

By: Representative Hood

To: Judiciary A

HOUSE BILL NO. 1446

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; TO MAKE TECHNICAL REVISIONS TO
8 THE COURT INTERPRETERS PROGRAM ADMINISTERED BY THE ADMINISTRATIVE
9 OFFICE OF COURTS; TO AMEND SECTION 9-21-71, MISSISSIPPI CODE OF
10 1972, TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 9-21-73,
11 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE COURT INTERPRETER
12 PROGRAM IS TO PROVIDE LANGUAGE ACCESS IN ALL MISSISSIPPI COURTS;
13 TO AMEND SECTION 9-21-77, MISSISSIPPI CODE OF 1972, TO REVISE THE
14 INTERPRETER'S OATH; TO AMEND SECTION 9-21-79, MISSISSIPPI CODE OF
15 1972, TO REVISE PROVISIONS RELATING TO THE DETERMINATION OF
16 WHETHER A COURT INTERPRETER IS NEEDED AND TO AUTHORIZE A LIMITED
17 ENGLISH PROFICIENT INDIVIDUAL TO WAIVE THE SERVICES OF AN
18 INTERPRETER; TO AMEND SECTION 9-21-80, MISSISSIPPI CODE OF 1972,
19 TO DECLARE THAT ALL COURT INTERPRETERS ARE SUBJECT TO THE ETHICAL
20 REQUIREMENTS OF THE MISSISSIPPI COURT INTERPRETER CREDENTIALING
21 PROGRAM REGARDLESS OF WHETHER OR NOT THEY ARE LISTED ON THE ROSTER
22 OF CREDENTIALLED INTERPRETERS MAINTAINED BY THE ADMINISTRATIVE
23 OFFICE OF COURTS; TO AMEND SECTION 9-21-81, MISSISSIPPI CODE OF
24 1972, TO AUTHORIZE THE EXPENSES OF AN INTERPRETER TO BE PAID WITH
25 ANY FUNDS AVAILABLE FOR SUCH PURPOSE FOR ANY LIMITED ENGLISH
26 PROFICIENT PARTY, WITNESS OR PARTICIPANT; TO CREATE NEW SECTION
27 9-21-82, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH COURT TO SUBMIT
28 AN ANNUAL REPORT CONTAINING SPECIFIED INFORMATION TO THE
29 ADMINISTRATIVE OFFICE OF COURTS; TO AMEND SECTION 99-17-7,
30 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE EXPENSES OF AN
31 INTERPRETER IN A CRIMINAL PROCEEDING TO BE PAID WITH ANY FUNDS
32 AVAILABLE FOR SUCH PURPOSE FOR ANY LIMITED ENGLISH PROFICIENT
33 PARTY, WITNESS OR PARTICIPANT; AND FOR RELATED PURPOSES.



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

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

(2) The Department of Information Technology Services shall maintain on its website a list of all web-based application service providers who are authorized to provide such web-based application services to any court or county board of supervisors. The list shall contain the email address, mailing address and phone number for each such provider. No formal bid process will be necessary, including newspaper or bid bank advertising, if the purchase is an E-Rate purchase that follows the federal procurement and contract award rules for such a purchase. The court or county board of supervisors shall provide a descriptive Request for Proposal describing the services to be purchased and the term of the contract. Courts or county boards of supervisors shall solicit quotes from all providers on the ITS list. Price quotes shall be received in sealed envelopes by the court or county board of supervisors. Quotes shall not be opened until at least twenty-eight (28) calendar days from the date all vendors on the ITS list are provided with the Request for Proposal. All



price quotes shall be opened at a specified time in a public setting. If any state contract exists for the services being sought, the court or county board of supervisors must consider the contract pricing as if it were a submitted quote. The Office of Administrative Courts or the Mississippi Association of Supervisors, as the case may be, shall aid the courts or county boards of supervisors in the procurement process by providing training and instructions.

(3) The Department of Information Technology Services shall provide the courts or county boards of supervisors, as the case may be, with a contract template for such courts and boards of supervisors to use for the contract and service agreement during the procurement process. The contract shall not exceed five (5) years and shall contain a specific price redetermination process every two (2) years from the date of the contract whereby the service provider may adjust pricing to comply with the E-Rate's requirement that providers provide courts or counties boards of supervisors with the lowest corresponding pricing available.

SECTION 2. Section 31-7-13, Mississippi Code of 1972, is amended 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.



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

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

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

93 **not over \$75,000.00.** Purchases which involve an expenditure of
94 more than Five Thousand Dollars (\$5,000.00) but not more than
95 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
96 and shipping charges, may be made from the lowest and best bidder
97 without publishing or posting advertisement for bids, provided at
98 least two (2) competitive written bids have been obtained. Any
99 state agency or community or junior college purchasing commodities
100 or procuring construction pursuant to this paragraph (b) may
101 authorize its purchasing agent, or his designee, to accept the
102 lowest competitive written bid under Seventy-five Thousand Dollars
103 (\$75,000.00). Any governing authority purchasing commodities
104 pursuant to this paragraph (b) may authorize its purchasing agent,
105 or his designee, with regard to governing authorities other than
106 counties, or its purchase clerk, or his designee, with regard to
107 counties, to accept the lowest and best competitive written bid.
108 Such authorization shall be made in writing by the governing



