discretion, order such changes  
579 pertaining to the construction that are necessary under the  
580 circumstances without the necessity of further public bids;  
581 provided that such change shall be made in a commercially  
582 reasonable manner and shall not be made to circumvent the public  
583 purchasing statutes. In addition to any other authorized person,  
584 the architect or engineer hired by an agency or governing  
585 authority with respect to any public construction contract shall  
586 have the authority, when granted by an agency or governing  
587 authority, to authorize changes or modifications to the original  
588 contract without the necessity of prior approval of the agency or  
589 governing authority when any such change or modification is less  
590 than one percent (1%) of the total contract amount. The agency or  
591 governing authority may limit the number, manner or frequency of  
592 such emergency changes or modifications.

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





601 competitive written bids are not obtained, the entity shall comply  
602 with the procedures set forth in paragraph (c) of this section.  
603 In the event any agency or governing authority shall have  
604 advertised for bids for the purchase of gas, diesel fuel, oils and  
605 other petroleum products and coal and no acceptable bids can be  
606 obtained, such agency or governing authority is authorized and  
607 directed to enter into any negotiations necessary to secure the  
608 lowest and best contract available for the purchase of such  
609 commodities.

610           (i) **Road construction petroleum products price**  
611 **adjustment clause authorization.** Any agency or governing  
612 authority authorized to enter into contracts for the construction,  
613 maintenance, surfacing or repair of highways, roads or streets,  
614 may include in its bid proposal and contract documents a price  
615 adjustment clause with relation to the cost to the contractor,  
616 including taxes, based upon an industry-wide cost index, of  
617 petroleum products including asphalt used in the performance or  
618 execution of the contract or in the production or manufacture of  
619 materials for use in such performance. Such industry-wide index  
620 shall be established and published monthly by the Mississippi  
621 Department of Transportation with a copy thereof to be mailed,  
622 upon request, to the clerks of the governing authority of each  
623 municipality and the clerks of each board of supervisors  
624 throughout the state. The price adjustment clause shall be based  
625 on the cost of such petroleum products only and shall not include



626 any additional profit or overhead as part of the adjustment. The  
627 bid proposals or document contract shall contain the basis and  
628 methods of adjusting unit prices for the change in the cost of  
629 such petroleum products.

630 (j) **State agency emergency purchase procedure.** If the  
631 governing board or the executive head, or his designees, of any  
632 agency of the state shall determine that an emergency exists in  
633 regard to the purchase of any commodities or repair contracts, so  
634 that the delay incident to giving opportunity for competitive  
635 bidding would be detrimental to the interests of the state, then  
636 the head of such agency, or his designees, shall file with the  
637 Department of Finance and Administration (i) a statement  
638 explaining the conditions and circumstances of the emergency,  
639 which shall include a detailed description of the events leading  
640 up to the situation and the negative impact to the entity if the  
641 purchase is made following the statutory requirements set forth in  
642 paragraph (a), (b) or (c) of this section, and (ii) a certified  
643 copy of the appropriate minutes of the board of such agency  
644 requesting the emergency purchase, if applicable. Upon receipt of  
645 the statement and applicable board certification, the State Fiscal  
646 Officer, or his designees, may, in writing, authorize the purchase  
647 or repair without having to comply with competitive bidding  
648 requirements.

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



651 regard to the purchase of any commodities or repair contracts, so  
652 that the delay incident to giving opportunity for competitive  
653 bidding would threaten the health or safety of any person, or the  
654 preservation or protection of property, then the provisions in  
655 this section for competitive bidding shall not apply, and any  
656 officer or agent of the agency having general or specific  
657 authority for making the purchase or repair contract shall approve  
658 the bill presented for payment, and he shall certify in writing  
659 from whom the purchase was made, or with whom the repair contract  
660 was made.

661 Total purchases made under this paragraph (j) shall only be  
662 for the purpose of meeting needs created by the emergency  
663 situation. Following the emergency purchase, documentation of the  
664 purchase, including a description of the commodity purchased, the  
665 purchase price thereof and the nature of the emergency shall be  
666 filed with the Department of Finance and Administration. Any  
667 contract awarded pursuant to this paragraph (j) shall not exceed a  
668 term of one (1) year.

669 Purchases under the grant program established under Section  
670 37-68-7 in response to COVID-19 and the directive that school  
671 districts create a distance learning plan and fulfill technology  
672 needs expeditiously shall be deemed an emergency purchase for  
673 purposes of this paragraph (j).

