

By: Representative Hood

To: Judiciary A

HOUSE BILL NO. 1316

1 AN ACT TO PROHIBIT ANY COURT OR COUNTY BOARD OF SUPERVISORS  
 2 FROM ENTERING INTO ANY MULTIYEAR CONTRACT OR SERVICE AGREEMENT FOR  
 3 THE PURCHASE OF ANY WEB-BASED APPLICATION TO BE UTILIZED WITH THE  
 4 MISSISSIPPI YOUTH COURT INFORMATION DELIVERY SYSTEM (MYCIDS)  
 5 WITHOUT COMPLETING A COMPETITIVE BIDDING PROCESS FOR THOSE  
 6 SERVICES; TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO  
 7 CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** (1) No court or county board of supervisors may  
 10 enter into any multiyear contract or service agreement for the  
 11 purchase of a web-based application that is to be utilized with  
 12 the Mississippi Youth Court Information System (MYCIDS) without  
 13 the court or board of supervisors, as the case may be, having  
 14 completed a competitive bidding process for the web-based  
 15 application.

16 (2) The Department of Information Technology Services shall  
 17 maintain on its website a list of all web-based application  
 18 service providers who are authorized to provide such web-based  
 19 application services to any court or county board of supervisors.  
 20 The list shall contain the email address, mailing address and



21 phone number for each such provider. No formal bid process will  
22 be necessary, including newspaper or bid bank advertising, if the  
23 purchase is an E-Rate purchase that follows the federal  
24 procurement and contract award rules for such a purchase. The  
25 court or county board of supervisors shall provide a descriptive  
26 Request For Proposal describing the services to be purchased and  
27 the term of the contract. Courts or county boards of supervisors  
28 shall solicit quotes from all providers on the ITS list. Price  
29 quotes shall be received in sealed envelopes by the court or  
30 county board of supervisors. Quotes shall not be opened until at  
31 least twenty-eight (28) calendar days from the date all vendors on  
32 the ITS list are provided with the Request for Proposal. All  
33 price quotes shall be opened at a specified time in a public  
34 setting. If any state contract exists for the services being  
35 sought, the court or county board of supervisors must consider the  
36 contract pricing as if it were a submitted quote. The Office of  
37 Administrative Courts or the Mississippi Association of  
38 Supervisors, as the case may be, shall aid the courts or county  
39 boards of supervisors in the procurement process by providing  
40 training and instructions.

41 (3) The Department of Information Technology Services shall  
42 provide the courts or county boards of supervisors, as the case  
43 may be, with a contract template for such courts and boards of  
44 supervisors to use for the contract and service agreement during  
45 the procurement process. The contract shall not exceed five (5)



46 years and shall contain a specific price redetermination process  
47 every two (2) years from the date of the contract whereby the  
48 service provider may adjust pricing to comply with the E-Rate's  
49 requirement that providers provide courts or counties boards of  
50 supervisors with the lowest corresponding pricing available.

51 **SECTION 2.** Section 31-7-13, Mississippi Code of 1972, is  
52 amended as follows:

53 31-7-13. All agencies and governing authorities shall  
54 purchase their commodities and printing; contract for garbage  
55 collection or disposal; contract for solid waste collection or  
56 disposal; contract for sewage collection or disposal; contract for  
57 public construction; and contract for rentals as herein provided.

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

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

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

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

67 **not over \$75,000.00.** Purchases which involve an expenditure of  
68 more than Five Thousand Dollars (\$5,000.00) but not more than  
69 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
70 and shipping charges, may be made from the lowest and best bidder



71 without publishing or posting advertisement for bids, provided at  
72 least two (2) competitive written bids have been obtained. Any  
73 state agency or community or junior college purchasing commodities  
74 or procuring construction pursuant to this paragraph (b) may  
75 authorize its purchasing agent, or his designee, to accept the  
76 lowest competitive written bid under Seventy-five Thousand Dollars  
77 (\$75,000.00). Any governing authority purchasing commodities  
78 pursuant to this paragraph (b) may authorize its purchasing agent,  
79 or his designee, with regard to governing authorities other than  
80 counties, or its purchase clerk, or his designee, with regard to  
81 counties, to accept the lowest and best competitive written bid.  
82 Such authorization shall be made in writing by the governing  
83 authority and shall be maintained on file in the primary office of  
84 the agency and recorded in the official minutes of the governing  
85 authority, as appropriate. The purchasing agent or the purchase  
86 clerk, or his designee, as the case may be, and not the governing  
87 authority, shall be liable for any penalties and/or damages as may  
88 be imposed by law for any act or omission of the purchasing agent  
89 or purchase clerk, or his designee, constituting a violation of  
90 law in accepting any bid without approval by the governing  
91 authority. The term "competitive written bid" shall mean a bid  
92 submitted on a bid form furnished by the buying agency or  
93 governing authority and signed by authorized personnel  
94 representing the vendor, or a bid submitted on a vendor's  
95 letterhead or identifiable bid form and signed by authorized



96 personnel representing the vendor. "Competitive" shall mean that  
97 the bids are developed based upon comparable identification of the  
98 needs and are developed independently and without knowledge of  
99 other bids or prospective bids. Any bid item for construction in  
100 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
101 by components to provide detail of component description and  
102 pricing. These details shall be submitted with the written bids  
103 and become part of the bid evaluation criteria. Bids may be  
104 submitted by facsimile, electronic mail or other generally  
105 accepted method of information distribution. Bids submitted by  
106 electronic transmission shall not require the signature of the  
107 vendor's representative unless required by agencies or governing  
108 authorities.

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

110 (i) **Publication requirement.**

111 1. Purchases which involve an expenditure of  
112 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
113 freight and shipping charges, may be made from the lowest and best  
114 bidder after advertising for competitive bids once each week for  
115 two (2) consecutive weeks in a regular newspaper published in the  
116 county or municipality in which such agency or governing authority  
117 is located. However, all American Recovery and Reinvestment Act  
118 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
119 shall be bid. All references to American Recovery and  
120 Reinvestment Act projects in this section shall not apply to



121 programs identified in Division B of the American Recovery and  
122 Reinvestment Act.