109 authority and shall be maintained on file in the primary office of
110 the agency and recorded in the official minutes of the governing
111 authority, as appropriate. The purchasing agent or the purchase
112 clerk, or his designee, as the case may be, and not the governing
113 authority, shall be liable for any penalties and/or damages as may
114 be imposed by law for any act or omission of the purchasing agent
115 or purchase clerk, or his designee, constituting a violation of
116 law in accepting any bid without approval by the governing
117 authority. The term "competitive written bid" shall mean a bid
118 submitted on a bid form furnished by the buying agency or
119 governing authority and signed by authorized personnel
120 representing the vendor, or a bid submitted on a vendor's
121 letterhead or identifiable bid form and signed by authorized
122 personnel representing the vendor. "Competitive" shall mean that
123 the bids are developed based upon comparable identification of the
124 needs and are developed independently and without knowledge of
125 other bids or prospective bids. Any bid item for construction in
126 excess of Five Thousand Dollars (\$5,000.00) shall be broken down
127 by components to provide detail of component description and
128 pricing. These details shall be submitted with the written bids
129 and become part of the bid evaluation criteria. Bids may be
130 submitted by facsimile, electronic mail or other generally
131 accepted method of information distribution. Bids submitted by
132 electronic transmission shall not require the signature of the



133 vendor's representative unless required by agencies or governing
134 authorities.

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

136 (i) **Publication requirement.**

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

149 2. Reverse auctions shall be the primary
150 method for receiving bids during the bidding process. If a
151 purchasing entity determines that a reverse auction is not in the
152 best interest of the state, then that determination must be
153 approved by the Public Procurement Review Board. The purchasing
154 entity shall submit a detailed explanation of why a reverse
155 auction would not be in the best interest of the state and present
156 an alternative process to be approved by the Public Procurement
157 Review Board. If the Public Procurement Review Board authorizes



158 the purchasing entity to solicit bids with a method other than
159 reverse auction, then the purchasing entity may designate the
160 other methods by which the bids will be received, including, but
161 not limited to, bids sealed in an envelope, bids received
162 electronically in a secure system, or bids received by any other
163 method that promotes open competition and has been approved by the
164 Office of Purchasing and Travel. However, reverse auction shall
165 not be used for any public contract for design, construction,
166 improvement, repair or remodeling of any public facilities,
167 including the purchase of materials, supplies, equipment or goods
168 for same and including buildings, roads and bridges. The Public
169 Procurement Review Board must approve any contract entered into by
170 alternative process. The provisions of this item 2 shall not
171 apply to the individual state institutions of higher learning.
172 The provisions of this item 2 requiring reverse auction as the
173 primary method of receiving bids shall not apply to term contract
174 purchases as provided in paragraph (n) of this section; however, a
175 purchasing entity may, in its discretion, utilize reverse auction
176 for such purchases. The provisions of this item 2 shall not apply
177 to individual public schools, including public charter schools and
178 public school districts, only when purchasing copyrighted
179 educational supplemental materials and software as a service
180 product. For such purchases, a local school board may authorize a
181 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 published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Seventy-five Thousand Dollars (\$75,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above-provided manner. On the same date that the notice is submitted to the newspaper for publication, the agency or governing authority involved shall mail written notice to, or provide electronic notification to the main office of the



Mississippi Procurement Technical Assistance Program under the
Mississippi Development Authority that contains the same
information as that in the published notice. Within one (1)
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.



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

247 (iii) **Filing requirement.** In all cases involving
248 governing authorities, before the notice shall be published or
249 posted, the plans or specifications for the construction or
250 equipment being sought shall be filed with the clerk of the board
251 of the governing authority. In addition to these requirements, a
252 bid file shall be established which shall indicate those vendors
253 to whom such solicitations and specifications were issued, and
254 such file shall also contain such information as is pertinent to
255 the bid.



(iv) **Specification restrictions.**

1. Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. However, if valid justification is 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.



281 (v) **Electronic bids.** Agencies and governing
282 authorities shall provide a secure electronic interactive system
283 for the submittal of bids requiring competitive bidding that shall
284 be an additional bidding option for those bidders who choose to
285 submit their bids electronically. The Department of Finance and
286 Administration shall provide, by regulation, the standards that
287 agencies must follow when receiving electronic bids. Agencies and
288 governing authorities shall make the appropriate provisions
289 necessary to accept electronic bids from those bidders who choose
290 to submit their bids electronically for all purchases requiring
291 competitive bidding under this section. Any special condition or
292 requirement for the electronic bid submission shall be specified
293 in the advertisement for bids required by this section. Agencies
294 or governing authorities that are currently without available high
295 speed Internet access shall be exempt from the requirement of this
296 subparagraph (v) until such time that high speed Internet access
297 becomes available. Any county having a population of less than
298 twenty thousand (20,000) shall be exempt from the provisions of
299 this subparagraph (v). Any municipality having a population of
300 less than ten thousand (10,000) shall be exempt from the
301 provisions of this subparagraph (v). The provisions of this
302 subparagraph (v) shall not require any bidder to submit bids
303 electronically. When construction bids are submitted
304 electronically, the requirement for including a certificate of
305 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.**

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

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



best value bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions, documented previous experience, training costs and other relevant provisions, including, but not limited 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



