

By: Representatives Harness, Clark,
Faulkner, Denton, Butler-Washington, Holloway
(76th), Nelson

To: Universities and
Colleges

HOUSE BILL NO. 642

1 AN ACT TO CREATE THE "ALCORN STATE UNIVERSITY PREFABRICATED
2 BUILDING AUTHORIZATION ACT," FOR THE PURPOSE OF AUTHORIZING THE
3 UNIVERSITY TO CONSTRUCT PREFABRICATED BUILDINGS UPON ITS CAMPUS;
4 TO DEFINE TERMS USED IN THE ACT; TO REQUIRE SUCH PREFABRICATED
5 BUILDING CONSTRUCTION TO ADHERE TO BUILDING CODE, AESTHETIC AND
6 SAFETY STANDARDS; TO PROVIDE THAT THE DEPARTMENT OF FINANCE AND
7 ADMINISTRATION SHALL OVERSEE THE PLANNING AND CONSTRUCTION OF
8 PREFABRICATED BUILDINGS ON THE UNIVERSITY'S CAMPUS; TO REQUIRE THE
9 UNIVERSITY TO SUBMIT PROPOSALS FOR EACH PREFABRICATED BUILDING TO
10 THE IHL BOARD AND DFA FOR REVIEW AND APPROVAL; TO PRESCRIBE HOW
11 THE UNIVERSITY MAY FUND THE CONSTRUCTION OF PREFABRICATED
12 BUILDINGS; TO AMEND SECTIONS 37-101-15 AND 31-11-3, MISSISSIPPI
13 CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO BRING
14 FORWARD SECTION 31-7-13, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE
15 OF POSSIBLE AMENDMENTS; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** This act shall be known and may be cited as the
18 "Alcorn State University Prefabricated Building Authorization
19 Act," for the purpose of providing the university with authority
20 to construct prefabricated buildings that meet high aesthetic,
21 safety and functionality standards, which further enable efficient
22 and cost-effective campus development, as approved by the Board of
23 Trustees of State Institutions of Higher Learning.



24 **SECTION 2.** As used in this act, the following terms shall
25 have the meaning ascribed herein, unless context clearly requires
26 otherwise:

27 (a) "Prefabricated building" means a structure or
28 components of a structure that are manufactured or assembled
29 off-site in advance in a factory or controlled environment,
30 usually in standard sections, and then transported to the
31 construction site for installation or assembly on site, and may
32 include:

- 33 (i) Modular units;
- 34 (ii) Preassembled panels; or
- 35 (iii) Complete structures.

36 (b) "University" means Alcorn State University located
37 in Claiborne County, Mississippi.

38 (c) "State building code" means the Mississippi-adopted
39 International Building Code (IBC) and other applicable
40 construction regulations.

41 **SECTION 3.** (1) With the approval of the Board of Trustees
42 of State Institutions of Higher Learning, Alcorn State University
43 is authorized to design, procure and construct prefabricated
44 buildings on its campus, subject to the following conditions:

45 (a) All prefabricated buildings must adhere to the
46 state building code, including the International Building Code
47 (IBC) and local zoning ordinances;



(b) The design of prefabricated buildings must align with the architectural style and aesthetic character of the existing campus structures to maintain visual harmony;

(c) The prefabricated buildings must meet or exceed safety requirements, including, fire safety, wind resistance and structural integrity; and

(d) Are procured in a manner consistent with the regulations promulgated by the Public Procurement Review Board for public purchases under the authority of Section 31-7-13.

(2) Alcorn State University may contract with qualified manufacturers and contractors for the procurement and assembly of prefabricated buildings.

(3) (a) For the purpose of constructing prefabricated buildings on its campus the university may use funds made available for such purpose from the following funding sources:

(i) Any funds appropriated by the Legislature for said purpose;

(ii) Federal grant funds;

(iii) Private donations or endowments; and

(iv) Any other lawful funding sources.

(b) The university is encouraged to pursue cost-saving measures and innovative financing models to minimize the financial burden upon the state.

SECTION 4. (1) The Department of Finance and Administration's Bureau of Buildings, Grounds and Real Property



73 Management shall oversee the planning and construction of
74 prefabricated buildings on the campus of Alcorn State University.

75 (2) The university shall submit a proposal for each
76 prefabricated building to the Board of Trustees of State
77 Institutions of Higher Learning and the Department of Finance and
78 Administration for review and approval, including:

- 79 (a) Building design specifications;
- 80 (b) Proposed site location and environmental impact
81 assessment; and
- 82 (c) Budget and timeline completion.

83 **SECTION 5.** Alcorn State University shall provide an annual
84 report, no later than December 31 of each year, to the Mississippi
85 Legislature detailing:

- 86 (a) The number of prefabricated buildings constructed;
- 87 (b) Total cost incurred; and
- 88 (c) Benefits realized, including cost savings and
89 improved campus facilities.

90 **SECTION 6.** Section 37-101-15, Mississippi Code of 1972, is
91 amended as follows:

92 37-101-15. (a) The Board of Trustees of State Institutions
93 of Higher Learning shall succeed to and continue to exercise
94 control of all records, books, papers, equipment, and supplies,
95 and all lands, buildings, and other real and personal property
96 belonging to or assigned to the use and benefit of the board of
97 trustees formerly supervising and controlling the institutions of



98 higher learning named in Section 37-101-1. The board shall have
99 and exercise control of the use, distribution and disbursement of
100 all funds, appropriations and taxes, now and hereafter in
101 possession, levied and collected, received, or appropriated for
102 the use, benefit, support, and maintenance or capital outlay
103 expenditures of the institutions of higher learning, including the
104 authorization of employees to sign vouchers for the disbursement
105 of funds for the various institutions, except where otherwise
106 specifically provided by law.

107 (b) The board shall have general supervision of the affairs
108 of all the institutions of higher learning, including the
109 departments and the schools thereof. The board shall have the
110 power in its discretion to determine who shall be privileged to
111 enter, to remain in, or to graduate therefrom. The board shall
112 have general supervision of the conduct of libraries and
113 laboratories, the care of dormitories, buildings, and grounds; the
114 business methods and arrangement of accounts and records; the
115 organization of the administrative plan of each institution; and
116 all other matters incident to the proper functioning of the
117 institutions. The board shall have the authority to establish
118 minimum standards of achievement as a prerequisite for entrance
119 into any of the institutions under its jurisdiction, which
120 standards need not be uniform between the various institutions and
121 which may be based upon such criteria as the board may establish.



122 (c) The board shall exercise all the powers and prerogatives
123 conferred upon it under the laws establishing and providing for
124 the operation of the several institutions herein specified. The
125 board shall adopt such bylaws and regulations from time to time as
126 it deems expedient for the proper supervision and control of the
127 several institutions of higher learning, insofar as such bylaws
128 and regulations are not repugnant to the Constitution and laws,
129 and not inconsistent with the object for which these institutions
130 were established. The board shall have power and authority to
131 prescribe rules and regulations for policing the campuses and all
132 buildings of the respective institutions, to authorize the arrest
133 of all persons violating on any campus any criminal law of the
134 state, and to have such law violators turned over to the civil
135 authorities.

136 (d) For all institutions specified herein, the board shall
137 provide a uniform system of recording and of accounting approved
138 by the State Department of Audit. The board shall annually
139 prepare, or cause to be prepared, a budget for each institution of
140 higher learning for the succeeding year which must be prepared and
141 in readiness for at least thirty (30) days before the convening of
142 the regular session of the Legislature. All relationships and
143 negotiations between the State Legislature and its various
144 committees and the institutions named herein shall be carried on
145 through the board of trustees. No official, employee or agent
146 representing any of the separate institutions shall appear before



the Legislature or any committee thereof except upon the written order of the board or upon the request of the Legislature or a committee thereof.