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

675 If the governing authority, or the governing authority acting



676 through its designee, shall determine that an emergency exists in  
677 regard to the purchase of any commodities or repair contracts, so  
678 that the delay incident to giving opportunity for competitive  
679 bidding would be detrimental to the interest of the governing  
680 authority, then the provisions herein for competitive bidding  
681 shall not apply and any officer or agent of such governing  
682 authority having general or special authority therefor in making  
683 such purchase or repair shall approve the bill presented therefor,  
684 and he shall certify in writing thereon from whom such purchase  
685 was made, or with whom such a repair contract was made. At the  
686 board meeting next following the emergency purchase or repair  
687 contract, documentation of the purchase or repair contract,  
688 including a description of the commodity purchased, the price  
689 thereof and the nature of the emergency shall be presented to the  
690 board and shall be placed on the minutes of the board of such  
691 governing authority. Purchases under the grant program  
692 established under Section 37-68-7 in response to COVID-19 and the  
693 directive that school districts create a distance learning plan  
694 and fulfill technology needs expeditiously shall be deemed an  
695 emergency purchase for purposes of this paragraph (k).

696           (1) **Hospital purchase, lease-purchase and lease**  
697 **authorization.**

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



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

703 (ii) In addition to the authority granted in  
704 subparagraph (i) of this paragraph (1), the commissioners or board  
705 of trustees is authorized to enter into contracts for the lease of  
706 equipment or services, or both, which it considers necessary for  
707 the proper care of patients if, in its opinion, it is not  
708 financially feasible to purchase the necessary equipment or  
709 services. Any such contract for the lease of equipment or  
710 services executed by the commissioners or board shall not exceed a  
711 maximum of five (5) years' duration and shall include a  
712 cancellation clause based on unavailability of funds. If such  
713 cancellation clause is exercised, there shall be no further  
714 liability on the part of the lessee. Any such contract for the  
715 lease of equipment or services executed on behalf of the  
716 commissioners or board that complies with the provisions of this  
717 subparagraph (ii) shall be excepted from the bid requirements set  
718 forth in this section.

719 (m) **Exceptions from bidding requirements.** Excepted  
720 from bid requirements are:

721 (i) **Purchasing agreements approved by department.**  
722 Purchasing agreements, contracts and maximum price regulations  
723 executed or approved by the Department of Finance and  
724 Administration.



725                   (ii) **Outside equipment repairs.** Repairs to  
726 equipment, when such repairs are made by repair facilities in the  
727 private sector; however, engines, transmissions, rear axles and/or  
728 other such components shall not be included in this exemption when  
729 replaced as a complete unit instead of being repaired and the need  
730 for such total component replacement is known before disassembly  
731 of the component; however, invoices identifying the equipment,  
732 specific repairs made, parts identified by number and name,  
733 supplies used in such repairs, and the number of hours of labor  
734 and costs therefor shall be required for the payment for such  
735 repairs.

736                   (iii) **In-house equipment repairs.** Purchases of  
737 parts for repairs to equipment, when such repairs are made by  
738 personnel of the agency or governing authority; however, entire  
739 assemblies, such as engines or transmissions, shall not be  
740 included in this exemption when the entire assembly is being  
741 replaced instead of being repaired.

742                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
743 of gravel or fill dirt which are to be removed and transported by  
744 the purchaser.

745                   (v) **Governmental equipment auctions.** Motor  
746 vehicles or other equipment purchased from a federal agency or  
747 authority, another governing authority or state agency of the  
748 State of Mississippi, or any governing authority or state agency  
749 of another state at a public auction held for the purpose of



750 disposing of such vehicles or other equipment. Any purchase by a  
751 governing authority under the exemption authorized by this  
752 subparagraph (v) shall require advance authorization spread upon  
753 the minutes of the governing authority to include the listing of  
754 the item or items authorized to be purchased and the maximum bid  
755 authorized to be paid for each item or items.