381 direct costs associated with the acquisition. Any lease-purchase
382 of equipment which an agency is not required to lease-purchase
383 under the master lease-purchase program pursuant to Section
384 31-7-10 and any lease-purchase of equipment which a governing
385 authority elects to lease-purchase may be acquired by a
386 lease-purchase agreement under this paragraph (e). Lease-purchase
387 financing may also be obtained from the vendor or from a
388 third-party source after having solicited and obtained at least
389 two (2) written competitive bids, as defined in paragraph (b) of
390 this section, for such financing without advertising for such
391 bids. Solicitation for the bids for financing may occur before or
392 after acceptance of bids for the purchase of such equipment or,
393 where no such bids for purchase are required, at any time before
394 the purchase thereof. No such lease-purchase agreement shall be
395 for an annual rate of interest which is greater than the overall
396 maximum interest rate to maturity on general obligation
397 indebtedness permitted under Section 75-17-101, and the term of
398 such lease-purchase agreement shall not exceed the useful life of
399 equipment covered thereby as determined according to the upper
400 limit of the asset depreciation range (ADR) guidelines for the
401 Class Life Asset Depreciation Range System established by the
402 Internal Revenue Service pursuant to the United States Internal
403 Revenue Code and regulations thereunder as in effect on December
404 31, 1980, or comparable depreciation guidelines with respect to
405 any equipment not covered by ADR guidelines. Any lease-purchase



406 agreement entered into pursuant to this paragraph (e) may contain
407 any of the terms and conditions which a master lease-purchase
408 agreement may contain under the provisions of Section 31-7-10(5),
409 and shall contain an annual allocation dependency clause
410 substantially similar to that set forth in Section 31-7-10(8).
411 Each agency or governing authority entering into a lease-purchase
412 transaction pursuant to this paragraph (e) shall maintain with
413 respect to each such lease-purchase transaction the same
414 information as required to be maintained by the Department of
415 Finance and Administration pursuant to Section 31-7-10(13).
416 However, nothing contained in this section shall be construed to
417 permit agencies to acquire items of equipment with a total
418 acquisition cost in the aggregate of less than Ten Thousand
419 Dollars (\$10,000.00) by a single lease-purchase transaction. All
420 equipment, and the purchase thereof by any lessor, acquired by
421 lease-purchase under this paragraph and all lease-purchase
422 payments with respect thereto shall be exempt from all Mississippi
423 sales, use and ad valorem taxes. Interest paid on any
424 lease-purchase agreement under this section shall be exempt from
425 State of Mississippi income taxation.

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



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

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



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

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



480 execution of the contract or in the production or manufacture of
481 materials for use in such performance. Such industry-wide index
482 shall be established and published monthly by the Mississippi
483 Department of Transportation with a copy thereof to be mailed,
484 upon request, to the clerks of the governing authority of each
485 municipality and the clerks of each board of supervisors
486 throughout the state. The price adjustment clause shall be based
487 on the cost of such petroleum products only and shall not include
488 any additional profit or overhead as part of the adjustment. The
489 bid proposals or document contract shall contain the basis and
490 methods of adjusting unit prices for the change in the cost of
491 such petroleum products.

492 (j) **State agency emergency purchase procedure.** If the
493 governing board or the executive head, or his designees, of any
494 agency of the state shall determine that an emergency exists in
495 regard to the purchase of any commodities or repair contracts, so
496 that the delay incident to giving opportunity for competitive
497 bidding would be detrimental to the interests of the state, then
498 the head of such agency, or his designees, shall file with the
499 Department of Finance and Administration (i) a statement
500 explaining the conditions and circumstances of the emergency,
501 which shall include a detailed description of the events leading
502 up to the situation and the negative impact to the entity if the
503 purchase is made following the statutory requirements set forth in
504 paragraph (a), (b) or (c) of this section, and (ii) a certified



505 copy of the appropriate minutes of the board of such agency
506 requesting the emergency purchase, if applicable. Upon receipt of
507 the statement and applicable board certification, the State Fiscal
508 Officer, or his designees, may, in writing, authorize the purchase
509 or repair without having to comply with competitive bidding
510 requirements.

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

523 Total purchases made under this paragraph (j) shall only be
524 for the purpose of meeting needs created by the emergency
525 situation. Following the emergency purchase, documentation of the
526 purchase, including a description of the commodity purchased, the
527 purchase price thereof and the nature of the emergency shall be
528 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 needs expeditiously shall be deemed an emergency purchase for purposes of this paragraph (j).

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

If the governing authority, or the governing authority acting through its designee, shall determine 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 be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority. 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 needs expeditiously shall be deemed an emergency purchase for purposes of this paragraph (k).

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

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

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



579 subparagraph (ii) shall be excepted from the bid requirements set
580 forth in this section.

581 (m) **Exceptions from bidding requirements.** Excepted
582 from bid requirements are:

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

584 Purchasing agreements, contracts and maximum price regulations
585 executed or approved by the Department of Finance and
586 Administration.

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

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



604 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
605 of gravel or fill dirt which are to be removed and transported by
606 the purchaser.