(e) For all institutions specified herein, the board shall prepare an annual report to the Legislature setting forth the disbursements of all monies appropriated to the respective institutions. Each report to the Legislature shall show how the money appropriated to the several institutions has been expended, beginning and ending with the fiscal years of the institutions, showing the name of each teacher, officer, and employee, and the salary paid each, and an itemized statement of each and every item of receipts and expenditures. Each report must be balanced, and must begin with the former balance. If any property belonging to the state or the institution is used for profit, the reports shall show the expense incurred in managing the property and the amount received therefrom. The reports shall also show a summary of the gross receipts and gross disbursements for each year and shall show the money on hand at the beginning of the fiscal period of the institution next preceding each session of the Legislature and the necessary amount of expense to be incurred from said date to January 1 following. The board shall keep the annual expenditures of each institution herein mentioned within the income derived from legislative appropriations and other sources, but in case of emergency arising from acts of providence, epidemics, fire or storm with the written approval of the Governor and by written



172 consent of a majority of the senators and of the representatives
173 it may exceed the income. The board shall require a surety bond
174 in a surety company authorized to do business in this state of
175 every employee who is the custodian of funds belonging to one or
176 more of the institutions mentioned herein, which bond shall be in
177 a sum to be fixed by the board in an amount that will properly
178 safeguard the said funds, the premium for which shall be paid out
179 of the funds appropriated for said institutions.

180 (f) The board shall have the power and authority to elect
181 the heads of the various institutions of higher learning and to
182 contract with all deans, professors, and other members of the
183 teaching staff, and all administrative employees of said
184 institutions for a term not exceeding four (4) years. The board
185 shall have the power and authority to terminate any such contract
186 at any time for malfeasance, inefficiency, or contumacious
187 conduct, but never for political reasons. It shall be the policy
188 of the board to permit the executive head of each institution to
189 nominate for election by the board all subordinate employees of
190 the institution over which he presides. It shall be the policy of
191 the board to elect all officials for a definite tenure of service
192 and to reelect during the period of satisfactory service. The
193 board shall have the power to make any adjustments it thinks
194 necessary between the various departments and schools of any
195 institution or between the different institutions.



196 (g) The board shall keep complete minutes and records of all
197 proceedings which shall be open for inspection by any citizen of
198 the state.

199 (h) The board shall have the power to enter into an energy
200 performance contract, energy services contract, on a
201 shared-savings, lease or lease-purchase basis, for energy
202 efficiency services and/or equipment as prescribed in Section
203 31-7-14.

204 (i) The Board of Trustees of State Institutions of Higher
205 Learning, for and on behalf of Jackson State University, is hereby
206 authorized to convey by donation or otherwise easements across
207 portions of certain real estate located in the City of Jackson,
208 Hinds County, Mississippi, for right-of-way required for the Metro
209 Parkway Project.

210 (j) In connection with any international contract between
211 the board or one (1) of the state's institutions of higher
212 learning and any party outside of the United States, the board or
213 institution that is the party to the international contract is
214 hereby authorized and empowered to include in the contract a
215 provision for the resolution by arbitration of any controversy
216 between the parties to the contract relating to such contract or
217 the failure or refusal to perform any part of the contract. Such
218 provision shall be valid, enforceable and irrevocable without
219 regard to the justiciable character of the controversy. Provided,
220 however, that in the event either party to such contract initiates



litigation against the other with respect to the contract, the arbitration provision shall be deemed waived unless asserted as a defense on or before the responding party is required to answer such litigation.

(k) The Board of Trustees of State Institutions of Higher Learning ("board"), on behalf of any institution under its jurisdiction, shall purchase and maintain business property insurance and business personal property insurance on all university-owned buildings and/or contents as required by federal law and regulations of the Federal Emergency Management Agency (FEMA) as is necessary for receiving public assistance or reimbursement for repair, reconstruction, replacement or other damage to those buildings and/or contents caused by the Hurricane Katrina Disaster of 2005 or subsequent disasters. The board is authorized to expend funds from any available source for the purpose of obtaining and maintaining that property insurance. The board is authorized to enter into agreements with the Department of Finance and Administration, local school districts, community/junior college districts, community hospitals and/or other state agencies to pool their liabilities to participate in a group business property and/or business personal property insurance program, subject to uniform rules and regulations as may be adopted by the Department of Finance and Administration.

(l) The Board of Trustees of State Institutions of Higher Learning, or its designee, may approve the payment or



reimbursement of reasonable travel expenses incurred by candidates for open positions at the board's executive office or at any of the state institutions of higher learning, when the job candidate has incurred expenses in traveling to a job interview at the request of the board, the Commissioner of Higher Education or a state institution of higher learning administrator.

(m) (i) The Board of Trustees of State Institutions of Higher Learning is authorized to administer and approve contracts for the construction and maintenance of buildings and other facilities of the state institutions of higher learning, including related contracts for architectural and engineering services, which are paid for with self-generated funds.

(ii) Additionally, the board is authorized to oversee, administer and approve contracts for the construction and maintenance of buildings and other facilities of the state institutions of higher learning, including related contracts for prefabricated building construction, architectural and engineering services, which are funded in whole or in part by general obligation bonds of the State of Mississippi at institutions designated annually by the board as being capable to procure and administer all such contracts. Prior to the disbursement of funds, an agreement for each project between the institution and the Department of Finance and Administration shall be executed. The approval and execution of the agreement shall not be withheld by either party unless the withholding party provides a written,



271 detailed explanation of the basis for withholding to the other
272 party. The agreement shall stipulate the responsibilities of each
273 party, applicable procurement regulations, documentation and
274 reporting requirements, conditions prior to, and schedule of,
275 disbursement of general obligation bond funds to the institution
276 and provisions concerning handling any remaining general
277 obligation bonds at the completion of the project. Such agreement
278 shall not include provisions that constitute additional
279 qualifications or criteria that act to invalidate the designation
280 of an institution as capable of procuring and administering such
281 project. Inclusion of any such provisions may be appealed to the
282 Public Procurement Review Board. This paragraph (ii) shall stand
283 repealed from and after July 1, 2025.

284 (n) The Board of Trustees of State Institutions of Higher
285 Learning ("board") shall require all on-campus faculty and staff
286 employed by, and all students attending, any of the state
287 institutions of higher learning identified in Section 37-101-1 to
288 be issued an identification badge in physical or electronic
289 format. Any identification card issued or renewed pursuant to
290 this section, whether physical or in an electronic format, shall
291 include the words "Crisis Lifeline - Dial or Text 988, or chat
292 988lifeline.org" or like language for formatting purposes.

293 **SECTION 7.** Section 31-11-3, Mississippi Code of 1972, is
294 amended as follows:



31-11-3. (1) The Department of Finance and Administration, for the purposes of carrying out the provisions of this chapter, in addition to all other rights and powers granted by law, shall have full power and authority to employ and compensate architects or other employees necessary for the purpose of making inspections, preparing plans and specifications, supervising the erection of any buildings, and making any repairs or additions as may be determined by the Department of Finance and Administration to be necessary, pursuant to the rules and regulations of the State Personnel Board. The department shall have entire control and supervision of, and determine what, if any, buildings, additions, repairs, demolitions or improvements are to be made under the provisions of this chapter, subject to the regulations adopted by the Public Procurement Review Board.

(2) The department shall have full power to erect buildings, make repairs, additions or improvements, demolitions, to grant or acquire easements or rights-of-way, and to buy materials, supplies and equipment for any of the institutions or departments of the state subject to the regulations adopted by the Public Procurement Review Board. In addition to other powers conferred, the department shall have full power and authority, as directed by the Legislature, or when funds have been appropriated for its use for these purposes, to:

(a) Build a state office building;



319 (b) Build suitable plants or buildings for the use and
320 housing of any state schools or institutions, including the
321 building of plants or buildings for new state schools or
322 institutions through traditional or prefabricated building
323 construction processes, as provided for by the Legislature;

324 (c) Provide state aid for the construction of school
325 buildings;

326 (d) Promote and develop the training of returned
327 veterans of the United States in all sorts of educational and
328 vocational learning to be supplied by the proper educational
329 institution of the State of Mississippi, and in so doing allocate
330 monies appropriated to it for these purposes to the Governor for
331 use by him in setting up, maintaining and operating an office and
332 employing a state director of on-the-job training for veterans and
333 the personnel necessary in carrying out Public Law No. 346 of the
334 United States;

335 (e) Build and equip a hospital and administration
336 building at the Mississippi State Penitentiary;

337 (f) Build and equip additional buildings and wards at
338 the Boswell Retardation Center;

339 (g) Construct a sewage disposal and treatment plant at
340 the Mississippi State Hospital, and in so doing acquire additional
341 land as may be necessary, and to exercise the right of eminent
342 domain in the acquisition of this land;