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

757 Purchases, sales, transfers or trades by governing authorities or  
758 state agencies when such purchases, sales, transfers or trades are  
759 made by a private treaty agreement or through means of  
760 negotiation, from any federal agency or authority, another  
761 governing authority or state agency of the State of Mississippi,  
762 or any state agency or governing authority of another state.  
763 Nothing in this section shall permit such purchases through public  
764 auction except as provided for in subparagraph (v) of this  
765 paragraph (m). It is the intent of this section to allow  
766 governmental entities to dispose of and/or purchase commodities  
767 from other governmental entities at a price that is agreed to by  
768 both parties. This shall allow for purchases and/or sales at  
769 prices which may be determined to be below the market value if the  
770 selling entity determines that the sale at below market value is  
771 in the best interest of the taxpayers of the state. Governing  
772 authorities shall place the terms of the agreement and any  
773 justification on the minutes, and state agencies shall obtain



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

776 (vii) **Perishable supplies or food.** Perishable  
777 supplies or food purchased for use in connection with hospitals,  
778 the school lunch programs, homemaking programs and for the feeding  
779 of county or municipal prisoners.

780 (viii) **Single-source items.** Noncompetitive items  
781 available from one (1) source only. In connection with the  
782 purchase of noncompetitive items only available from one (1)  
783 source, a certification of the conditions and circumstances  
784 requiring the purchase shall be filed by the agency with the  
785 Department of Finance and Administration and by the governing  
786 authority with the board of the governing authority. Upon receipt  
787 of that certification the Department of Finance and Administration  
788 or the board of the governing authority, as the case may be, may,  
789 in writing, authorize the purchase, which authority shall be noted  
790 on the minutes of the body at the next regular meeting thereafter.  
791 In those situations, a governing authority is not required to  
792 obtain the approval of the Department of Finance and  
793 Administration. Following the purchase, the executive head of the  
794 state agency or his designees, shall file with the Department of  
795 Finance and Administration, documentation of the purchase,  
796 including a description of the commodity purchased, the purchase  
797 price thereof and the source from whom it was purchased.





798                   (ix)   **Waste disposal facility construction**  
799   **contracts.**   Construction of incinerators and other facilities for  
800 disposal of solid wastes in which products either generated  
801 therein, such as steam, or recovered therefrom, such as materials  
802 for recycling, are to be sold or otherwise disposed of; however,  
803 in constructing such facilities, a governing authority or agency  
804 shall publicly issue requests for proposals, advertised for in the  
805 same manner as provided herein for seeking bids for public  
806 construction projects, concerning the design, construction,  
807 ownership, operation and/or maintenance of such facilities,  
808 wherein such requests for proposals when issued shall contain  
809 terms and conditions relating to price, financial responsibility,  
810 technology, environmental compatibility, legal responsibilities  
811 and such other matters as are determined by the governing  
812 authority or agency to be appropriate for inclusion; and after  
813 responses to the request for proposals have been duly received,  
814 the governing authority or agency may select the most qualified  
815 proposal or proposals on the basis of price, technology and other  
816 relevant factors and from such proposals, but not limited to the  
817 terms thereof, negotiate and enter contracts with one or more of  
818 the persons or firms submitting proposals.

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



822                   (xi)   **Information technology products.** Purchases  
823 of information technology products made by governing authorities  
824 under the provisions of purchase schedules, or contracts executed  
825 or approved by the Mississippi Department of Information  
826 Technology Services and designated for use by governing  
827 authorities.

828                   (xii)   **Energy efficiency services and equipment.**  
829 Energy efficiency services and equipment acquired by school  
830 districts, community and junior colleges, institutions of higher  
831 learning and state agencies or other applicable governmental  
832 entities on a shared-savings, lease or lease-purchase basis  
833 pursuant to Section 31-7-14.

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

838                   (xiv)   **Library books and other reference materials.**  
839 Purchases by libraries or for libraries of books and periodicals;  
840 processed film, videocassette tapes, filmstrips and slides;  
841 recorded audiotapes, cassettes and diskettes; and any such items  
842 as would be used for teaching, research or other information  
843 distribution; however, equipment such as projectors, recorders,  
844 audio or video equipment, and monitor televisions are not exempt  
845 under this subparagraph.



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

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

852                   (xvii)   **Multichannel interactive video systems.**  
853 From and after July 1, 1990, contracts by Mississippi Authority  
854 for Educational Television with any private educational  
855 institution or private nonprofit organization whose purposes are  
856 educational in regard to the construction, purchase, lease or  
857 lease-purchase of facilities and equipment and the employment of  
858 personnel for providing multichannel interactive video systems  
859 (ITSF) in the school districts of this state.