123                   2. Reverse auctions shall be the primary  
124 method for receiving bids during the bidding process. If a  
125 purchasing entity determines that a reverse auction is not in the  
126 best interest of the state, then that determination must be  
127 approved by the Public Procurement Review Board. The purchasing  
128 entity shall submit a detailed explanation of why a reverse  
129 auction would not be in the best interest of the state and present  
130 an alternative process to be approved by the Public Procurement  
131 Review Board. If the Public Procurement Review Board authorizes  
132 the purchasing entity to solicit bids with a method other than  
133 reverse auction, then the purchasing entity may designate the  
134 other methods by which the bids will be received, including, but  
135 not limited to, bids sealed in an envelope, bids received  
136 electronically in a secure system, or bids received by any other  
137 method that promotes open competition and has been approved by the  
138 Office of Purchasing and Travel. However, reverse auction shall  
139 not be used for any public contract for design, construction,  
140 improvement, repair or remodeling of any public facilities,  
141 including the purchase of materials, supplies, equipment or goods  
142 for same and including buildings, roads and bridges. The Public  
143 Procurement Review Board must approve any contract entered into by  
144 alternative process. The provisions of this item 2 shall not  
145 apply to the individual state institutions of higher learning.



146 The provisions of this item 2 requiring reverse auction as the  
147 primary method of receiving bids shall not apply to term contract  
148 purchases as provided in paragraph (n) of this section; however, a  
149 purchasing entity may, in its discretion, utilize reverse auction  
150 for such purchases. The provisions of this item 2 shall not apply  
151 to individual public schools, including public charter schools and  
152 public school districts, only when purchasing copyrighted  
153 educational supplemental materials and software as a service  
154 product. For such purchases, a local school board may authorize a  
155 purchasing entity in its jurisdiction to use a Request for  
156 Qualifications which promotes open competition and meets the  
157 requirements of the Office of Purchasing and Travel.

158                   3. The date as published for the bid opening  
159 shall not be less than seven (7) working days after the last  
160 published notice; however, if the purchase involves a construction  
161 project in which the estimated cost is in excess of Seventy-five  
162 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
163 less than fifteen (15) working days after the last notice is  
164 published and the notice for the purchase of such construction  
165 shall be published once each week for two (2) consecutive weeks.  
166 However, all American Recovery and Reinvestment Act projects in  
167 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
168 For any projects in excess of Twenty-five Thousand Dollars  
169 (\$25,000.00) under the American Recovery and Reinvestment Act,  
170 publication shall be made one (1) time and the bid opening for



171 construction projects shall not be less than ten (10) working days  
172 after the date of the published notice. The notice of intention  
173 to let contracts or purchase equipment shall state the time and  
174 place at which bids shall be received, list the contracts to be  
175 made or types of equipment or supplies to be purchased, and, if  
176 all plans and/or specifications are not published, refer to the  
177 plans and/or specifications on file. If there is no newspaper  
178 published in the county or municipality, then such notice shall be  
179 given by posting same at the courthouse, or for municipalities at  
180 the city hall, and at two (2) other public places in the county or  
181 municipality, and also by publication once each week for two (2)  
182 consecutive weeks in some newspaper having a general circulation  
183 in the county or municipality in the above-provided manner. On  
184 the same date that the notice is submitted to the newspaper for  
185 publication, the agency or governing authority involved shall mail  
186 written notice to, or provide electronic notification to the main  
187 office of the Mississippi Procurement Technical Assistance Program  
188 under the Mississippi Development Authority that contains the same  
189 information as that in the published notice. Submissions received  
190 by the Mississippi Procurement Technical Assistance Program for  
191 projects funded by the American Recovery and Reinvestment Act  
192 shall be displayed on a separate and unique Internet web page  
193 accessible to the public and maintained by the Mississippi  
194 Development Authority for the Mississippi Procurement Technical  
195 Assistance Program. Those American Recovery and Reinvestment Act





196 related submissions shall be publicly posted within twenty-four  
197 (24) hours of receipt by the Mississippi Development Authority and  
198 the bid opening shall not occur until the submission has been  
199 posted for ten (10) consecutive days. The Department of Finance  
200 and Administration shall maintain information regarding contracts  
201 and other expenditures from the American Recovery and Reinvestment  
202 Act, on a unique Internet web page accessible to the public. The  
203 Department of Finance and Administration shall promulgate rules  
204 regarding format, content and deadlines, unless otherwise  
205 specified by law, of the posting of award notices, contract  
206 execution and subsequent amendments, links to the contract  
207 documents, expenditures against the awarded contracts and general  
208 expenditures of funds from the American Recovery and Reinvestment  
209 Act. Within one (1) working day of the contract award, the agency  
210 or governing authority shall post to the designated web page  
211 maintained by the Department of Finance and Administration, notice  
212 of the award, including the award recipient, the contract amount,  
213 and a brief summary of the contract in accordance with rules  
214 promulgated by the department. Within one (1) working day of the  
215 contract execution, the agency or governing authority shall post  
216 to the designated web page maintained by the Department of Finance  
217 and Administration a summary of the executed contract and make a  
218 copy of the appropriately redacted contract documents available  
219 for linking to the designated web page in accordance with the  
220 rules promulgated by the department. The information provided by



221 the agency or governing authority shall be posted to the web page  
222 for the duration of the American Recovery and Reinvestment Act  
223 funding or until the project is completed, whichever is longer.

224 (ii) **Bidding process amendment procedure.** If all  
225 plans and/or specifications are published in the notification,  
226 then the plans and/or specifications may not be amended. If all  
227 plans and/or specifications are not published in the notification,  
228 then amendments to the plans/specifications, bid opening date, bid  
229 opening time and place may be made, provided that the agency or  
230 governing authority maintains a list of all prospective bidders  
231 who are known to have received a copy of the bid documents and all  
232 such prospective bidders are sent copies of all amendments. This  
233 notification of amendments may be made via mail, facsimile,  
234 electronic mail or other generally accepted method of information  
235 distribution. No addendum to bid specifications may be issued  
236 within two (2) working days of the time established for the  
237 receipt of bids unless such addendum also amends the bid opening  
238 to a date not less than five (5) working days after the date of  
239 the addendum.