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

618 (vi) **Intergovernmental sales and transfers.**
619 Purchases, sales, transfers or trades by governing authorities or
620 state agencies when such purchases, sales, transfers or trades are
621 made by a private treaty agreement or through means of
622 negotiation, from any federal agency or authority, another
623 governing authority or state agency of the State of Mississippi,
624 or any state agency or governing authority of another state.
625 Nothing in this section shall permit such purchases through public
626 auction except as provided for in subparagraph (v) of this
627 paragraph (m). It is the intent of this section to allow
628 governmental entities to dispose of and/or purchase commodities



629 from other governmental entities at a price that is agreed to by
630 both parties. This shall allow for purchases and/or sales at
631 prices which may be determined to be below the market value if the
632 selling entity determines that the sale at below market value is
633 in the best interest of the taxpayers of the state. Governing
634 authorities shall place the terms of the agreement and any
635 justification on the minutes, and state agencies shall obtain
636 approval from the Department of Finance and Administration, prior
637 to releasing or taking possession of the commodities.

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

642 (viii) **Single-source items.** Noncompetitive items
643 available from one (1) source only. In connection with the
644 purchase of noncompetitive items only available from one (1)
645 source, a certification of the conditions and circumstances
646 requiring the purchase shall be filed by the agency with the
647 Department of Finance and Administration and by the governing
648 authority with the board of the governing authority. Upon receipt
649 of that certification the Department of Finance and Administration
650 or the board of the governing authority, as the case may be, may,
651 in writing, authorize the purchase, which authority shall be noted
652 on the minutes of the body at the next regular meeting thereafter.
653 In those situations, a governing authority is not required to



654 obtain the approval of the Department of Finance and
655 Administration. Following the purchase, the executive head of the
656 state agency, or his designees, shall file with the Department of
657 Finance and Administration, documentation of the purchase,
658 including a description of the commodity purchased, the purchase
659 price thereof and the source from whom it was purchased.

660 (ix) **Waste disposal facility construction**
661 **contracts.** Construction of incinerators and other facilities for
662 disposal of solid wastes in which products either generated
663 therein, such as steam, or recovered therefrom, such as materials
664 for recycling, are to be sold or otherwise disposed of; however,
665 in constructing such facilities, a governing authority or agency
666 shall publicly issue requests for proposals, advertised for in the
667 same manner as provided herein for seeking bids for public
668 construction projects, concerning the design, construction,
669 ownership, operation and/or maintenance of such facilities,
670 wherein such requests for proposals when issued shall contain
671 terms and conditions relating to price, financial responsibility,
672 technology, environmental compatibility, legal responsibilities
673 and such other matters as are determined by the governing
674 authority or agency to be appropriate for inclusion; and after
675 responses to the request for proposals have been duly received,
676 the governing authority or agency may select the most qualified
677 proposal or proposals on the basis of price, technology and other
678 relevant factors and from such proposals, but not limited to the



679 terms thereof, negotiate and enter contracts with one or more of
680 the persons or firms submitting proposals.

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

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

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

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



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

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

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

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

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

726 (xviii) **Purchases of prison industry products by**
727 **the Department of Corrections, regional correctional facilities or**
728 **privately owned prisons.** Purchases made by the Mississippi



Department of Corrections, regional correctional facilities or privately owned prisons involving any item that is manufactured, processed, grown or produced from the state's prison industries.

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

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

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

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

(xxiii) **Municipal water tank maintenance contracts.** Professional maintenance program contracts for the repair or maintenance of municipal water tanks, which provide professional services needed to maintain municipal water storage



754 tanks for a fixed annual fee for a duration of two (2) or more
755 years.

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

761 (xxv) **Purchases of state-adopted textbooks.**
762 Purchases of state-adopted textbooks by public school districts.

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

766 (xxvii) **Used heavy or specialized machinery or**
767 **equipment for installation of soil and water conservation**
768 **practices purchased at auction.** Used heavy or specialized
769 machinery or equipment used for the installation and
770 implementation of soil and water conservation practices or
771 measures purchased subject to the restrictions provided in
772 Sections 69-27-331 through 69-27-341. Any purchase by the State
773 Soil and Water Conservation Commission under the exemption
774 authorized by this subparagraph shall require advance
775 authorization spread upon the minutes of the commission to include
776 the listing of the item or items authorized to be purchased and
777 the maximum bid authorized to be paid for each item or items.



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

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

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

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

793 (xxx) **School yearbooks.** Purchases of school
794 yearbooks by state agencies or governing authorities; however,
795 state agencies and governing authorities shall use for these
796 purchases the RFP process as set forth in the Mississippi
797 Procurement Manual adopted by the Office of Purchasing and Travel.

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



801 (xxxii) **Toll roads and bridge construction**
802 **projects.** Contracts entered into under the provisions of Section
803 65-43-1 or 65-43-3.

804 (xxxiii) **Certain purchases under Section 57-1-221.**
805 Contracts entered into pursuant to the provisions of Section
806 57-1-221.

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

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

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

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



825 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
826 Lottery Law.

827 (xxxviii) **Certain purchases made by the Department**
828 **of Health and the Department of Revenue.** Purchases made by the
829 Department of Health and the Department of Revenue solely for the
830 purpose of fulfilling their respective responsibilities under the
831 Mississippi Medical Cannabis Act. This subparagraph shall stand
832 repealed on June 30, 2026.