860                   (xviii)   **Purchases of prison industry products by**  
861 **the Department of Corrections, regional correctional facilities or**  
862 **privately owned prisons.**   Purchases made by the Mississippi  
863 Department of Corrections, regional correctional facilities or  
864 privately owned prisons involving any item that is manufactured,  
865 processed, grown or produced from the state's prison industries.

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



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

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

880                   (xxii)   **Garbage, solid waste and sewage contracts.**  
881 Contracts for garbage collection or disposal, contracts for solid  
882 waste collection or disposal and contracts for sewage collection  
883 or disposal.

884                   (xxiii)   **Municipal water tank maintenance**  
885 **contracts.** Professional maintenance program contracts for the  
886 repair or maintenance of municipal water tanks, which provide  
887 professional services needed to maintain municipal water storage  
888 tanks for a fixed annual fee for a duration of two (2) or more  
889 years.

890                   (xxiv)   **Purchases of Mississippi Industries for the**  
891 **Blind products.** Purchases made by state agencies or governing  
892 authorities involving any item that is manufactured, processed or  
893 produced by the Mississippi Industries for the Blind.

894                   (xxv)   **Purchases of state-adopted textbooks.**  
895 Purchases of state-adopted textbooks by public school districts.



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

899 (xxvii) **Used heavy or specialized machinery or**  
900 **equipment for installation of soil and water conservation**  
901 **practices purchased at auction.** Used heavy or specialized  
902 machinery or equipment used for the installation and  
903 implementation of soil and water conservation practices or  
904 measures purchased subject to the restrictions provided in  
905 Sections 69-27-331 through 69-27-341. Any purchase by the State  
906 Soil and Water Conservation Commission under the exemption  
907 authorized by this subparagraph shall require advance  
908 authorization spread upon the minutes of the commission to include  
909 the listing of the item or items authorized to be purchased and  
910 the maximum bid authorized to be paid for each item or items.

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

914 (xxix) **Purchases made pursuant to qualified**  
915 **cooperative purchasing agreements.** Purchases made by certified  
916 purchasing offices of state agencies or governing authorities  
917 under cooperative purchasing agreements previously approved by the  
918 Office of Purchasing and Travel and established by or for any  
919 municipality, county, parish or state government or the federal  
920 government, provided that the notification to potential



921 contractors includes a clause that sets forth the availability of  
922 the cooperative purchasing agreement to other governmental  
923 entities. Such purchases shall only be made if the use of the  
924 cooperative purchasing agreements is determined to be in the best  
925 interest of the governmental entity.

926 (xxx) **School yearbooks.** Purchases of school  
927 yearbooks by state agencies or governing authorities; provided,  
928 however, that state agencies and governing authorities shall use  
929 for these purchases the RFP process as set forth in the  
930 Mississippi Procurement Manual adopted by the Office of Purchasing  
931 and Travel.

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

935 (xxxiii) **Toll roads and bridge construction**  
936 **projects.** Contracts entered into under the provisions of Section  
937 65-43-1 or 65-43-3.

938 (xxxiiii) **Certain purchases under Section 57-1-221.**  
939 Contracts entered into pursuant to the provisions of Section  
940 57-1-221.

941 (xxxv) **Certain transfers made pursuant to the**  
942 **provisions of Section 57-105-1(7).** Transfers of public property  
943 or facilities under Section 57-105-1(7) and construction related  
944 to such public property or facilities.



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

948 (xxxvi) **Certain purchases by an academic medical**  
949 **center or health sciences school.** Purchases by an academic  
950 medical center or health sciences school, as defined in Section  
951 37-115-50, of commodities that are used for clinical purposes and  
952 1. intended for use in the diagnosis of disease or other  
953 conditions or in the cure, mitigation, treatment or prevention of  
954 disease, and 2. medical devices, biological, drugs and  
955 radiation-emitting devices as defined by the United States Food  
956 and Drug Administration.

957 (xxxvii) **Certain purchases made under the Alyce G.**  
958 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
959 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
960 Lottery Law.

961 (xxxviii) **Certain purchases made by the Department**  
962 **of Health and the Department of Revenue.** Purchases made by the  
963 Department of Health and/or the Department of Revenue solely for  
964 the purpose of fulfilling their respective responsibilities under  
965 the Mississippi Medical Cannabis Act. This subparagraph shall  
966 stand repealed on June 30, 2023.