343 (h) Build and equip the Mississippi central market and
344 purchase or acquire by eminent domain, if necessary, any lands
345 needed for this purpose;

346 (i) Build and equip suitable facilities for a training
347 and employing center for the blind;

348 (j) Build and equip a gymnasium at Columbia Training
349 School;

350 (k) Approve or disapprove the expenditure of any money
351 appropriated by the Legislature when authorized by the bill making
352 the appropriation;

353 (l) Expend monies appropriated to it in paying the
354 state's part of the cost of any street paving;

355 (m) Sell and convey state lands when authorized by the
356 Legislature, cause said lands to be properly surveyed and platted,
357 execute all deeds or other legal instruments, and do any and all
358 other things required to effectively carry out the purpose and
359 intent of the Legislature. Any transaction which involves state
360 lands under the provisions of this paragraph shall be done in a
361 manner consistent with the provisions of Section 29-1-1;

362 (n) Collect and receive from educational institutions
363 of the State of Mississippi monies required to be paid by these
364 institutions to the state in carrying out any veterans'
365 educational programs;

366 (o) Purchase lands for building sites, or as additions
367 to building sites, for the erection of buildings and other



368 facilities which the department is authorized to erect, and
369 demolish and dispose of old buildings, when necessary for the
370 proper construction of new buildings, including prefabricated
371 building construction projects which align with all applicable
372 building codes, regulations and standards and adopted and/or
373 promulgated by the department, and adhere to regulations adopted
374 by the Public Procurement Review Board. Any transaction which
375 involves state lands under the provisions of this paragraph shall
376 be done in a manner consistent with the provisions of Section
377 29-1-1;

378 (p) Obtain business property insurance with a
379 deductible of not less than One Hundred Thousand Dollars
380 (\$100,000.00) on state-owned buildings under the management and
381 control of the department; * * *

382 (q) In consultation with and approval by the Chairmen
383 of the Public Property Committees of the Senate and the House of
384 Representatives, enter into contracts for the purpose of providing
385 parking spaces for state employees who work in the Woolfolk
386 Building, the Carroll Gartin Justice Building or the Walter
387 Sillers Office Building * * *; and

388 (r) The department is hereby authorized to transfer up
389 to One Million Dollars (\$1,000,000.00) of available bond funds to
390 each community college requesting to be exempt from department
391 control and supervision relating to the repair, renovation and
392 improvement of existing facilities owned by the community



colleges, including utility infrastructure projects; heating and air conditioning systems; and the replacement of furniture and equipment. The community colleges shall abide by all applicable statutes related to the purchase of the repair, renovation and improvement of such existing facilities.

(3) The department shall survey state-owned and state-utilized buildings to establish an estimate of the costs of architectural alterations, pursuant to the Americans With Disabilities Act of 1990, 42 USCS, Section 12111 et seq. The department shall establish priorities for making the identified architectural alterations and shall make known to the Legislative Budget Office and to the Legislature the required cost to effectuate such alterations. To meet the requirements of this section, the department shall use standards of accessibility that are at least as stringent as any applicable federal requirements and may consider:

(a) Federal minimum guidelines and requirements issued by the United States Architectural and Transportation Barriers Compliance Board and standards issued by other federal agencies;

(b) The criteria contained in the American Standard Specifications for Making Buildings Accessible and Usable by the Physically Handicapped and any amendments thereto as approved by the American Standards Association, Incorporated (ANSI Standards);

(c) Design manuals;

(d) Applicable federal guidelines;



418 (e) Current literature in the field;

419 (f) Applicable safety standards; and

420 (g) Any applicable environmental impact statements.

421 (4) The department shall observe the provisions of Section
422 31-5-23 in letting contracts and shall use Mississippi products,
423 including paint, varnish and lacquer which contain as vehicles
424 tung oil and either ester gum or modified resin (with rosin as the
425 principal base of constituents), and turpentine shall be used as a
426 solvent or thinner, where these products are available at a cost
427 not to exceed the cost of products grown, produced, prepared, made
428 or manufactured outside of the State of Mississippi.

429 (5) The department shall have authority to accept grants,
430 loans or donations from the United States government or from any
431 other sources for the purpose of matching funds in carrying out
432 the provisions of this chapter.

433 (6) The department shall build a wheelchair ramp at the War
434 Memorial Building which complies with all applicable federal laws,
435 regulations and specifications regarding wheelchair ramps.

436 (7) The department shall review and preapprove all
437 architectural or engineering service contracts entered into by any
438 state agency, institution, commission, board or authority,
439 regardless of the source of funding used to defray the costs of
440 the construction or renovation project, for which services are to
441 be obtained to ensure compliance with purchasing regulations and
442 to confirm that the contracts are procured by a competitive



443 qualification-based selection process except where such
444 appointment is for an emergency project or for a continuation of a
445 previous appointment for a directly related project. The
446 provisions of this subsection (7) shall not apply to:

447 (a) Any architectural or engineering contract fully
448 paid for by self-generated funds of any of the state institutions
449 of higher learning;

450 (b) Any architectural or engineering contract that is
451 self-administered at a state institution of higher learning as
452 provided under Section 27-104-7(2) (b) or 37-101-15(m);

453 (c) Community college projects that are fully funded
454 from local funds or other nonstate sources which are outside the
455 Department of Finance and Administration's appropriations or as
456 directed by the Legislature;

457 (d) Any construction or design projects of the State
458 Military Department that are fully or partially funded from
459 federal funds or other nonstate sources; and

460 (e) Any project of the State Department of
461 Transportation.

462 (8) (a) The department shall have the authority to obtain
463 annually from the state institutions of higher learning, the state
464 community colleges and junior colleges, the Department of Mental
465 Health, the Department of Corrections and the Department of
466 Wildlife, Fisheries and Parks information on all renovation and
467 repair expenditures for buildings under their operation and



control, including duties, responsibilities and costs of any architect or engineer hired by any such institutions, and shall annually report the same to the Legislative Budget Office, the Chairman of the House Public Property Committee and the Chairman of the Senate Public Property Committee before September 1.

(b) All state agencies, departments and institutions are required to cooperate with the Department of Finance and Administration in carrying out the provisions of this subsection.

(c) Expenditures shall not include those amounts expended for janitorial, landscaping or administrative support, but shall include expenditures from both state and nonstate sources.

(d) Expenditures shall not include amounts expended by the department on behalf of state agencies, departments and institutions through the Department of Finance and Administration administered contracts, but shall include amounts transferred to the Department of Finance and Administration for support of such contracts.

(9) As an alternative to other methods of awarding contracts as prescribed by law, the department may elect to use the method of contracting for construction projects set out in Sections 31-7-13.1 and 31-7-13.2; however, the design-build method of construction contracting authorized under Section 31-7-13.1 may be used only when the Legislature has specifically required or



authorized the use of this method in the legislation authorizing a project.

(10) The department shall have the authority, for the purposes of carrying out the provisions of this chapter, and in addition to all other rights and powers granted by law, to create and maintain a list of suspended and debarred contractors and subcontractors. Consistent with this authority, the department may adopt regulations governing the suspension or debarment of contractors and subcontractors, which regulations shall be subject to the approval of the Public Procurement Review Board. A suspended or debarred contractor or subcontractor shall be disqualified from consideration for contracts with the department during the suspension or debarment period in accordance with the department's regulations.

(11) This section shall not apply to the Mississippi State Port Authority.