833 (xxxix) **Purchases made by state agencies related**
834 **to museum exhibits.** Purchases made by an agency related to the
835 fabrication, construction, installation or refurbishing of museum
836 exhibits. An agency making a purchase under this exemption in
837 excess of the bid threshold set forth in paragraph (c) of this
838 section shall publicly advertise a Request for Qualifications or
839 Request for Proposals in which price as an evaluation factor is at
840 least twenty percent (20%) out of the one hundred percent (100%)
841 total weight, but shall be otherwise exempt. Any contract arising
842 from a purchase using this exemption must be approved by the
843 Public Procurement Review Board prior to execution by the agency.
844 The agency shall submit a written report on December 1 of each
845 year to the Chairs of the Senate and House Appropriations
846 Committees, the Chairs of the Senate and House Accountability,
847 Efficiency and Transparency Committees and the Chair of the Public
848 Procurement Review Board, identifying all purchases made by the
849 agency using this exemption in which the cost of the option



850 selected by the agency was more than twenty-five percent (25%)
851 higher than the lowest cost option available.

852 (n) **Term contract authorization.** All contracts for the
853 purchase of:

854 (i) All contracts for the purchase of commodities,
855 equipment and public construction (including, but not limited to,
856 repair and maintenance), may be let for periods of not more than
857 sixty (60) months in advance, subject to applicable statutory
858 provisions prohibiting the letting of contracts during specified
859 periods near the end of terms of office. Term contracts for a
860 period exceeding twenty-four (24) months shall also be subject to
861 ratification or cancellation by governing authority boards taking
862 office subsequent to the governing authority board entering the
863 contract.

864 (ii) Bid proposals and contracts may include price
865 adjustment clauses with relation to the cost to the contractor
866 based upon a nationally published industry-wide or nationally
867 published and recognized cost index. The cost index used in a
868 price adjustment clause shall be determined by the Department of
869 Finance and Administration for the state agencies and by the
870 governing board for governing authorities. The bid proposal and
871 contract documents utilizing a price adjustment clause shall
872 contain the basis and method of adjusting unit prices for the
873 change in the cost of such commodities, equipment and public
874 construction.



875 (o) **Purchase law violation prohibition and vendor**
876 **penalty.** No contract or purchase as herein authorized shall be
877 made for the purpose of circumventing the provisions of this
878 section requiring competitive bids, nor shall it be lawful for any
879 person or concern to submit individual invoices for amounts within
880 those authorized for a contract or purchase where the actual value
881 of the contract or commodity purchased exceeds the authorized
882 amount and the invoices therefor are split so as to appear to be
883 authorized as purchases for which competitive bids are not
884 required. Submission of such invoices shall constitute a
885 misdemeanor punishable by a fine of not less than Five Hundred
886 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
887 or by imprisonment for thirty (30) days in the county jail, or
888 both such fine and imprisonment. In addition, the claim or claims
889 submitted shall be forfeited.

890 (p) **Electrical utility petroleum-based equipment**
891 **purchase procedure.** When in response to a proper advertisement
892 therefor, no bid firm as to price is submitted to an electric
893 utility for power transformers, distribution transformers, power
894 breakers, reclosers or other articles containing a petroleum
895 product, the electric utility may accept the lowest and best bid
896 therefor although the price is not firm.

897 (q) **Fuel management system bidding procedure.** Any
898 governing authority or agency of the state shall, before
899 contracting for the services and products of a fuel management or



900 fuel access system, enter into negotiations with not fewer than
901 two (2) sellers of fuel management or fuel access systems for
902 competitive written bids to provide the services and products for
903 the systems. In the event that the governing authority or agency
904 cannot locate two (2) sellers of such systems or cannot obtain
905 bids from two (2) sellers of such systems, it shall show proof
906 that it made a diligent, good-faith effort to locate and negotiate
907 with two (2) sellers of such systems. Such proof shall include,
908 but not be limited to, publications of a request for proposals and
909 letters soliciting negotiations and bids. For purposes of this
910 paragraph (q), a fuel management or fuel access system is an
911 automated system of acquiring fuel for vehicles as well as
912 management reports detailing fuel use by vehicles and drivers, and
913 the term "competitive written bid" shall have the meaning as
914 defined in paragraph (b) of this section. Governing authorities
915 and agencies shall be exempt from this process when contracting
916 for the services and products of fuel management or fuel access
917 systems under the terms of a state contract established by the
918 Office of Purchasing and Travel.

919 (r) **Solid waste contract proposal procedure.** Before
920 entering into any contract for garbage collection or disposal,
921 contract for solid waste collection or disposal or contract for
922 sewage collection or disposal, which involves an expenditure of
923 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
924 authority or agency shall issue publicly a request for proposals



925 concerning the specifications for such services which shall be
926 advertised for in the same manner as provided in this section for
927 seeking bids for purchases which involve an expenditure of more
928 than the amount provided in paragraph (c) of this section. Any
929 request for proposals when issued shall contain terms and
930 conditions relating to price, financial responsibility,
931 technology, legal responsibilities and other relevant factors as
932 are determined by the governing authority or agency to be
933 appropriate for inclusion; all factors determined relevant by the
934 governing authority or agency or required by this paragraph (r)
935 shall be duly included in the advertisement to elicit proposals.
936 After responses to the request for proposals have been duly
937 received, the governing authority or agency shall select the most
938 qualified proposal or proposals on the basis of price, technology
939 and other relevant factors and from such proposals, but not
940 limited to the terms thereof, negotiate and enter into contracts
941 with one or more of the persons or firms submitting proposals. If
942 the governing authority or agency deems none of the proposals to
943 be qualified or otherwise acceptable, the request for proposals
944 process may be reinitiated. Notwithstanding any other provisions
945 of this paragraph, where a county with at least thirty-five
946 thousand (35,000) nor more than forty thousand (40,000)
947 population, according to the 1990 federal decennial census, owns
948 or operates a solid waste landfill, the governing authorities of
949 any other county or municipality may contract with the governing



authorities of the county owning or operating the landfill,
pursuant to a resolution duly adopted and spread upon the minutes
of each governing authority involved, for garbage or solid waste
collection or disposal services through contract negotiations.