240 (iii) **Filing requirement.** In all cases involving  
241 governing authorities, before the notice shall be published or  
242 posted, the plans or specifications for the construction or  
243 equipment being sought shall be filed with the clerk of the board  
244 of the governing authority. In addition to these requirements, a  
245 bid file shall be established which shall indicate those vendors



246 to whom such solicitations and specifications were issued, and  
247 such file shall also contain such information as is pertinent to  
248 the bid.

249 (iv) **Specification restrictions.**

250 1. Specifications pertinent to such bidding  
251 shall be written so as not to exclude comparable equipment of  
252 domestic manufacture. However, if valid justification is  
253 presented, the Department of Finance and Administration or the  
254 board of a governing authority may approve a request for specific  
255 equipment necessary to perform a specific job. Further, such  
256 justification, when placed on the minutes of the board of a  
257 governing authority, may serve as authority for that governing  
258 authority to write specifications to require a specific item of  
259 equipment needed to perform a specific job. In addition to these  
260 requirements, from and after July 1, 1990, vendors of relocatable  
261 classrooms and the specifications for the purchase of such  
262 relocatable classrooms published by local school boards shall meet  
263 all pertinent regulations of the State Board of Education,  
264 including prior approval of such bid by the State Department of  
265 Education.

266 2. Specifications for construction projects  
267 may include an allowance for commodities, equipment, furniture,  
268 construction materials or systems in which prospective bidders are  
269 instructed to include in their bids specified amounts for such  
270 items so long as the allowance items are acquired by the vendor in



271 a commercially reasonable manner and approved by the  
272 agency/governing authority. Such acquisitions shall not be made  
273 to circumvent the public purchasing laws.

274 (v) **Electronic bids.** Agencies and governing  
275 authorities shall provide a secure electronic interactive system  
276 for the submittal of bids requiring competitive bidding that shall  
277 be an additional bidding option for those bidders who choose to  
278 submit their bids electronically. The Department of Finance and  
279 Administration shall provide, by regulation, the standards that  
280 agencies must follow when receiving electronic bids. Agencies and  
281 governing authorities shall make the appropriate provisions  
282 necessary to accept electronic bids from those bidders who choose  
283 to submit their bids electronically for all purchases requiring  
284 competitive bidding under this section. Any special condition or  
285 requirement for the electronic bid submission shall be specified  
286 in the advertisement for bids required by this section. Agencies  
287 or governing authorities that are currently without available high  
288 speed Internet access shall be exempt from the requirement of this  
289 subparagraph (v) until such time that high speed Internet access  
290 becomes available. Any county having a population of less than  
291 twenty thousand (20,000) shall be exempt from the provisions of  
292 this subparagraph (v). Any municipality having a population of  
293 less than ten thousand (10,000) shall be exempt from the  
294 provisions of this subparagraph (v). The provisions of this  
295 subparagraph (v) shall not require any bidder to submit bids



296 electronically. When construction bids are submitted  
297 electronically, the requirement for including a certificate of  
298 responsibility, or a statement that the bid enclosed does not  
299 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
300 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
301 deemed in compliance with by including same as an attachment with  
302 the electronic bid submittal.

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

304 (i) **Decision procedure.** Purchases may be made  
305 from the lowest and best bidder. In determining the lowest and  
306 best bid, freight and shipping charges shall be included.  
307 Life-cycle costing, total cost bids, warranties, guaranteed  
308 buy-back provisions and other relevant provisions may be included  
309 in the best bid calculation. All best bid procedures for state  
310 agencies must be in compliance with regulations established by the  
311 Department of Finance and Administration. If any governing  
312 authority accepts a bid other than the lowest bid actually  
313 submitted, it shall place on its minutes detailed calculations and  
314 narrative summary showing that the accepted bid was determined to  
315 be the lowest and best bid, including the dollar amount of the  
316 accepted bid and the dollar amount of the lowest bid. No agency  
317 or governing authority shall accept a bid based on items not  
318 included in the specifications.

319 (ii) **Decision procedure for Certified Purchasing**  
320 **Offices.** In addition to the decision procedure set forth in



321 subparagraph (i) of this paragraph (d), Certified Purchasing  
322 Offices may also use the following procedure: Purchases may be  
323 made from the bidder offering the best value. In determining the  
324 best value bid, freight and shipping charges shall be included.  
325 Life-cycle costing, total cost bids, warranties, guaranteed  
326 buy-back provisions, documented previous experience, training  
327 costs and other relevant provisions, including, but not limited  
328 to, a bidder having a local office and inventory located within  
329 the jurisdiction of the governing authority, may be included in  
330 the best value calculation. This provision shall authorize  
331 Certified Purchasing Offices to utilize a Request For Proposals  
332 (RFP) process when purchasing commodities. All best value  
333 procedures for state agencies must be in compliance with  
334 regulations established by the Department of Finance and  
335 Administration. No agency or governing authority shall accept a  
336 bid based on items or criteria not included in the specifications.

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

338 **Landmarks.** In addition to the decision procedure set forth in  
339 subparagraph (i) of this paragraph (d), where purchase involves  
340 renovation, restoration, or both, of the State Capitol Building or  
341 any other historical building designated for at least five (5)  
342 years as a Mississippi Landmark by the Board of Trustees of the  
343 Department of Archives and History under the authority of Sections  
344 39-7-7 and 39-7-11, the agency or governing authority may use the  
345 following procedure: Purchases may be made from the lowest and



346 best prequalified bidder. Prequalification of bidders shall be  
347 determined not less than fifteen (15) working days before the  
348 first published notice of bid opening. Prequalification criteria  
349 shall be limited to bidder's knowledge and experience in  
350 historical restoration, preservation and renovation. In  
351 determining the lowest and best bid, freight and shipping charges  
352 shall be included. Life-cycle costing, total cost bids,  
353 warranties, guaranteed buy-back provisions and other relevant  
354 provisions may be included in the best bid calculation. All best  
355 bid and prequalification procedures for state agencies must be in  
356 compliance with regulations established by the Department of  
357 Finance and Administration. If any governing authority accepts a  
358 bid other than the lowest bid actually submitted, it shall place  
359 on its minutes detailed calculations and narrative summary showing  
360 that the accepted bid was determined to be the lowest and best  
361 bid, including the dollar amount of the accepted bid and the  
362 dollar amount of the lowest bid. No agency or governing authority  
363 shall accept a bid based on items not included in the  
364 specifications.