SECTION 8. Section 31-7-13, Mississippi Code of 1972, is brought forward as follows:

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

(a) **Bidding procedure for purchases not over \$5,000.00.**
Purchases which do not involve an expenditure of more than Five



Thousand Dollars (\$5,000.00), exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive bids. However, nothing contained in this paragraph (a) shall be construed to prohibit any agency or governing authority from establishing procedures which require competitive bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

(b) **Bidding procedure for purchases over \$5,000.00 but not over \$75,000.00.** Purchases which involve an expenditure of more than Five Thousand Dollars (\$5,000.00) but not more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Any state agency or community or junior college purchasing commodities or procuring construction pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, to accept the lowest competitive written bid under Seventy-five Thousand Dollars (\$75,000.00). Any governing authority purchasing commodities pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, with regard to governing authorities other than counties, or its purchase clerk, or his designee, with regard to counties, to accept the lowest and best competitive written bid. Such authorization shall be made in writing by the governing authority and shall be maintained on file in the primary office of the agency and recorded in the official minutes of the governing



542 authority, as appropriate. The purchasing agent or the purchase
543 clerk, or his designee, as the case may be, and not the governing
544 authority, shall be liable for any penalties and/or damages as may
545 be imposed by law for any act or omission of the purchasing agent
546 or purchase clerk, or his designee, constituting a violation of
547 law in accepting any bid without approval by the governing
548 authority. The term "competitive written bid" shall mean a bid
549 submitted on a bid form furnished by the buying agency or
550 governing authority and signed by authorized personnel
551 representing the vendor, or a bid submitted on a vendor's
552 letterhead or identifiable bid form and signed by authorized
553 personnel representing the vendor. "Competitive" shall mean that
554 the bids are developed based upon comparable identification of the
555 needs and are developed independently and without knowledge of
556 other bids or prospective bids. Any bid item for construction in
557 excess of Five Thousand Dollars (\$5,000.00) shall be broken down
558 by components to provide detail of component description and
559 pricing. These details shall be submitted with the written bids
560 and become part of the bid evaluation criteria. Bids may be
561 submitted by facsimile, electronic mail or other generally
562 accepted method of information distribution. Bids submitted by
563 electronic transmission shall not require the signature of the
564 vendor's representative unless required by agencies or governing
565 authorities.

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



(i) **Publication requirement.**

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

2. Reverse auctions shall be the primary method for receiving bids during the bidding process. If a purchasing entity determines that a reverse auction is not in the best interest of the state, then that determination must be approved by the Public Procurement Review Board. The purchasing entity shall submit a detailed explanation of why a reverse auction would not be in the best interest of the state and present an alternative process to be approved by the Public Procurement Review Board. If the Public Procurement Review Board authorizes the purchasing entity to solicit bids with a method other than reverse auction, then the purchasing entity may designate the other methods by which the bids will be received, including, but



not limited to, bids sealed in an envelope, bids received electronically in a secure system, or bids received by any other method that promotes open competition and has been approved by the Office of Purchasing and Travel. However, reverse auction shall not be used for any public contract for design, construction, improvement, repair or remodeling of any public facilities, including the purchase of materials, supplies, equipment or goods for same and including buildings, roads and bridges. The Public Procurement Review Board must approve any contract entered into by alternative process. The provisions of this item 2 shall not apply to the individual state institutions of higher learning. The provisions of this item 2 requiring reverse auction as the primary method of receiving bids shall not apply to term contract purchases as provided in paragraph (n) of this section; however, a purchasing entity may, in its discretion, utilize reverse auction for such purchases. The provisions of this item 2 shall not apply to individual public schools, including public charter schools and public school districts, only when purchasing copyrighted educational supplemental materials and software as a service product. For such purchases, a local school board may authorize a purchasing entity in its jurisdiction to use a Request for Qualifications which promotes open competition and meets the requirements of the Office of Purchasing and Travel.

3. The date as published for the bid opening shall not be less than seven (7) working days after the last



617 published notice; however, if the purchase involves a construction
618 project in which the estimated cost is in excess of Seventy-five
619 Thousand Dollars (\$75,000.00), such bids shall not be opened in
620 less than fifteen (15) working days after the last notice is
621 published and the notice for the purchase of such construction
622 shall be published once each week for two (2) consecutive weeks.
623 The notice of intention to let contracts or purchase equipment
624 shall state the time and place at which bids shall be received,
625 list the contracts to be made or types of equipment or supplies to
626 be purchased, and, if all plans and/or specifications are not
627 published, refer to the plans and/or specifications on file. If
628 there is no newspaper published in the county or municipality,
629 then such notice shall be given by posting same at the courthouse,
630 or for municipalities at the city hall, and at two (2) other
631 public places in the county or municipality, and also by
632 publication once each week for two (2) consecutive weeks in some
633 newspaper having a general circulation in the county or
634 municipality in the above-provided manner. On the same date that
635 the notice is submitted to the newspaper for publication, the
636 agency or governing authority involved shall mail written notice
637 to, or provide electronic notification to the main office of the
638 Mississippi Procurement Technical Assistance Program under the
639 Mississippi Development Authority that contains the same
640 information as that in the published notice. Within one (1)
641 working day of the contract award, the agency or governing



authority shall post to the designated web page maintained by the Department of Finance and Administration, notice of the award, including the award recipient, the contract amount, and a brief summary of the contract in accordance with rules promulgated by the department. Within one (1) working day of the contract execution, the agency or governing authority shall post to the designated web page maintained by the Department of Finance and Administration a summary of the executed contract and make a copy of the appropriately redacted contract documents available for linking to the designated web page in accordance with the rules promulgated by the department. The information provided by the agency or governing authority shall be posted to the web page until the project is completed.

4. Agencies and governing authorities using federal funds for the procurement of any good or service, including exempt personal and professional services, must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards - Subpart D - Post Federal Award Requirements Procurement Standards, in accordance with 2 CFR 200.317 through 2 CFR 200.327.

(ii) **Bidding process amendment procedure.** If all plans and/or specifications are published in the notification, then the plans and/or specifications may not be amended. If all plans and/or specifications are not published in the notification, then amendments to the plans/specifications, bid opening date, bid



667 opening time and place may be made, provided that the agency or
668 governing authority maintains a list of all prospective bidders
669 who are known to have received a copy of the bid documents and all
670 such prospective bidders are sent copies of all amendments. This
671 notification of amendments may be made via mail, facsimile,
672 electronic mail or other generally accepted method of information
673 distribution. No addendum to bid specifications may be issued
674 within two (2) working days of the time established for the
675 receipt of bids unless such addendum also amends the bid opening
676 to a date not less than five (5) working days after the date of
677 the addendum.

678 (iii) **Filing requirement.** In all cases involving
679 governing authorities, before the notice shall be published or
680 posted, the plans or specifications for the construction or
681 equipment being sought shall be filed with the clerk of the board
682 of the governing authority. In addition to these requirements, a
683 bid file shall be established which shall indicate those vendors
684 to whom such solicitations and specifications were issued, and
685 such file shall also contain such information as is pertinent to
686 the bid.

687 (iv) **Specification restrictions.**

688 1. Specifications pertinent to such bidding
689 shall be written so as not to exclude comparable equipment of
690 domestic manufacture. However, if valid justification is
691 presented, the Department of Finance and Administration or the



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

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

(v) **Electronic bids.** Agencies and governing authorities shall provide a secure electronic interactive system for the submittal of bids requiring competitive bidding that shall be an additional bidding option for those bidders who choose to submit their bids electronically. The Department of Finance and



Administration shall provide, by regulation, the standards that agencies must follow when receiving electronic bids. Agencies and governing authorities shall make the appropriate provisions necessary to accept electronic bids from those bidders who choose to submit their bids electronically for all purchases requiring competitive bidding under this section. Any special condition or requirement for the electronic bid submission shall be specified in the advertisement for bids required by this section. Agencies or governing authorities that are currently without available high speed Internet access shall be exempt from the requirement of this subparagraph (v) until such time that high speed Internet access becomes available. Any county having a population of less than twenty thousand (20,000) shall be exempt from the provisions of this subparagraph (v). Any municipality having a population of less than ten thousand (10,000) shall be exempt from the provisions of this subparagraph (v). The provisions of this subparagraph (v) shall not require any bidder to submit bids electronically. When construction bids are submitted electronically, the requirement for including a certificate of responsibility, or a statement that the bid enclosed does not exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the bid envelope as indicated in Section 31-3-21(1) and (2) shall be deemed in compliance with by including same as an attachment with the electronic bid submittal.

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



742 (i) **Decision procedure.** Purchases may be made
743 from the lowest and best bidder. In determining the lowest and
744 best bid, freight and shipping charges shall be included.
745 Life-cycle costing, total cost bids, warranties, guaranteed
746 buy-back provisions and other relevant provisions may be included
747 in the best bid calculation. All best bid procedures for state
748 agencies must be in compliance with regulations established by the
749 Department of Finance and Administration. If any governing
750 authority accepts a bid other than the lowest bid actually
751 submitted, it shall place on its minutes detailed calculations and
752 narrative summary showing that the accepted bid was determined to
753 be the lowest and best bid, including the dollar amount of the
754 accepted bid and the dollar amount of the lowest bid. No agency
755 or governing authority shall accept a bid based on items not
756 included in the specifications.