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

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



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

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

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

982 (t) **Construction punch list restriction.** The
983 architect, engineer or other representative designated by the
984 agency or governing authority that is contracting for public
985 construction or renovation may prepare and submit to the
986 contractor only one (1) preliminary punch list of items that do
987 not meet the contract requirements at the time of substantial
988 completion and one (1) final list immediately before final
989 completion and final payment.

990 (u) **Procurement of construction services by state**
991 **institutions of higher learning.** Contracts for privately financed
992 construction of auxiliary facilities on the campus of a state
993 institution of higher learning may be awarded by the Board of
994 Trustees of State Institutions of Higher Learning to the lowest
995 and best bidder, where sealed bids are solicited, or to the
996 offeror whose proposal is determined to represent the best value
997 to the citizens of the State of Mississippi, where requests for
998 proposals are solicited.



999 (v) **Insurability of bidders for public construction or**
1000 **other public contracts.** In any solicitation for bids to perform
1001 public construction or other public contracts to which this
1002 section applies, including, but not limited to, contracts for
1003 repair and maintenance, for which the contract will require
1004 insurance coverage in an amount of not less than One Million
1005 Dollars (\$1,000,000.00), bidders shall be permitted to either
1006 submit proof of current insurance coverage in the specified amount
1007 or demonstrate ability to obtain the required coverage amount of
1008 insurance if the contract is awarded to the bidder. Proof of
1009 insurance coverage shall be submitted within five (5) business
1010 days from bid acceptance.

1011 (w) **Purchase authorization clarification.** Nothing in
1012 this section shall be construed as authorizing any purchase not
1013 authorized by law.

1014 (x) **Mississippi Regional Pre-Need Disaster Clean Up**
1015 **Act.** (i) The Department of Finance and Administration shall
1016 develop and implement a process that creates a preferred vendor
1017 list for both disaster debris removal and monitoring.
1018 (ii) Any board of supervisors of any county or any
1019 governing authority of any municipality may opt in to the benefits
1020 and services provided under the appropriate and relevant contract
1021 established in subparagraph (i) of this paragraph at the time of a
1022 disaster event in that county or municipality. At the time of opt
1023 in, the county or municipality shall assume responsibility for



1024 payment in full to the contractor for the disaster-related solid
1025 waste collection, disposal or monitoring services provided.
1026 Nothing in this subparagraph (ii) shall be construed as requiring
1027 a county or municipality to opt in to any such contract
1028 established in subparagraph (i) of this paragraph.

1029 **SECTION 3.** Section 9-21-71, Mississippi Code of 1972, is
1030 amended as follows:

1031 9-21-71. The following words and phrases have the meanings
1032 ascribed in this section unless the context clearly requires
1033 otherwise:

1034 (a) "Limited English Proficient (LEP) individual" means
1035 any party * * *, witness or participant who cannot readily
1036 understand or communicate in spoken English or who does not speak
1037 English as his or her primary language and who consequently has a
1038 limited ability to read, speak, write or understand English and
1039 cannot equally participate in or benefit from the proceedings
1040 unless an interpreter is available to assist the individual. The
1041 fact that an individual is a person for whom English is a second
1042 language * * * does not prohibit that individual from being
1043 allowed to have an interpreter.

1044 (b) "Court interpreter" means any person authorized by
1045 a court who is competent to translate or interpret oral or written
1046 communication in a foreign language during court proceedings. A
1047 court interpreter may be one (1) of the following:



1048 (i) "Certified court interpreter," which means an
1049 interpreter who successfully has met all requirements promulgated
1050 by the Administrative Office of Courts to be designated a
1051 registered court interpreter and has scored at least seventy
1052 percent (70%) on each of the three (3) sections of an approved
1053 criterion-referenced oral performance examination.

1054 (ii) "Registered court interpreter," which means
1055 an interpreter who has:

- 1056 1. Attended an approved two-day,
1057 fourteen-hour ethics and skill building workshop;
- 1058 2. Passed an approved criterion-referenced
1059 written examination with a minimum overall score of eighty percent
1060 (80%);
- 1061 3. Submitted to a criminal background check;
- 1062 4. Provided verification of legal right to
1063 work in the United States;
- 1064 5. Executed the Interpreter Oath; and
- 1065 6. Satisfied any additional requirements that
1066 the Administrative Office of Courts may establish * * * to be
1067 listed as a registered court interpreter on the Roster.

1068 (iii) "Noncredentialed interpreter," which means
1069 an interpreter who has not met the requirements promulgated by the
1070 Administrative Office of Courts to be classified as a registered
1071 or certified court interpreter and therefore, is not listed on the
1072 Roster.