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

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



371 (e) **Lease-purchase authorization.** For the purposes of  
372 this section, the term "equipment" shall mean equipment, furniture  
373 and, if applicable, associated software and other applicable  
374 direct costs associated with the acquisition. Any lease-purchase  
375 of equipment which an agency is not required to lease-purchase  
376 under the master lease-purchase program pursuant to Section  
377 31-7-10 and any lease-purchase of equipment which a governing  
378 authority elects to lease-purchase may be acquired by a  
379 lease-purchase agreement under this paragraph (e). Lease-purchase  
380 financing may also be obtained from the vendor or from a  
381 third-party source after having solicited and obtained at least  
382 two (2) written competitive bids, as defined in paragraph (b) of  
383 this section, for such financing without advertising for such  
384 bids. Solicitation for the bids for financing may occur before or  
385 after acceptance of bids for the purchase of such equipment or,  
386 where no such bids for purchase are required, at any time before  
387 the purchase thereof. No such lease-purchase agreement shall be  
388 for an annual rate of interest which is greater than the overall  
389 maximum interest rate to maturity on general obligation  
390 indebtedness permitted under Section 75-17-101, and the term of  
391 such lease-purchase agreement shall not exceed the useful life of  
392 equipment covered thereby as determined according to the upper  
393 limit of the asset depreciation range (ADR) guidelines for the  
394 Class Life Asset Depreciation Range System established by the  
395 Internal Revenue Service pursuant to the United States Internal





396 Revenue Code and regulations thereunder as in effect on December  
397 31, 1980, or comparable depreciation guidelines with respect to  
398 any equipment not covered by ADR guidelines. Any lease-purchase  
399 agreement entered into pursuant to this paragraph (e) may contain  
400 any of the terms and conditions which a master lease-purchase  
401 agreement may contain under the provisions of Section 31-7-10(5),  
402 and shall contain an annual allocation dependency clause  
403 substantially similar to that set forth in Section 31-7-10(8).  
404 Each agency or governing authority entering into a lease-purchase  
405 transaction pursuant to this paragraph (e) shall maintain with  
406 respect to each such lease-purchase transaction the same  
407 information as required to be maintained by the Department of  
408 Finance and Administration pursuant to Section 31-7-10(13).  
409 However, nothing contained in this section shall be construed to  
410 permit agencies to acquire items of equipment with a total  
411 acquisition cost in the aggregate of less than Ten Thousand  
412 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
413 equipment, and the purchase thereof by any lessor, acquired by  
414 lease-purchase under this paragraph and all lease-purchase  
415 payments with respect thereto shall be exempt from all Mississippi  
416 sales, use and ad valorem taxes. Interest paid on any  
417 lease-purchase agreement under this section shall be exempt from  
418 State of Mississippi income taxation.

419 (f) **Alternate bid authorization.** When necessary to  
420 ensure ready availability of commodities for public works and the



421 timely completion of public projects, no more than two (2)  
422 alternate bids may be accepted by a governing authority for  
423 commodities. No purchases may be made through use of such  
424 alternate bids procedure unless the lowest and best bidder cannot  
425 deliver the commodities contained in his bid. In that event,  
426 purchases of such commodities may be made from one (1) of the  
427 bidders whose bid was accepted as an alternate.

428           (g) **Construction contract change authorization.** In the  
429 event a determination is made by an agency or governing authority  
430 after a construction contract is let that changes or modifications  
431 to the original contract are necessary or would better serve the  
432 purpose of the agency or the governing authority, such agency or  
433 governing authority may, in its discretion, order such changes  
434 pertaining to the construction that are necessary under the  
435 circumstances without the necessity of further public bids;  
436 provided that such change shall be made in a commercially  
437 reasonable manner and shall not be made to circumvent the public  
438 purchasing statutes. In addition to any other authorized person,  
439 the architect or engineer hired by an agency or governing  
440 authority with respect to any public construction contract shall  
441 have the authority, when granted by an agency or governing  
442 authority, to authorize changes or modifications to the original  
443 contract without the necessity of prior approval of the agency or  
444 governing authority when any such change or modification is less  
445 than one percent (1%) of the total contract amount. The agency or



446 governing authority may limit the number, manner or frequency of  
447 such emergency changes or modifications.

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

465           (i) **Road construction petroleum products price**  
466 **adjustment clause authorization.** Any agency or governing  
467 authority authorized to enter into contracts for the construction,  
468 maintenance, surfacing or repair of highways, roads or streets,  
469 may include in its bid proposal and contract documents a price  
470 adjustment clause with relation to the cost to the contractor,



471 including taxes, based upon an industry-wide cost index, of  
472 petroleum products including asphalt used in the performance or  
473 execution of the contract or in the production or manufacture of  
474 materials for use in such performance. Such industry-wide index  
475 shall be established and published monthly by the Mississippi  
476 Department of Transportation with a copy thereof to be mailed,  
477 upon request, to the clerks of the governing authority of each  
478 municipality and the clerks of each board of supervisors  
479 throughout the state. The price adjustment clause shall be based  
480 on the cost of such petroleum products only and shall not include  
481 any additional profit or overhead as part of the adjustment. The  
482 bid proposals or document contract shall contain the basis and  
483 methods of adjusting unit prices for the change in the cost of  
484 such petroleum products.

485           (j) **State agency emergency purchase procedure.** If the  
486 governing board or the executive head, or his designees, of any  
487 agency of the state shall determine that an emergency exists in  
488 regard to the purchase of any commodities or repair contracts, so  
489 that the delay incident to giving opportunity for competitive  
490 bidding would be detrimental to the interests of the state, then  
491 the head of such agency, or his designees, shall file with the  
492 Department of Finance and Administration (i) a statement  
493 explaining the conditions and circumstances of the emergency,  
494 which shall include a detailed description of the events leading  
495 up to the situation and the negative impact to the entity if the



496 purchase is made following the statutory requirements set forth in  
497 paragraph (a), (b) or (c) of this section, and (ii) a certified  
498 copy of the appropriate minutes of the board of such agency  
499 requesting the emergency purchase, if applicable. Upon receipt of  
500 the statement and applicable board certification, the State Fiscal  
501 Officer, or his designees, may, in writing, authorize the purchase  
502 or repair without having to comply with competitive bidding  
503 requirements.