757 (ii) **Decision procedure for Certified Purchasing**
758 **Offices.** In addition to the decision procedure set forth in
759 subparagraph (i) of this paragraph (d), Certified Purchasing
760 Offices may also use the following procedure: Purchases may be
761 made from the bidder offering the best value. In determining the
762 best value bid, freight and shipping charges shall be included.
763 Life-cycle costing, total cost bids, warranties, guaranteed
764 buy-back provisions, documented previous experience, training
765 costs and other relevant provisions, including, but not limited
766 to, a bidder having a local office and inventory located within



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

(iii) **Decision procedure for Mississippi**

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



provisions may be included in the best bid calculation. All best bid and prequalification procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

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

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

(e) **Lease-purchase authorization.** For the purposes of this section, the term "equipment" shall mean equipment, furniture and, if applicable, associated software and other applicable direct costs associated with the acquisition. Any lease-purchase of equipment which an agency is not required to lease-purchase under the master lease-purchase program pursuant to Section 31-7-10 and any lease-purchase of equipment which a governing authority elects to lease-purchase may be acquired by a



817 lease-purchase agreement under this paragraph (e). Lease-purchase
818 financing may also be obtained from the vendor or from a
819 third-party source after having solicited and obtained at least
820 two (2) written competitive bids, as defined in paragraph (b) of
821 this section, for such financing without advertising for such
822 bids. Solicitation for the bids for financing may occur before or
823 after acceptance of bids for the purchase of such equipment or,
824 where no such bids for purchase are required, at any time before
825 the purchase thereof. No such lease-purchase agreement shall be
826 for an annual rate of interest which is greater than the overall
827 maximum interest rate to maturity on general obligation
828 indebtedness permitted under Section 75-17-101, and the term of
829 such lease-purchase agreement shall not exceed the useful life of
830 equipment covered thereby as determined according to the upper
831 limit of the asset depreciation range (ADR) guidelines for the
832 Class Life Asset Depreciation Range System established by the
833 Internal Revenue Service pursuant to the United States Internal
834 Revenue Code and regulations thereunder as in effect on December
835 31, 1980, or comparable depreciation guidelines with respect to
836 any equipment not covered by ADR guidelines. Any lease-purchase
837 agreement entered into pursuant to this paragraph (e) may contain
838 any of the terms and conditions which a master lease-purchase
839 agreement may contain under the provisions of Section 31-7-10(5),
840 and shall contain an annual allocation dependency clause
841 substantially similar to that set forth in Section 31-7-10(8).



Each agency or governing authority entering into a lease-purchase transaction pursuant to this paragraph (e) shall maintain with respect to each such lease-purchase transaction the same information as required to be maintained by the Department of Finance and Administration pursuant to Section 31-7-10(13). However, nothing contained in this section shall be construed to permit agencies to acquire items of equipment with a total acquisition cost in the aggregate of less than Ten Thousand Dollars (\$10,000.00) by a single lease-purchase transaction. All equipment, and the purchase thereof by any lessor, acquired by lease-purchase under this paragraph and all lease-purchase payments with respect thereto shall be exempt from all Mississippi sales, use and ad valorem taxes. Interest paid on any lease-purchase agreement under this section shall be exempt from State of Mississippi income taxation.

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



866 (g) **Construction contract change authorization.** In the
867 event a determination is made by an agency or governing authority
868 after a construction contract is let that changes or modifications
869 to the original contract are necessary or would better serve the
870 purpose of the agency or the governing authority, such agency or
871 governing authority may, in its discretion, order such changes
872 pertaining to the construction that are necessary under the
873 circumstances without the necessity of further public bids;
874 provided that such change shall be made in a commercially
875 reasonable manner and shall not be made to circumvent the public
876 purchasing statutes. In addition to any other authorized person,
877 the architect or engineer hired by an agency or governing
878 authority with respect to any public construction contract shall
879 have the authority, when granted by an agency or governing
880 authority, to authorize changes or modifications to the original
881 contract without the necessity of prior approval of the agency or
882 governing authority when any such change or modification is less
883 than one percent (1%) of the total contract amount. The agency or
884 governing authority may limit the number, manner or frequency of
885 such emergency changes or modifications.

886 (h) **Petroleum purchase alternative.** In addition to
887 other methods of purchasing authorized in this chapter, when any
888 agency or governing authority shall have a need for gas, diesel
889 fuel, oils and/or other petroleum products in excess of the amount
890 set forth in paragraph (a) of this section, such agency or



891 governing authority may purchase the commodity after having
892 solicited and obtained at least two (2) competitive written bids,
893 as defined in paragraph (b) of this section. If two (2)
894 competitive written bids are not obtained, the entity shall comply
895 with the procedures set forth in paragraph (c) of this section.
896 In the event any agency or governing authority shall have
897 advertised for bids for the purchase of gas, diesel fuel, oils and
898 other petroleum products and coal and no acceptable bids can be
899 obtained, such agency or governing authority is authorized and
900 directed to enter into any negotiations necessary to secure the
901 lowest and best contract available for the purchase of such
902 commodities.

903 (i) **Road construction petroleum products price**
904 **adjustment clause authorization.** Any agency or governing
905 authority authorized to enter into contracts for the construction,
906 maintenance, surfacing or repair of highways, roads or streets,
907 may include in its bid proposal and contract documents a price
908 adjustment clause with relation to the cost to the contractor,
909 including taxes, based upon an industry-wide cost index, of
910 petroleum products including asphalt used in the performance or
911 execution of the contract or in the production or manufacture of
912 materials for use in such performance. Such industry-wide index
913 shall be established and published monthly by the Mississippi
914 Department of Transportation with a copy thereof to be mailed,
915 upon request, to the clerks of the governing authority of each



916 municipality and the clerks of each board of supervisors
917 throughout the state. The price adjustment clause shall be based
918 on the cost of such petroleum products only and shall not include
919 any additional profit or overhead as part of the adjustment. The
920 bid proposals or document contract shall contain the basis and
921 methods of adjusting unit prices for the change in the cost of
922 such petroleum products.

923 (j) **State agency emergency purchase procedure.** If the
924 governing board or the executive head, or his designees, of any
925 agency of the state shall determine that an emergency exists in
926 regard to the purchase of any commodities or repair contracts, so
927 that the delay incident to giving opportunity for competitive
928 bidding would be detrimental to the interests of the state, then
929 the head of such agency, or his designees, shall file with the
930 Department of Finance and Administration (i) a statement
931 explaining the conditions and circumstances of the emergency,
932 which shall include a detailed description of the events leading
933 up to the situation and the negative impact to the entity if the
934 purchase is made following the statutory requirements set forth in
935 paragraph (a), (b) or (c) of this section, and (ii) a certified
936 copy of the appropriate minutes of the board of such agency
937 requesting the emergency purchase, if applicable. Upon receipt of
938 the statement and applicable board certification, the State Fiscal
939 Officer, or his designees, may, in writing, authorize the purchase



or repair without having to comply with competitive bidding requirements.

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

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

Purchases under the grant program established under Section 37-68-7 in response to COVID-19 and the directive that school districts create a distance learning plan and fulfill technology



965 needs expeditiously shall be deemed an emergency purchase for
966 purposes of this paragraph (j).

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

968 If the governing authority, or the governing authority acting
969 through its designee, shall determine that an emergency exists in
970 regard to the purchase of any commodities or repair contracts, so
971 that the delay incident to giving opportunity for competitive
972 bidding would be detrimental to the interest of the governing
973 authority, then the provisions herein for competitive bidding
974 shall not apply and any officer or agent of such governing
975 authority having general or special authority therefor in making
976 such purchase or repair shall approve the bill presented therefor,
977 and he shall certify in writing thereon from whom such purchase
978 was made, or with whom such a repair contract was made. At the
979 board meeting next following the emergency purchase or repair
980 contract, documentation of the purchase or repair contract,
981 including a description of the commodity purchased, the price
982 thereof and the nature of the emergency shall be presented to the
983 board and shall be placed on the minutes of the board of such
984 governing authority. Purchases under the grant program
985 established under Section 37-68-7 in response to COVID-19 and the
986 directive that school districts create a distance learning plan
987 and fulfill technology needs expeditiously shall be deemed an
988 emergency purchase for purposes of this paragraph (k).