1073 (c) "Court proceedings" means a proceeding before any
1074 court of this state or a grand jury hearing, including all civil
1075 and criminal hearings and trials.

1076 (d) "Interpretation" means the accurate and complete
1077 unrehearsed transmission of an oral message from one (1) language
1078 to an oral message in another language. Interpretation may be one
1079 (1) of the following:

1080 (i) "Consecutive interpretation," which means
1081 providing the target-language message after the speaker has
1082 finished speaking.

1083 (ii) "Sight translation," which means oral
1084 translation of a written document.

1085 (iii) "Simultaneous interpretation," which means
1086 providing the target-language message at approximately the same
1087 time the source-language message is being produced.

1088 (e) "Source language" means the input language
1089 requiring interpretation.

1090 (f) "Target language" means the output language into
1091 which the utterance is being interpreted.

1092 (g) "Translation" means the process of translating text
1093 from one (1) language to another to maintain the original message
1094 and communication.

1095 **SECTION 4.** Section 9-21-73, Mississippi Code of 1972, is
1096 amended as follows:



1097 9-21-73. (1) The Administrative Office of Courts shall
1098 establish a program for language access and to facilitate the use
1099 of interpreters in all courts of the State of Mississippi.

1100 (2) (a) The Administrative Office of Courts shall prescribe
1101 the qualifications of and qualify persons who may serve as
1102 credentialed court interpreters in all courts of the State of
1103 Mississippi. The Administrative Office of Courts may set and
1104 charge a reasonable fee for credentialing.

1105 (b) The Administrative Office of Courts shall maintain
1106 a current master list of all credentialed court interpreters (the
1107 "Roster").

1108 (3) In all bilingual proceedings, the presiding judicial
1109 officer, with the assistance of the Administrative Office of
1110 Courts, shall utilize the services of an interpreter to
1111 communicate all spoken or written words * * *.

1112 (4) A Limited English Proficient (LEP) individual is
1113 entitled to use an interpreter in any instance arising out of or
1114 pertaining to the individual's involvement in litigation.

1115 (5) All courts shall maintain on file in the office of the
1116 clerk of the court a list of all persons who have been
1117 credentialed as court interpreters in accordance with the
1118 Administrative Office of Court's Credentialing Program established
1119 pursuant to this section.

1120 **SECTION 5.** Section 9-21-77, Mississippi Code of 1972, is
1121 amended as follows:



1122 9-21-77. (1) Prior to providing any service to a Limited
1123 English Proficient (LEP) individual, the interpreter shall
1124 subscribe to an oath that he or she shall interpret all
1125 communications in an accurate manner to the best of his or her
1126 skill and knowledge.

1127 (2) The oath shall conform substantially to the following
1128 form:

1129 INTERPRETER'S OATH

1130 "Do you solemnly swear or affirm that you will faithfully
1131 interpret from (state the language) into English and from English
1132 into (state the language) * * * accurately, completely and
1133 impartially, using your best * * * skill and * * * judgment in
1134 accordance with prescribed law, the Mississippi Rules on Standards
1135 for Court Interpreters, and the Mississippi Code of Ethics for
1136 Court Interpreters, and that you will discharge all the solemn
1137 duties and obligations of legal interpretation and translation?"

1138 (3) Interpreters shall not voluntarily disclose any
1139 admission or communication that is declared to be confidential or
1140 privileged under state law. Out-of-court disclosures made by a
1141 Limited English Proficient (LEP) individual communicating through
1142 an interpreter shall be treated by the interpreter as confidential
1143 or privileged or both unless the court orders the interpreter to
1144 disclose such communications or the Limited English Proficient
1145 (LEP) individual waives such confidentiality or privilege.



1146 (4) Interpreters shall not publicly discuss, report or offer
1147 an opinion concerning a matter in which they are engaged, even
1148 when that information is not privileged or required by law to be
1149 confidential.

1150 (5) The presence of an interpreter shall not affect the
1151 privileged nature of any discussion.

1152 **SECTION 6.** Section 9-21-79, Mississippi Code of 1972, is
1153 amended as follows:

1154 9-21-79. (1) An interpreter is needed and a court
1155 interpreter shall be appointed when the judge determines * * *
1156 that: (a) * * * a party, witness or participant cannot understand
1157 and speak English well enough to participate fully in the
1158 proceedings and to assist counsel; or (b) the witness cannot speak
1159 English so as to be understood directly by counsel, court and
1160 jury.

1161 (2) The court should examine a party or witness on the
1162 record to determine whether an interpreter is needed if:

1163 (a) A party or counsel requests such an examination; or

1164 (b) It appears to the court that the party or witness
1165 may not understand and speak English well enough to participate
1166 fully in the proceedings * * *.

1167 * * *

1168 (3) After the examination, the court should state its
1169 conclusion on the record, and the file in the case shall be
1170 clearly marked and data entered electronically when appropriate by



1171 court personnel to ensure that an interpreter will be present when
1172 needed in any subsequent hearing or instance arising out of the
1173 litigation.

1174 (4) * * * The court shall determine whether the interpreter
1175 provided is able to communicate accurately with and translate
1176 information to and from the Limited English Proficient (LEP)
1177 individual. If it is determined that the interpreter cannot
1178 perform these functions, the court shall provide the Limited
1179 English Proficient (LEP) individual with another interpreter.