504         If the governing board or the executive head, or his  
505 designees, of any agency determines that an emergency exists in  
506 regard to the purchase of any commodities or repair contracts, so  
507 that the delay incident to giving opportunity for competitive  
508 bidding would threaten the health or safety of any person, or the  
509 preservation or protection of property, then the provisions in  
510 this section for competitive bidding shall not apply, and any  
511 officer or agent of the agency having general or specific  
512 authority for making the purchase or repair contract shall approve  
513 the bill presented for payment, and he shall certify in writing  
514 from whom the purchase was made, or with whom the repair contract  
515 was made.

516         Total purchases made under this paragraph (j) shall only be  
517 for the purpose of meeting needs created by the emergency  
518 situation. Following the emergency purchase, documentation of the  
519 purchase, including a description of the commodity purchased, the  
520 purchase price thereof and the nature of the emergency shall be



521 filed with the Department of Finance and Administration. Any  
522 contract awarded pursuant to this paragraph (j) shall not exceed a  
523 term of one (1) year.

524 Purchases under the grant program established under Section  
525 37-68-7 in response to COVID-19 and the directive that school  
526 districts create a distance learning plan and fulfill technology  
527 needs expeditiously shall be deemed an emergency purchase for  
528 purposes of this paragraph (j).

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

530 If the governing authority, or the governing authority acting  
531 through its designee, shall determine that an emergency exists in  
532 regard to the purchase of any commodities or repair contracts, so  
533 that the delay incident to giving opportunity for competitive  
534 bidding would be detrimental to the interest of the governing  
535 authority, then the provisions herein for competitive bidding  
536 shall not apply and any officer or agent of such governing  
537 authority having general or special authority therefor in making  
538 such purchase or repair shall approve the bill presented therefor,  
539 and he shall certify in writing thereon from whom such purchase  
540 was made, or with whom such a repair contract was made. At the  
541 board meeting next following the emergency purchase or repair  
542 contract, documentation of the purchase or repair contract,  
543 including a description of the commodity purchased, the price  
544 thereof and the nature of the emergency shall be presented to the  
545 board and shall be placed on the minutes of the board of such



546 governing authority. Purchases under the grant program  
547 established under Section 37-68-7 in response to COVID-19 and the  
548 directive that school districts create a distance learning plan  
549 and fulfill technology needs expeditiously shall be deemed an  
550 emergency purchase for purposes of this paragraph (k).

551 (1) **Hospital purchase, lease-purchase and lease**  
552 **authorization.**

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

558 (ii) In addition to the authority granted in  
559 subparagraph (i) of this paragraph (1), the commissioners or board  
560 of trustees is authorized to enter into contracts for the lease of  
561 equipment or services, or both, which it considers necessary for  
562 the proper care of patients if, in its opinion, it is not  
563 financially feasible to purchase the necessary equipment or  
564 services. Any such contract for the lease of equipment or  
565 services executed by the commissioners or board shall not exceed a  
566 maximum of five (5) years' duration and shall include a  
567 cancellation clause based on unavailability of funds. If such  
568 cancellation clause is exercised, there shall be no further  
569 liability on the part of the lessee. Any such contract for the  
570 lease of equipment or services executed on behalf of the



571 commissioners or board that complies with the provisions of this  
572 subparagraph (ii) shall be excepted from the bid requirements set  
573 forth in this section.

574 (m) **Exceptions from bidding requirements.** Excepted  
575 from bid requirements are:

576 (i) **Purchasing agreements approved by department.**

577 Purchasing agreements, contracts and maximum price regulations  
578 executed or approved by the Department of Finance and  
579 Administration.

580 (ii) **Outside equipment repairs.** Repairs to  
581 equipment, when such repairs are made by repair facilities in the  
582 private sector; however, engines, transmissions, rear axles and/or  
583 other such components shall not be included in this exemption when  
584 replaced as a complete unit instead of being repaired and the need  
585 for such total component replacement is known before disassembly  
586 of the component; however, invoices identifying the equipment,  
587 specific repairs made, parts identified by number and name,  
588 supplies used in such repairs, and the number of hours of labor  
589 and costs therefor shall be required for the payment for such  
590 repairs.

591 (iii) **In-house equipment repairs.** Purchases of  
592 parts for repairs to equipment, when such repairs are made by  
593 personnel of the agency or governing authority; however, entire  
594 assemblies, such as engines or transmissions, shall not be





595 included in this exemption when the entire assembly is being  
596 replaced instead of being repaired.

597                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
598 of gravel or fill dirt which are to be removed and transported by  
599 the purchaser.

600                   (v) **Governmental equipment auctions.** Motor  
601 vehicles or other equipment purchased from a federal agency or  
602 authority, another governing authority or state agency of the  
603 State of Mississippi, or any governing authority or state agency  
604 of another state at a public auction held for the purpose of  
605 disposing of such vehicles or other equipment. Any purchase by a  
606 governing authority under the exemption authorized by this  
607 subparagraph (v) shall require advance authorization spread upon  
608 the minutes of the governing authority to include the listing of  
609 the item or items authorized to be purchased and the maximum bid  
610 authorized to be paid for each item or items.

611                   (vi) **Intergovernmental sales and transfers.**  
612 Purchases, sales, transfers or trades by governing authorities or  
613 state agencies when such purchases, sales, transfers or trades are  
614 made by a private treaty agreement or through means of  
615 negotiation, from any federal agency or authority, another  
616 governing authority or state agency of the State of Mississippi,  
617 or any state agency or governing authority of another state.  
618 Nothing in this section shall permit such purchases through public  
619 auction except as provided for in subparagraph (v) of this



620 paragraph (m). It is the intent of this section to allow  
621 governmental entities to dispose of and/or purchase commodities  
622 from other governmental entities at a price that is agreed to by  
623 both parties. This shall allow for purchases and/or sales at  
624 prices which may be determined to be below the market value if the  
625 selling entity determines that the sale at below market value is  
626 in the best interest of the taxpayers of the state. Governing  
627 authorities shall place the terms of the agreement and any  
628 justification on the minutes, and state agencies shall obtain  
629 approval from the Department of Finance and Administration, prior  
630 to releasing or taking possession of the commodities.