989 (1) **Hospital purchase, lease-purchase and lease**
990 **authorization.**

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

996 (ii) In addition to the authority granted in
997 subparagraph (i) of this paragraph (1), the commissioners or board
998 of trustees is authorized to enter into contracts for the lease of
999 equipment or services, or both, which it considers necessary for
1000 the proper care of patients if, in its opinion, it is not
1001 financially feasible to purchase the necessary equipment or
1002 services. Any such contract for the lease of equipment or
1003 services executed by the commissioners or board shall not exceed a
1004 maximum of five (5) years' duration and shall include a
1005 cancellation clause based on unavailability of funds. If such
1006 cancellation clause is exercised, there shall be no further
1007 liability on the part of the lessee. Any such contract for the
1008 lease of equipment or services executed on behalf of the
1009 commissioners or board that complies with the provisions of this
1010 subparagraph (ii) shall be excepted from the bid requirements set
1011 forth in this section.

1012 (m) **Exceptions from bidding requirements.** Excepted
1013 from bid requirements are:



1014 (i) **Purchasing agreements approved by department.**

1015 Purchasing agreements, contracts and maximum price regulations
1016 executed or approved by the Department of Finance and
1017 Administration.

1018 (ii) **Outside equipment repairs.** Repairs to
1019 equipment, when such repairs are made by repair facilities in the
1020 private sector; however, engines, transmissions, rear axles and/or
1021 other such components shall not be included in this exemption when
1022 replaced as a complete unit instead of being repaired and the need
1023 for such total component replacement is known before disassembly
1024 of the component; however, invoices identifying the equipment,
1025 specific repairs made, parts identified by number and name,
1026 supplies used in such repairs, and the number of hours of labor
1027 and costs therefor shall be required for the payment for such
1028 repairs.

1029 (iii) **In-house equipment repairs.** Purchases of
1030 parts for repairs to equipment, when such repairs are made by
1031 personnel of the agency or governing authority; however, entire
1032 assemblies, such as engines or transmissions, shall not be
1033 included in this exemption when the entire assembly is being
1034 replaced instead of being repaired.

1035 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
1036 of gravel or fill dirt which are to be removed and transported by
1037 the purchaser.



1038 (v) **Governmental equipment auctions.** Motor
1039 vehicles or other equipment purchased from a federal agency or
1040 authority, another governing authority or state agency of the
1041 State of Mississippi, or any governing authority or state agency
1042 of another state at a public auction held for the purpose of
1043 disposing of such vehicles or other equipment. Any purchase by a
1044 governing authority under the exemption authorized by this
1045 subparagraph (v) shall require advance authorization spread upon
1046 the minutes of the governing authority to include the listing of
1047 the item or items authorized to be purchased and the maximum bid
1048 authorized to be paid for each item or items.

1049 (vi) **Intergovernmental sales and transfers.**
1050 Purchases, sales, transfers or trades by governing authorities or
1051 state agencies when such purchases, sales, transfers or trades are
1052 made by a private treaty agreement or through means of
1053 negotiation, from any federal agency or authority, another
1054 governing authority or state agency of the State of Mississippi,
1055 or any state agency or governing authority of another state.
1056 Nothing in this section shall permit such purchases through public
1057 auction except as provided for in subparagraph (v) of this
1058 paragraph (m). It is the intent of this section to allow
1059 governmental entities to dispose of and/or purchase commodities
1060 from other governmental entities at a price that is agreed to by
1061 both parties. This shall allow for purchases and/or sales at
1062 prices which may be determined to be below the market value if the



1063 selling entity determines that the sale at below market value is
1064 in the best interest of the taxpayers of the state. Governing
1065 authorities shall place the terms of the agreement and any
1066 justification on the minutes, and state agencies shall obtain
1067 approval from the Department of Finance and Administration, prior
1068 to releasing or taking possession of the commodities.

1069 (vii) **Perishable supplies or food.** Perishable
1070 supplies or food purchased for use in connection with hospitals,
1071 the school lunch programs, homemaking programs and for the feeding
1072 of county or municipal prisoners.

1073 (viii) **Single-source items.** Noncompetitive items
1074 available from one (1) source only. In connection with the
1075 purchase of noncompetitive items only available from one (1)
1076 source, a certification of the conditions and circumstances
1077 requiring the purchase shall be filed by the agency with the
1078 Department of Finance and Administration and by the governing
1079 authority with the board of the governing authority. Upon receipt
1080 of that certification the Department of Finance and Administration
1081 or the board of the governing authority, as the case may be, may,
1082 in writing, authorize the purchase, which authority shall be noted
1083 on the minutes of the body at the next regular meeting thereafter.
1084 In those situations, a governing authority is not required to
1085 obtain the approval of the Department of Finance and
1086 Administration. Following the purchase, the executive head of the
1087 state agency, or his designees, shall file with the Department of



1088 Finance and Administration, documentation of the purchase,
1089 including a description of the commodity purchased, the purchase
1090 price thereof and the source from whom it was purchased.

1091 (ix) **Waste disposal facility construction**
1092 **contracts.** Construction of incinerators and other facilities for
1093 disposal of solid wastes in which products either generated
1094 therein, such as steam, or recovered therefrom, such as materials
1095 for recycling, are to be sold or otherwise disposed of; however,
1096 in constructing such facilities, a governing authority or agency
1097 shall publicly issue requests for proposals, advertised for in the
1098 same manner as provided herein for seeking bids for public
1099 construction projects, concerning the design, construction,
1100 ownership, operation and/or maintenance of such facilities,
1101 wherein such requests for proposals when issued shall contain
1102 terms and conditions relating to price, financial responsibility,
1103 technology, environmental compatibility, legal responsibilities
1104 and such other matters as are determined by the governing
1105 authority or agency to be appropriate for inclusion; and after
1106 responses to the request for proposals have been duly received,
1107 the governing authority or agency may select the most qualified
1108 proposal or proposals on the basis of price, technology and other
1109 relevant factors and from such proposals, but not limited to the
1110 terms thereof, negotiate and enter contracts with one or more of
1111 the persons or firms submitting proposals.



1112 (x) **Hospital group purchase contracts.** Supplies,
1113 commodities and equipment purchased by hospitals through group
1114 purchase programs pursuant to Section 31-7-38.

1115 (xi) **Information technology products.** Purchases
1116 of information technology products made by governing authorities
1117 under the provisions of purchase schedules, or contracts executed
1118 or approved by the Mississippi Department of Information
1119 Technology Services and designated for use by governing
1120 authorities.

1121 (xii) **Energy efficiency services and equipment.**
1122 Energy efficiency services and equipment acquired by school
1123 districts, community and junior colleges, institutions of higher
1124 learning and state agencies or other applicable governmental
1125 entities on a shared-savings, lease or lease-purchase basis
1126 pursuant to Section 31-7-14.

1127 (xiii) **Municipal electrical utility system fuel.**
1128 Purchases of coal and/or natural gas by municipally owned electric
1129 power generating systems that have the capacity to use both coal
1130 and natural gas for the generation of electric power.

1131 (xiv) **Library books and other reference materials.**
1132 Purchases by libraries or for libraries of books and periodicals;
1133 processed film, videocassette tapes, filmstrips and slides;
1134 recorded audiotapes, cassettes and diskettes; and any such items
1135 as would be used for teaching, research or other information
1136 distribution; however, equipment such as projectors, recorders,



1137 audio or video equipment, and monitor televisions are not exempt
1138 under this subparagraph.

1139 (xv) **Unmarked vehicles.** Purchases of unmarked
1140 vehicles when such purchases are made in accordance with
1141 purchasing regulations adopted by the Department of Finance and
1142 Administration pursuant to Section 31-7-9(2).

1143 (xvi) **Election ballots.** Purchases of ballots
1144 printed pursuant to Section 23-15-351.