967 (n) **Term contract authorization.** All contracts for the  
968 purchase of:



969 (i) All contracts for the purchase of commodities,  
970 equipment and public construction (including, but not limited to,  
971 repair and maintenance), may be let for periods of not more than  
972 sixty (60) months in advance, subject to applicable statutory  
973 provisions prohibiting the letting of contracts during specified  
974 periods near the end of terms of office. Term contracts for a  
975 period exceeding twenty-four (24) months shall also be subject to  
976 ratification or cancellation by governing authority boards taking  
977 office subsequent to the governing authority board entering the  
978 contract.

979 (ii) Bid proposals and contracts may include price  
980 adjustment clauses with relation to the cost to the contractor  
981 based upon a nationally published industry-wide or nationally  
982 published and recognized cost index. The cost index used in a  
983 price adjustment clause shall be determined by the Department of  
984 Finance and Administration for the state agencies and by the  
985 governing board for governing authorities. The bid proposal and  
986 contract documents utilizing a price adjustment clause shall  
987 contain the basis and method of adjusting unit prices for the  
988 change in the cost of such commodities, equipment and public  
989 construction.

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





994 person or concern to submit individual invoices for amounts within  
995 those authorized for a contract or purchase where the actual value  
996 of the contract or commodity purchased exceeds the authorized  
997 amount and the invoices therefor are split so as to appear to be  
998 authorized as purchases for which competitive bids are not  
999 required. Submission of such invoices shall constitute a  
1000 misdemeanor punishable by a fine of not less than Five Hundred  
1001 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1002 or by imprisonment for thirty (30) days in the county jail, or  
1003 both such fine and imprisonment. In addition, the claim or claims  
1004 submitted shall be forfeited.

1005 (p) **Electrical utility petroleum-based equipment**  
1006 **purchase procedure.** When in response to a proper advertisement  
1007 therefor, no bid firm as to price is submitted to an electric  
1008 utility for power transformers, distribution transformers, power  
1009 breakers, reclosers or other articles containing a petroleum  
1010 product, the electric utility may accept the lowest and best bid  
1011 therefor although the price is not firm.

1012 (q) **Fuel management system bidding procedure.** Any  
1013 governing authority or agency of the state shall, before  
1014 contracting for the services and products of a fuel management or  
1015 fuel access system, enter into negotiations with not fewer than  
1016 two (2) sellers of fuel management or fuel access systems for  
1017 competitive written bids to provide the services and products for  
1018 the systems. In the event that the governing authority or agency



1019 cannot locate two (2) sellers of such systems or cannot obtain  
1020 bids from two (2) sellers of such systems, it shall show proof  
1021 that it made a diligent, good-faith effort to locate and negotiate  
1022 with two (2) sellers of such systems. Such proof shall include,  
1023 but not be limited to, publications of a request for proposals and  
1024 letters soliciting negotiations and bids. For purposes of this  
1025 paragraph (q), a fuel management or fuel access system is an  
1026 automated system of acquiring fuel for vehicles as well as  
1027 management reports detailing fuel use by vehicles and drivers, and  
1028 the term "competitive written bid" shall have the meaning as  
1029 defined in paragraph (b) of this section. Governing authorities  
1030 and agencies shall be exempt from this process when contracting  
1031 for the services and products of fuel management or fuel access  
1032 systems under the terms of a state contract established by the  
1033 Office of Purchasing and Travel.

1034           (r) **Solid waste contract proposal procedure.** Before  
1035 entering into any contract for garbage collection or disposal,  
1036 contract for solid waste collection or disposal or contract for  
1037 sewage collection or disposal, which involves an expenditure of  
1038 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1039 authority or agency shall issue publicly a request for proposals  
1040 concerning the specifications for such services which shall be  
1041 advertised for in the same manner as provided in this section for  
1042 seeking bids for purchases which involve an expenditure of more  
1043 than the amount provided in paragraph (c) of this section. Any