631 (vii) **Perishable supplies or food.** Perishable  
632 supplies or food purchased for use in connection with hospitals,  
633 the school lunch programs, homemaking programs and for the feeding  
634 of county or municipal prisoners.

635 (viii) **Single-source items.** Noncompetitive items  
636 available from one (1) source only. In connection with the  
637 purchase of noncompetitive items only available from one (1)  
638 source, a certification of the conditions and circumstances  
639 requiring the purchase shall be filed by the agency with the  
640 Department of Finance and Administration and by the governing  
641 authority with the board of the governing authority. Upon receipt  
642 of that certification the Department of Finance and Administration  
643 or the board of the governing authority, as the case may be, may,  
644 in writing, authorize the purchase, which authority shall be noted



645 on the minutes of the body at the next regular meeting thereafter.  
646 In those situations, a governing authority is not required to  
647 obtain the approval of the Department of Finance and  
648 Administration. Following the purchase, the executive head of the  
649 state agency, or his designees, shall file with the Department of  
650 Finance and Administration, documentation of the purchase,  
651 including a description of the commodity purchased, the purchase  
652 price thereof and the source from whom it was purchased.

653 (ix) **Waste disposal facility construction**

654 **contracts.** Construction of incinerators and other facilities for  
655 disposal of solid wastes in which products either generated  
656 therein, such as steam, or recovered therefrom, such as materials  
657 for recycling, are to be sold or otherwise disposed of; however,  
658 in constructing such facilities, a governing authority or agency  
659 shall publicly issue requests for proposals, advertised for in the  
660 same manner as provided herein for seeking bids for public  
661 construction projects, concerning the design, construction,  
662 ownership, operation and/or maintenance of such facilities,  
663 wherein such requests for proposals when issued shall contain  
664 terms and conditions relating to price, financial responsibility,  
665 technology, environmental compatibility, legal responsibilities  
666 and such other matters as are determined by the governing  
667 authority or agency to be appropriate for inclusion; and after  
668 responses to the request for proposals have been duly received,  
669 the governing authority or agency may select the most qualified



670 proposal or proposals on the basis of price, technology and other  
671 relevant factors and from such proposals, but not limited to the  
672 terms thereof, negotiate and enter contracts with one or more of  
673 the persons or firms submitting proposals.

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

677 (xi) **Information technology products.** Purchases  
678 of information technology products made by governing authorities  
679 under the provisions of purchase schedules, or contracts executed  
680 or approved by the Mississippi Department of Information  
681 Technology Services and designated for use by governing  
682 authorities. However, the purchase of a web-based application  
683 for Mississippi Youth Court Information Delivery System (MYCIDS)  
684 for a multiyear contract or service agreement that is made by a  
685 court or county board of supervisors shall be governed by Section  
686 1 of this act and shall not be exempt from competitive bidding.

687 (xii) **Energy efficiency services and equipment.**  
688 Energy efficiency services and equipment acquired by school  
689 districts, community and junior colleges, institutions of higher  
690 learning and state agencies or other applicable governmental  
691 entities on a shared-savings, lease or lease-purchase basis  
692 pursuant to Section 31-7-14.

693 (xiii) **Municipal electrical utility system fuel.**  
694 Purchases of coal and/or natural gas by municipally owned electric



695 power generating systems that have the capacity to use both coal  
696 and natural gas for the generation of electric power.

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

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

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

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

711 (xvii) **Multichannel interactive video systems.**  
712 From and after July 1, 1990, contracts by Mississippi Authority  
713 for Educational Television with any private educational  
714 institution or private nonprofit organization whose purposes are  
715 educational in regard to the construction, purchase, lease or  
716 lease-purchase of facilities and equipment and the employment of  
717 personnel for providing multichannel interactive video systems  
718 (ITSF) in the school districts of this state.



719                   (xviii) **Purchases of prison industry products by**  
720 **the Department of Corrections, regional correctional facilities or**  
721 **privately owned prisons.** Purchases made by the Mississippi  
722 Department of Corrections, regional correctional facilities or  
723 privately owned prisons involving any item that is manufactured,  
724 processed, grown or produced from the state's prison industries.

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

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

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

739                   (xxii) **Garbage, solid waste and sewage contracts.**  
740 Contracts for garbage collection or disposal, contracts for solid  
741 waste collection or disposal and contracts for sewage collection  
742 or disposal.



743                   (xxiii)   **Municipal water tank maintenance**  
744 **contracts.** Professional maintenance program contracts for the  
745 repair or maintenance of municipal water tanks, which provide  
746 professional services needed to maintain municipal water storage  
747 tanks for a fixed annual fee for a duration of two (2) or more  
748 years.

749                   (xxiv)   **Purchases of Mississippi Industries for the**  
750 **Blind products or services.** Purchases made by state agencies or  
751 governing authorities involving any item that is manufactured,  
752 processed or produced by, or any services provided by, the  
753 Mississippi Industries for the Blind.

754                   (xxv)   **Purchases of state-adopted textbooks.**  
755 Purchases of state-adopted textbooks by public school districts.

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

759                   (xxvii)   **Used heavy or specialized machinery or**  
760 **equipment for installation of soil and water conservation**  
761 **practices purchased at auction.** Used heavy or specialized  
762 machinery or equipment used for the installation and  
763 implementation of soil and water conservation practices or  
764 measures purchased subject to the restrictions provided in  
765 Sections 69-27-331 through 69-27-341. Any purchase by the State  
766 Soil and Water Conservation Commission under the exemption  
767 authorized by this subparagraph shall require advance



768 authorization spread upon the minutes of the commission to include  
769 the listing of the item or items authorized to be purchased and  
770 the maximum bid authorized to be paid for each item or items.

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

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

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

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

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

787 yearbooks by state agencies or governing authorities; however,  
788 state agencies and governing authorities shall use for these  
789 purchases the RFP process as set forth in the Mississippi  
790 Procurement Manual adopted by the Office of Purchasing and Travel.





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

794 (xxxiii) **Toll roads and bridge construction**  
795 **projects.** Contracts entered into under the provisions of Section  
796 65-43-1 or 65-43-3.