1145 (xvii) **Multichannel interactive video systems.**
1146 From and after July 1, 1990, contracts by Mississippi Authority
1147 for Educational Television with any private educational
1148 institution or private nonprofit organization whose purposes are
1149 educational in regard to the construction, purchase, lease or
1150 lease-purchase of facilities and equipment and the employment of
1151 personnel for providing multichannel interactive video systems
1152 (ITSF) in the school districts of this state.

1153 (xviii) **Purchases of prison industry products by**
1154 **the Department of Corrections, regional correctional facilities or**
1155 **privately owned prisons.** Purchases made by the Mississippi
1156 Department of Corrections, regional correctional facilities or
1157 privately owned prisons involving any item that is manufactured,
1158 processed, grown or produced from the state's prison industries.

1159 (xix) **Undercover operations equipment.** Purchases
1160 of surveillance equipment or any other high-tech equipment to be
1161 used by law enforcement agents in undercover operations, provided



1162 that any such purchase shall be in compliance with regulations
1163 established by the Department of Finance and Administration.

1164 (xx) **Junior college books for rent.** Purchases by
1165 community or junior colleges of textbooks which are obtained for
1166 the purpose of renting such books to students as part of a book
1167 service system.

1168 (xxi) **Certain school district purchases.**
1169 Purchases of commodities made by school districts from vendors
1170 with which any levying authority of the school district, as
1171 defined in Section 37-57-1, has contracted through competitive
1172 bidding procedures for purchases of the same commodities.

1173 (xxii) **Garbage, solid waste and sewage contracts.**
1174 Contracts for garbage collection or disposal, contracts for solid
1175 waste collection or disposal and contracts for sewage collection
1176 or disposal.

1177 (xxiii) **Municipal water tank maintenance**
1178 **contracts.** Professional maintenance program contracts for the
1179 repair or maintenance of municipal water tanks, which provide
1180 professional services needed to maintain municipal water storage
1181 tanks for a fixed annual fee for a duration of two (2) or more
1182 years.

1183 (xxiv) **Purchases of Mississippi Industries for the**
1184 **Blind products or services.** Purchases made by state agencies or
1185 governing authorities involving any item that is manufactured,



1186 processed or produced by, or any services provided by, the
1187 Mississippi Industries for the Blind.

1188 (xxv) **Purchases of state-adopted textbooks.**

1189 Purchases of state-adopted textbooks by public school districts.

1190 (xxvi) **Certain purchases under the Mississippi**

1191 **Major Economic Impact Act.** Contracts entered into pursuant to the
1192 provisions of Section 57-75-9(2), (3) and (4).

1193 (xxvii) **Used heavy or specialized machinery or**

1194 **equipment for installation of soil and water conservation**

1195 **practices purchased at auction.** Used heavy or specialized

1196 machinery or equipment used for the installation and

1197 implementation of soil and water conservation practices or

1198 measures purchased subject to the restrictions provided in

1199 Sections 69-27-331 through 69-27-341. Any purchase by the State

1200 Soil and Water Conservation Commission under the exemption

1201 authorized by this subparagraph shall require advance

1202 authorization spread upon the minutes of the commission to include

1203 the listing of the item or items authorized to be purchased and

1204 the maximum bid authorized to be paid for each item or items.

1205 (xxviii) **Hospital lease of equipment or services.**

1206 Leases by hospitals of equipment or services if the leases are in

1207 compliance with paragraph (1)(ii).

1208 (xxix) **Purchases made pursuant to qualified**

1209 **cooperative purchasing agreements.** Purchases made by certified

1210 purchasing offices of state agencies or governing authorities



1211 under cooperative purchasing agreements previously approved by the
1212 Office of Purchasing and Travel and established by or for any
1213 municipality, county, parish or state government or the federal
1214 government, provided that the notification to potential
1215 contractors includes a clause that sets forth the availability of
1216 the cooperative purchasing agreement to other governmental
1217 entities. Such purchases shall only be made if the use of the
1218 cooperative purchasing agreements is determined to be in the best
1219 interest of the governmental entity.

1220 (xxx) **School yearbooks.** Purchases of school
1221 yearbooks by state agencies or governing authorities; however,
1222 state agencies and governing authorities shall use for these
1223 purchases the RFP process as set forth in the Mississippi
1224 Procurement Manual adopted by the Office of Purchasing and Travel.

1225 (xxxii) **Design-build method of contracting and**
1226 **certain other contracts.** Contracts entered into under the
1227 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1228 (xxxiii) **Toll roads and bridge construction**
1229 **projects.** Contracts entered into under the provisions of Section
1230 65-43-1 or 65-43-3.

1231 (xxxiiii) **Certain purchases under Section 57-1-221.**
1232 Contracts entered into pursuant to the provisions of Section
1233 57-1-221.

1234 (xxxiv) **Certain transfers made pursuant to the**
1235 **provisions of Section 57-105-1(7).** Transfers of public property



1236 or facilities under Section 57-105-1(7) and construction related
1237 to such public property or facilities.

1238 (xxxv) **Certain purchases or transfers entered into**
1239 **with local electrical power associations.** Contracts or agreements
1240 entered into under the provisions of Section 55-3-33.

1241 (xxxvi) **Certain purchases by an academic medical**
1242 **center or health sciences school.** Purchases by an academic
1243 medical center or health sciences school, as defined in Section
1244 37-115-50, of commodities that are used for clinical purposes and
1245 1. intended for use in the diagnosis of disease or other
1246 conditions or in the cure, mitigation, treatment or prevention of
1247 disease, and 2. medical devices, biological, drugs and
1248 radiation-emitting devices as defined by the United States Food
1249 and Drug Administration.

1250 (xxxvii) **Certain purchases made under the Alyce G.**
1251 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
1252 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
1253 Lottery Law.

1254 (xxxviii) **Certain purchases made by the Department**
1255 **of Health and the Department of Revenue.** Purchases made by the
1256 Department of Health and the Department of Revenue solely for the
1257 purpose of fulfilling their respective responsibilities under the
1258 Mississippi Medical Cannabis Act. This subparagraph shall stand
1259 repealed on June 30, 2026.



1260 (xxxix) **Purchases made by state agencies related**
1261 **to museum exhibits.** Purchases made by an agency related to the
1262 fabrication, construction, installation or refurbishing of museum
1263 exhibits. An agency making a purchase under this exemption in
1264 excess of the bid threshold set forth in paragraph (c) of this
1265 section shall publicly advertise a Request for Qualifications or
1266 Request for Proposals in which price as an evaluation factor is at
1267 least twenty percent (20%) out of the one hundred percent (100%)
1268 total weight, but shall be otherwise exempt. Any contract arising
1269 from a purchase using this exemption must be approved by the
1270 Public Procurement Review Board prior to execution by the agency.
1271 The agency shall submit a written report on December 1 of each
1272 year to the Chairs of the Senate and House Appropriations
1273 Committees, the Chairs of the Senate and House Accountability,
1274 Efficiency and Transparency Committees and the Chair of the Public
1275 Procurement Review Board, identifying all purchases made by the
1276 agency using this exemption in which the cost of the option
1277 selected by the agency was more than twenty-five percent (25%)
1278 higher than the lowest cost option available.

1279 (n) **Term contract authorization.** All contracts for the
1280 purchase of:

1281 (i) All contracts for the purchase of commodities,
1282 equipment and public construction (including, but not limited to,
1283 repair and maintenance), may be let for periods of not more than
1284 sixty (60) months in advance, subject to applicable statutory



1285 provisions prohibiting the letting of contracts during specified
1286 periods near the end of terms of office. Term contracts for a
1287 period exceeding twenty-four (24) months shall also be subject to
1288 ratification or cancellation by governing authority boards taking
1289 office subsequent to the governing authority board entering the
1290 contract.

1291 (ii) Bid proposals and contracts may include price
1292 adjustment clauses with relation to the cost to the contractor
1293 based upon a nationally published industry-wide or nationally
1294 published and recognized cost index. The cost index used in a
1295 price adjustment clause shall be determined by the Department of
1296 Finance and Administration for the state agencies and by the
1297 governing board for governing authorities. The bid proposal and
1298 contract documents utilizing a price adjustment clause shall
1299 contain the basis and method of adjusting unit prices for the
1300 change in the cost of such commodities, equipment and public
1301 construction.