1044 request for proposals when issued shall contain terms and  
1045 conditions relating to price, financial responsibility,  
1046 technology, legal responsibilities and other relevant factors as  
1047 are determined by the governing authority or agency to be  
1048 appropriate for inclusion; all factors determined relevant by the  
1049 governing authority or agency or required by this paragraph (r)  
1050 shall be duly included in the advertisement to elicit proposals.  
1051 After responses to the request for proposals have been duly  
1052 received, the governing authority or agency shall select the most  
1053 qualified proposal or proposals on the basis of price, technology  
1054 and other relevant factors and from such proposals, but not  
1055 limited to the terms thereof, negotiate and enter into contracts  
1056 with one or more of the persons or firms submitting proposals. If  
1057 the governing authority or agency deems none of the proposals to  
1058 be qualified or otherwise acceptable, the request for proposals  
1059 process may be reinitiated. Notwithstanding any other provisions  
1060 of this paragraph, where a county with at least thirty-five  
1061 thousand (35,000) nor more than forty thousand (40,000)  
1062 population, according to the 1990 federal decennial census, owns  
1063 or operates a solid waste landfill, the governing authorities of  
1064 any other county or municipality may contract with the governing  
1065 authorities of the county owning or operating the landfill,  
1066 pursuant to a resolution duly adopted and spread upon the minutes  
1067 of each governing authority involved, for garbage or solid waste  
1068 collection or disposal services through contract negotiations.



1069           (s) **Minority set-aside authorization.** Notwithstanding  
1070 any provision of this section to the contrary, any agency or  
1071 governing authority, by order placed on its minutes, may, in its  
1072 discretion, set aside not more than twenty percent (20%) of its  
1073 anticipated annual expenditures for the purchase of commodities  
1074 from minority businesses; however, all such set-aside purchases  
1075 shall comply with all purchasing regulations promulgated by the  
1076 Department of Finance and Administration and shall be subject to  
1077 bid requirements under this section. Set-aside purchases for  
1078 which competitive bids are required shall be made from the lowest  
1079 and best minority business bidder. For the purposes of this  
1080 paragraph, the term "minority business" means a business which is  
1081 owned by a majority of persons who are United States citizens or  
1082 permanent resident aliens (as defined by the Immigration and  
1083 Naturalization Service) of the United States, and who are Asian,  
1084 Black, Hispanic or Native American, according to the following  
1085 definitions:

1086                   (i) "Asian" means persons having origins in any of  
1087 the original people of the Far East, Southeast Asia, the Indian  
1088 subcontinent, or the Pacific Islands.

1089                   (ii) "Black" means persons having origins in any  
1090 black racial group of Africa.

1091                   (iii) "Hispanic" means persons of Spanish or  
1092 Portuguese culture with origins in Mexico, South or Central  
1093 America, or the Caribbean Islands, regardless of race.



1094 (iv) "Native American" means persons having  
1095 origins in any of the original people of North America, including  
1096 American Indians, Eskimos and Aleuts.

1097 (t) **Construction punch list restriction.** The  
1098 architect, engineer or other representative designated by the  
1099 agency or governing authority that is contracting for public  
1100 construction or renovation may prepare and submit to the  
1101 contractor only one (1) preliminary punch list of items that do  
1102 not meet the contract requirements at the time of substantial  
1103 completion and one (1) final list immediately before final  
1104 completion and final payment.

1105 (u) **Procurement of construction services by state**  
1106 **institutions of higher learning.** Contracts for privately financed  
1107 construction of auxiliary facilities on the campus of a state  
1108 institution of higher learning may be awarded by the Board of  
1109 Trustees of State Institutions of Higher Learning to the lowest  
1110 and best bidder, where sealed bids are solicited, or to the  
1111 offeror whose proposal is determined to represent the best value  
1112 to the citizens of the State of Mississippi, where requests for  
1113 proposals are solicited.

1114 (v) **Insurability of bidders for public construction or**  
1115 **other public contracts.** In any solicitation for bids to perform  
1116 public construction or other public contracts to which this  
1117 section applies, including, but not limited to, contracts for  
1118 repair and maintenance, for which the contract will require



1119 insurance coverage in an amount of not less than One Million  
1120 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1121 submit proof of current insurance coverage in the specified amount  
1122 or demonstrate ability to obtain the required coverage amount of  
1123 insurance if the contract is awarded to the bidder. Proof of  
1124 insurance coverage shall be submitted within five (5) business  
1125 days from bid acceptance.

1126 (w) **Purchase authorization clarification.** Nothing in  
1127 this section shall be construed as authorizing any purchase not  
1128 authorized by law.

1129 **SECTION 9.** This act shall take effect and be in force from  
1130 and after July 1, 2023.