797 (xxxiiii) **Certain purchases under Section 57-1-221.**  
798 Contracts entered into pursuant to the provisions of Section  
799 57-1-221.

800 (xxxv) **Certain transfers made pursuant to the**  
801 **provisions of Section 57-105-1(7).** Transfers of public property  
802 or facilities under Section 57-105-1(7) and construction related  
803 to such public property or facilities.

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

807 (xxxvii) **Certain purchases by an academic medical**  
808 **center or health sciences school.** Purchases by an academic  
809 medical center or health sciences school, as defined in Section  
810 37-115-50, of commodities that are used for clinical purposes and  
811 1. intended for use in the diagnosis of disease or other  
812 conditions or in the cure, mitigation, treatment or prevention of  
813 disease, and 2. medical devices, biological, drugs and  
814 radiation-emitting devices as defined by the United States Food  
815 and Drug Administration.



816 (xxxvii) **Certain purchases made under the Alyce G.**  
817 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
818 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
819 Lottery Law.

820 (xxxviii) **Certain purchases made by the Department**  
821 **of Health and the Department of Revenue.** Purchases made by the  
822 Department of Health and the Department of Revenue solely for the  
823 purpose of fulfilling their respective responsibilities under the  
824 Mississippi Medical Cannabis Act. This subparagraph shall stand  
825 repealed on June 30, 2026.

826 (n) **Term contract authorization.** All contracts for the  
827 purchase of:

828 (i) All contracts for the purchase of commodities,  
829 equipment and public construction (including, but not limited to,  
830 repair and maintenance), may be let for periods of not more than  
831 sixty (60) months in advance, subject to applicable statutory  
832 provisions prohibiting the letting of contracts during specified  
833 periods near the end of terms of office. Term contracts for a  
834 period exceeding twenty-four (24) months shall also be subject to  
835 ratification or cancellation by governing authority boards taking  
836 office subsequent to the governing authority board entering the  
837 contract.

838 (ii) Bid proposals and contracts may include price  
839 adjustment clauses with relation to the cost to the contractor  
840 based upon a nationally published industry-wide or nationally



841 published and recognized cost index. The cost index used in a  
842 price adjustment clause shall be determined by the Department of  
843 Finance and Administration for the state agencies and by the  
844 governing board for governing authorities. The bid proposal and  
845 contract documents utilizing a price adjustment clause shall  
846 contain the basis and method of adjusting unit prices for the  
847 change in the cost of such commodities, equipment and public  
848 construction.

849           (o) **Purchase law violation prohibition and vendor**  
850 **penalty.** No contract or purchase as herein authorized shall be  
851 made for the purpose of circumventing the provisions of this  
852 section requiring competitive bids, nor shall it be lawful for any  
853 person or concern to submit individual invoices for amounts within  
854 those authorized for a contract or purchase where the actual value  
855 of the contract or commodity purchased exceeds the authorized  
856 amount and the invoices therefor are split so as to appear to be  
857 authorized as purchases for which competitive bids are not  
858 required. Submission of such invoices shall constitute a  
859 misdemeanor punishable by a fine of not less than Five Hundred  
860 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
861 or by imprisonment for thirty (30) days in the county jail, or  
862 both such fine and imprisonment. In addition, the claim or claims  
863 submitted shall be forfeited.

864           (p) **Electrical utility petroleum-based equipment**  
865 **purchase procedure.** When in response to a proper advertisement



866 therefor, no bid firm as to price is submitted to an electric  
867 utility for power transformers, distribution transformers, power  
868 breakers, reclosers or other articles containing a petroleum  
869 product, the electric utility may accept the lowest and best bid  
870 therefor although the price is not firm.

871 (q) **Fuel management system bidding procedure.** Any  
872 governing authority or agency of the state shall, before  
873 contracting for the services and products of a fuel management or  
874 fuel access system, enter into negotiations with not fewer than  
875 two (2) sellers of fuel management or fuel access systems for  
876 competitive written bids to provide the services and products for  
877 the systems. In the event that the governing authority or agency  
878 cannot locate two (2) sellers of such systems or cannot obtain  
879 bids from two (2) sellers of such systems, it shall show proof  
880 that it made a diligent, good-faith effort to locate and negotiate  
881 with two (2) sellers of such systems. Such proof shall include,  
882 but not be limited to, publications of a request for proposals and  
883 letters soliciting negotiations and bids. For purposes of this  
884 paragraph (q), a fuel management or fuel access system is an  
885 automated system of acquiring fuel for vehicles as well as  
886 management reports detailing fuel use by vehicles and drivers, and  
887 the term "competitive written bid" shall have the meaning as  
888 defined in paragraph (b) of this section. Governing authorities  
889 and agencies shall be exempt from this process when contracting  
890 for the services and products of fuel management or fuel access



891 systems under the terms of a state contract established by the  
892 Office of Purchasing and Travel.

893           (r) **Solid waste contract proposal procedure.** Before  
894 entering into any contract for garbage collection or disposal,  
895 contract for solid waste collection or disposal or contract for  
896 sewage collection or disposal, which involves an expenditure of  
897 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
898 authority or agency shall issue publicly a request for proposals  
899 concerning the specifications for such services which shall be  
900 advertised for in the same manner as provided in this section for  
901 seeking bids for purchases which involve an expenditure of more  
902 than the amount provided in paragraph (c) of this section. Any  
903 request for proposals when issued shall contain terms and  
904 conditions relating to price, financial responsibility,  
905 technology, legal responsibilities and other relevant factors as  
906 are determined by the governing authority or agency to be  
907 appropriate for inclusion; all factors determined relevant by the  
908 governing authority or agency or required by this paragraph (r)  
909 shall be duly included in the advertisement to elicit proposals.  
910 After responses to the request for proposals have been duly  
911 received, the governing authority or agency shall select the most  
912 qualified proposal or proposals on the basis of price, technology  
913 and other relevant factors and from such proposals, but not  
914 limited to the terms thereof, negotiate and enter into contracts  
915 with one or more of the persons or firms submitting proposals. If



916 the governing authority or agency deems none of the proposals to  
917 be qualified or otherwise acceptable, the request for proposals  
918 process may be reinitiated. Notwithstanding any other provisions  
919 of this paragraph, where a county with at least thirty-five  
920 thousand (35,000) nor more than forty thousand (40,000)  
921 population, according to the 1990 federal decennial census, owns  
922 or operates a solid waste landfill, the governing authorities of  
923 any other county or municipality may contract with the governing  
924 authorities of the county owning or operating the landfill,  
925 pursuant to a resolution duly adopted and spread upon the minutes  
926 of each governing authority involved, for garbage or solid waste  
927 collection or disposal services through contract negotiations.