1302 (o) **Purchase law violation prohibition and vendor**
1303 **penalty.** No contract or purchase as herein authorized shall be
1304 made for the purpose of circumventing the provisions of this
1305 section requiring competitive bids, nor shall it be lawful for any
1306 person or concern to submit individual invoices for amounts within
1307 those authorized for a contract or purchase where the actual value
1308 of the contract or commodity purchased exceeds the authorized
1309 amount and the invoices therefor are split so as to appear to be



1310 authorized as purchases for which competitive bids are not
1311 required. Submission of such invoices shall constitute a
1312 misdemeanor punishable by a fine of not less than Five Hundred
1313 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1314 or by imprisonment for thirty (30) days in the county jail, or
1315 both such fine and imprisonment. In addition, the claim or claims
1316 submitted shall be forfeited.

1317 (p) **Electrical utility petroleum-based equipment**
1318 **purchase procedure.** When in response to a proper advertisement
1319 therefor, no bid firm as to price is submitted to an electric
1320 utility for power transformers, distribution transformers, power
1321 breakers, reclosers or other articles containing a petroleum
1322 product, the electric utility may accept the lowest and best bid
1323 therefor although the price is not firm.

1324 (q) **Fuel management system bidding procedure.** Any
1325 governing authority or agency of the state shall, before
1326 contracting for the services and products of a fuel management or
1327 fuel access system, enter into negotiations with not fewer than
1328 two (2) sellers of fuel management or fuel access systems for
1329 competitive written bids to provide the services and products for
1330 the systems. In the event that the governing authority or agency
1331 cannot locate two (2) sellers of such systems or cannot obtain
1332 bids from two (2) sellers of such systems, it shall show proof
1333 that it made a diligent, good-faith effort to locate and negotiate
1334 with two (2) sellers of such systems. Such proof shall include,



1335 but not be limited to, publications of a request for proposals and
1336 letters soliciting negotiations and bids. For purposes of this
1337 paragraph (q), a fuel management or fuel access system is an
1338 automated system of acquiring fuel for vehicles as well as
1339 management reports detailing fuel use by vehicles and drivers, and
1340 the term "competitive written bid" shall have the meaning as
1341 defined in paragraph (b) of this section. Governing authorities
1342 and agencies shall be exempt from this process when contracting
1343 for the services and products of fuel management or fuel access
1344 systems under the terms of a state contract established by the
1345 Office of Purchasing and Travel.

1346 (r) **Solid waste contract proposal procedure.** Before
1347 entering into any contract for garbage collection or disposal,
1348 contract for solid waste collection or disposal or contract for
1349 sewage collection or disposal, which involves an expenditure of
1350 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
1351 authority or agency shall issue publicly a request for proposals
1352 concerning the specifications for such services which shall be
1353 advertised for in the same manner as provided in this section for
1354 seeking bids for purchases which involve an expenditure of more
1355 than the amount provided in paragraph (c) of this section. Any
1356 request for proposals when issued shall contain terms and
1357 conditions relating to price, financial responsibility,
1358 technology, legal responsibilities and other relevant factors as
1359 are determined by the governing authority or agency to be



1360 appropriate for inclusion; all factors determined relevant by the
1361 governing authority or agency or required by this paragraph (r)
1362 shall be duly included in the advertisement to elicit proposals.
1363 After responses to the request for proposals have been duly
1364 received, the governing authority or agency shall select the most
1365 qualified proposal or proposals on the basis of price, technology
1366 and other relevant factors and from such proposals, but not
1367 limited to the terms thereof, negotiate and enter into contracts
1368 with one or more of the persons or firms submitting proposals. If
1369 the governing authority or agency deems none of the proposals to
1370 be qualified or otherwise acceptable, the request for proposals
1371 process may be reinitiated. Notwithstanding any other provisions
1372 of this paragraph, where a county with at least thirty-five
1373 thousand (35,000) nor more than forty thousand (40,000)
1374 population, according to the 1990 federal decennial census, owns
1375 or operates a solid waste landfill, the governing authorities of
1376 any other county or municipality may contract with the governing
1377 authorities of the county owning or operating the landfill,
1378 pursuant to a resolution duly adopted and spread upon the minutes
1379 of each governing authority involved, for garbage or solid waste
1380 collection or disposal services through contract negotiations.

1381 (s) **Minority set-aside authorization.** Notwithstanding
1382 any provision of this section to the contrary, any agency or
1383 governing authority, by order placed on its minutes, may, in its
1384 discretion, set aside not more than twenty percent (20%) of its



1385 anticipated annual expenditures for the purchase of commodities
1386 from minority businesses; however, all such set-aside purchases
1387 shall comply with all purchasing regulations promulgated by the
1388 Department of Finance and Administration and shall be subject to
1389 bid requirements under this section. Set-aside purchases for
1390 which competitive bids are required shall be made from the lowest
1391 and best minority business bidder. For the purposes of this
1392 paragraph, the term "minority business" means a business which is
1393 owned by a majority of persons who are United States citizens or
1394 permanent resident aliens (as defined by the Immigration and
1395 Naturalization Service) of the United States, and who are Asian,
1396 Black, Hispanic or Native American, according to the following
1397 definitions:

1398 (i) "Asian" means persons having origins in any of
1399 the original people of the Far East, Southeast Asia, the Indian
1400 subcontinent, or the Pacific Islands.

1401 (ii) "Black" means persons having origins in any
1402 black racial group of Africa.

1403 (iii) "Hispanic" means persons of Spanish or
1404 Portuguese culture with origins in Mexico, South or Central
1405 America, or the Caribbean Islands, regardless of race.

1406 (iv) "Native American" means persons having
1407 origins in any of the original people of North America, including
1408 American Indians, Eskimos and Aleuts.



1409 (t) **Construction punch list restriction.** The
1410 architect, engineer or other representative designated by the
1411 agency or governing authority that is contracting for public
1412 construction or renovation may prepare and submit to the
1413 contractor only one (1) preliminary punch list of items that do
1414 not meet the contract requirements at the time of substantial
1415 completion and one (1) final list immediately before final
1416 completion and final payment.

1417 (u) **Procurement of construction services by state**
1418 **institutions of higher learning.** Contracts for privately financed
1419 construction of auxiliary facilities on the campus of a state
1420 institution of higher learning may be awarded by the Board of
1421 Trustees of State Institutions of Higher Learning to the lowest
1422 and best bidder, where sealed bids are solicited, or to the
1423 offeror whose proposal is determined to represent the best value
1424 to the citizens of the State of Mississippi, where requests for
1425 proposals are solicited.

1426 (v) **Insurability of bidders for public construction or**
1427 **other public contracts.** In any solicitation for bids to perform
1428 public construction or other public contracts to which this
1429 section applies, including, but not limited to, contracts for
1430 repair and maintenance, for which the contract will require
1431 insurance coverage in an amount of not less than One Million
1432 Dollars (\$1,000,000.00), bidders shall be permitted to either
1433 submit proof of current insurance coverage in the specified amount



1434 or demonstrate ability to obtain the required coverage amount of
1435 insurance if the contract is awarded to the bidder. Proof of
1436 insurance coverage shall be submitted within five (5) business
1437 days from bid acceptance.

1438 (w) **Purchase authorization clarification.** Nothing in
1439 this section shall be construed as authorizing any purchase not
1440 authorized by law.

1441 (x) **Mississippi Regional Pre-Need Disaster Clean Up**

1442 **Act.** (i) The Department of Finance and Administration shall
1443 develop and implement a process that creates a preferred vendor
1444 list for both disaster debris removal and monitoring.

1445 (ii) Any board of supervisors of any county or any
1446 governing authority of any municipality may opt in to the benefits
1447 and services provided under the appropriate and relevant contract
1448 established in subparagraph (i) of this paragraph at the time of a
1449 disaster event in that county or municipality. At the time of opt
1450 in, the county or municipality shall assume responsibility for
1451 payment in full to the contractor for the disaster-related solid
1452 waste collection, disposal or monitoring services provided.
1453 Nothing in this subparagraph (ii) shall be construed as requiring
1454 a county or municipality to opt in to any such contract
1455 established in subparagraph (i) of this paragraph.

1456 **SECTION 9.** This act shall take effect and be in force from
1457 and after July 1, 2025.