1180 (5) Recognition of the need for a court interpreter may
1181 arise from a request by a party or counsel, the court's own voir
1182 dire of a party or witness, or disclosures made to the court by a
1183 party, counsel, court employee, or other person familiar with the
1184 ability or inability of the person to understand and communicate
1185 in English.

1186 (6) A Limited English Proficient (LEP) individual, at any
1187 point in a proceeding, may waive the services of a court
1188 interpreter. The waiver of the interpreter's services must be in
1189 writing in the person's native language. In addition, the waiver
1190 must be knowing and voluntary and with the approval of the court.
1191 Any deliberations made on matters of waiver or the retraction of a
1192 waiver must be made on the record. Granting a waiver under this
1193 subsection is a matter of judicial discretion. The waiver may be
1194 approved only after:



1195 (a) The court explains in open court to the LEP
1196 individual, through an interpreter, the nature and effect of the
1197 waiver;

1198 (b) The court determines in open court that the waiver
1199 has been made knowingly, intelligently and voluntarily; and

1200 (c) In a criminal matter, the court determines that the
1201 defendant has been afforded the opportunity to consult with the
1202 defendant's attorney regarding the waiver.

1203 (7) At any point in the proceeding, the LEP individual may
1204 retract the waiver and request an interpreter.

1205 **SECTION 7.** Section 9-21-80, Mississippi Code of 1972, is
1206 amended as follows:

1207 9-21-80. (1) The court shall appoint an interpreter in the
1208 following order of preference:

1209 (a) Certified court interpreter.

1210 (b) Registered court interpreter.

1211 (c) Noncredentialed interpreter.

1212 (2) A noncredentialed interpreter may be appointed if:

1213 (a) Neither a certified nor registered court
1214 interpreter reasonably is available; and

1215 (b) The court has evaluated the totality of the
1216 circumstances, including the gravity of the judicial proceeding
1217 and the potential penalty or consequence involved.



1218 (3) If the court appoints * * * an interpreter who is not
1219 certified, the court must make the following findings on the
1220 record:

1221 (a) The proposed interpreter appears to have: (i)
1222 adequate language skills, knowledge of interpreting techniques,
1223 and familiarity with interpreting in a court setting; and (ii)
1224 read and understand, and agrees to abide by, the Mississippi Code
1225 of Ethics for Court Interpreters and the Mississippi Rules on
1226 Standards for Court Interpreters.

1227 (4) A summary of the efforts made to obtain a
1228 certified * * * court interpreter, as well as a summary of the
1229 efforts to determine the capabilities of the proposed * * *
1230 interpreter, must be made in open court and placed on the record.

1231 (5) Each interpreter providing court interpreting services
1232 is subject to the ethical requirements set forth in the
1233 Mississippi Court Interpreter Credentialing Program without regard
1234 to whether or not the interpreter is listed on the Roster.

1235 **SECTION 8.** Section 9-21-81, Mississippi Code of 1972, is
1236 amended as follows:

1237 9-21-81. (1) Any volunteer interpreter providing services
1238 under Sections 9-21-71 through 9-21-81 shall be paid reasonable
1239 expenses by the court.

1240 (2) The expenses of providing an interpreter in any court
1241 proceeding or instance arising out of litigation must be payable
1242 out of the county or municipal treasury or any other source of



funds available for this purpose at no cost to the litigant or the
Limited English Proficient (LEP) party, witness or participant.

SECTION 9. The following shall be codified as Section
9-21-82, Mississippi Code of 1972:

9-21-82. Each court in the State of Mississippi shall
prepare and submit a report annually to the Administrative Office
of Courts with information and plans concerning implementation of
language access. The report must include, but is not limited to,
the following:

(a) The number of bilingual staff who are available to
facilitate language access and the languages they facilitate;

(b) A plan to address any insufficiency in its ability
to provide language access;

(c) A list of vital documents that the court has had
translated and the language of the translation;

(d) The number of times a court interpreter was
utilized, what language was needed, and the total cost of
utilizing court interpreters; and

(e) A staff training plan related to language access,
which plan must contain specific information regarding
implementation, including the specific types of language services
available and how the court will do all of the following:

(i) Obtain language services internally or from
vendors;



1267 (ii) Respond to callers with limited English
1268 proficiency;
1269 (iii) Respond to written communications from
1270 individuals with limited English proficiency;
1271 (iv) Respond to individuals with limited English
1272 proficiency who have in-person contact with staff;
1273 (v) Collect language data for all public
1274 encounters; and
1275 (vi) Indicate limited English proficiency status
1276 in data and information systems.

1277 **SECTION 10.** Section 99-17-7, Mississippi Code of 1972, is
1278 amended as follows:

1279 99-17-7. In all criminal cases wherein * * * a defendant,
1280 witness or participant is a Limited English Proficient (LEP)
1281 individual, the court shall appoint a qualified interpreter as
1282 provided in Section 9-21-80, sworn truly to interpret, and allow
1283 him a reasonable compensation, as set by the court, payable out of
1284 the county or municipal treasury or any other source of funds
1285 available for this purpose at no cost to the * * * Limited English
1286 Proficient (LEP) party, witness or participant.

1287 **SECTION 11.** This act shall take effect and be in force from
1288 and after July 1, 2025.