928           (s) **Minority set-aside authorization.** Notwithstanding  
929 any provision of this section to the contrary, any agency or  
930 governing authority, by order placed on its minutes, may, in its  
931 discretion, set aside not more than twenty percent (20%) of its  
932 anticipated annual expenditures for the purchase of commodities  
933 from minority businesses; however, all such set-aside purchases  
934 shall comply with all purchasing regulations promulgated by the  
935 Department of Finance and Administration and shall be subject to  
936 bid requirements under this section. Set-aside purchases for  
937 which competitive bids are required shall be made from the lowest  
938 and best minority business bidder. For the purposes of this  
939 paragraph, the term "minority business" means a business which is  
940 owned by a majority of persons who are United States citizens or



941 permanent resident aliens (as defined by the Immigration and  
942 Naturalization Service) of the United States, and who are Asian,  
943 Black, Hispanic or Native American, according to the following  
944 definitions:

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

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

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

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

956 (t) **Construction punch list restriction.** The  
957 architect, engineer or other representative designated by the  
958 agency or governing authority that is contracting for public  
959 construction or renovation may prepare and submit to the  
960 contractor only one (1) preliminary punch list of items that do  
961 not meet the contract requirements at the time of substantial  
962 completion and one (1) final list immediately before final  
963 completion and final payment.

964 (u) **Procurement of construction services by state**  
965 **institutions of higher learning.** Contracts for privately financed



966 construction of auxiliary facilities on the campus of a state  
967 institution of higher learning may be awarded by the Board of  
968 Trustees of State Institutions of Higher Learning to the lowest  
969 and best bidder, where sealed bids are solicited, or to the  
970 offeror whose proposal is determined to represent the best value  
971 to the citizens of the State of Mississippi, where requests for  
972 proposals are solicited.

973           (v) **Insurability of bidders for public construction or**  
974 **other public contracts.** In any solicitation for bids to perform  
975 public construction or other public contracts to which this  
976 section applies, including, but not limited to, contracts for  
977 repair and maintenance, for which the contract will require  
978 insurance coverage in an amount of not less than One Million  
979 Dollars (\$1,000,000.00), bidders shall be permitted to either  
980 submit proof of current insurance coverage in the specified amount  
981 or demonstrate ability to obtain the required coverage amount of  
982 insurance if the contract is awarded to the bidder. Proof of  
983 insurance coverage shall be submitted within five (5) business  
984 days from bid acceptance.

985           (w) **Purchase authorization clarification.** Nothing in  
986 this section shall be construed as authorizing any purchase not  
987 authorized by law.

988           (x) **Mississippi Regional Pre-Need Disaster Clean Up**  
989 **Act.** (i) The Department of Finance and Administration shall  
990 enter into nine (9) contracts for the pre-need purchase of labor,





991 services, work, materials, equipment, supplies or other personal  
992 property for disaster-related solid waste collection, disposal or  
993 monitoring. One (1) contract shall be entered into for each of  
994 the nine (9) Mississippi Emergency Management Association  
995 districts:

996 1. Coahoma, DeSoto, Grenada, Panola, Quitman,  
997 Tallahatchie, Tate, Tunica and Yalobusha Counties;

998 2. Alcorn, Benton, Itawamba, Lafayette, Lee,  
999 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union  
1000 Counties;

1001 3. Attala, Bolivar, Carroll, Holmes,  
1002 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;

1003 4. Calhoun, Chickasaw, Choctaw, Clay,  
1004 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;

1005 5. Claiborne, Covich, Hinds, Issaquena,  
1006 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;

1007 6. Clarke, Jasper, Kemper, Lauderdale, Leake,  
1008 Neshoba, Newton, Scott, and Smith Counties and the Mississippi  
1009 Band of Choctaw Indians;

1010 7. Adams, Amite, Franklin, Jefferson,  
1011 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;

1012 8. Covington, Forrest, Greene, Jefferson  
1013 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and

1014 9. George, Hancock, Harrison, Jackson, Pearl  
1015 River and Stone Counties.



1016 Any such contract shall set forth the manner of awarding such  
1017 a contract, the method of payment, and any other matter deemed  
1018 necessary to carry out the purposes of the agreement. Such  
1019 contract may be entered into only for a term of one (1) year, with  
1020 an option for an additional one-year extension after the  
1021 conclusion of the first year of the contract, and only after  
1022 having solicited bids or proposals, as appropriate, which shall be  
1023 publicly advertised by posting on a web page maintained by the  
1024 Department of Finance and Administration through submission of  
1025 such advertisement to the Mississippi Procurement Technical  
1026 Assistance Program under the Mississippi Development Authority.  
1027 The bid opening shall not occur until after the submission has  
1028 been posted for at least ten (10) consecutive days. The state's  
1029 share of expenditures for solid waste collection, disposal or  
1030 monitoring under any contract shall be appropriated and paid in  
1031 the manner set forth in the contract and in the same manner as for  
1032 other solid waste collection, disposal, or monitoring expenses of  
1033 the state. Any contract entered into under this paragraph shall  
1034 not be subject to the provisions of Section 17-13-11.

1035 (ii) Any board of supervisors of any county or any  
1036 governing authority of any municipality may opt in to the benefits  
1037 and services provided under the appropriate and relevant contract  
1038 established in subparagraph (i) of this paragraph at the time of a  
1039 disaster event in that county or municipality. At the time of opt  
1040 in, the county or municipality shall assume responsibility for



1041 payment in full to the contractor for the disaster-related solid  
1042 waste collection, disposal or monitoring services provided.  
1043 Nothing in this subparagraph (ii) shall be construed as requiring  
1044 a county or municipality to opt in to any such contract  
1045 established in subparagraph (i) of this paragraph.

1046         **SECTION 3.** This act shall take effect and be in force from  
1047 an after July 1, 2024.

