

By: Senator(s) Hill

To: Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2547

1 AN ACT TO PROHIBIT STATE, COUNTY AND MUNICIPAL AGENCIES,  
2 DEPARTMENTS, INSTITUTIONS OR OFFICES, AND ITS POLITICAL  
3 SUBDIVISIONS, FROM ENTERING INTO MINORITY SET-ASIDE CONTRACTS OR  
4 FROM PROVIDING MINORITY BUSINESSES WITH PREFERENTIAL TREATMENT  
5 WITH PUBLIC CONTRACTS AND PURCHASES ON THE BASIS OF RACE,  
6 ETHNICITY OR SEX; TO AMEND SECTIONS 27-104-7, 31-7-13, 57-69-5,  
7 57-69-9, 57-75-9, 57-75-11 AND 57-75-21, MISSISSIPPI CODE OF 1972,  
8 TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) Not withstanding any federal law to the  
11 contrary, from and after the effective date of this act, the  
12 governing authority of any state county or municipal agencies,  
13 departments, institutions or offices, and its political  
14 subdivisions, are prohibited from entering into a minority  
15 set-aside contract with a minority business or from providing  
16 minority businesses with preferential treatment in regards to  
17 public contracts, on the basis of race, ethnicity or sex of the  
18 business owner or owners.

19 (2) As used in this section, "minority business" means a  
20 business which is owned by a person or a majority of persons who  
21 are United States citizens or permanent resident aliens (as



22 defined by the Immigration and Naturalization Service) of the  
23 United States, and who are classified as a minority. For the  
24 purpose of this section, "minority" means a person who is a  
25 citizen or lawful permanent resident of the United States and who  
26 is:

27 (a) African American or Black: having origins in any  
28 of the black racial groups of Africa;

29 (b) Hispanic or Latino: of Mexican, Puerto Rican,  
30 Cuban, Central or South American, or other Spanish or Portuguese  
31 culture or origin regardless of race;

32 (c) Asian: having origins in any of the original  
33 peoples of the Far East, Southeast Asia, the Indian subcontinent,  
34 or the Pacific Islands;

35 (d) American Indian or Alaskan Native: having origins  
36 in any of the original peoples of North America; and/or

37 (e) Female.

38 **SECTION 2.** Section 27-104-7, Mississippi Code of 1972, is  
39 amended as follows:

40 27-104-7. (1) (a) There is created the Public Procurement  
41 Review Board, which shall be reconstituted on January 1, 2018, and  
42 shall be composed of the following members:

43 (i) Three (3) individuals appointed by the  
44 Governor with the advice and consent of the Senate;

45 (ii) Two (2) individuals appointed by the  
46 Lieutenant Governor with the advice and consent of the Senate; and



47 (iii) The Executive Director of the Department of  
48 Finance and Administration, serving as an ex officio and nonvoting  
49 member.

50 (b) The initial terms of each appointee shall be as  
51 follows:

52 (i) One (1) member appointed by the Governor to  
53 serve for a term ending on June 30, 2019;

54 (ii) One (1) member appointed by the Governor to  
55 serve for a term ending on June 30, 2020;

56 (iii) One (1) member appointed by the Governor to  
57 serve for a term ending on June 30, 2021;

58 (iv) One (1) member appointed by the Lieutenant  
59 Governor to serve for a term ending on June 30, 2019; and

60 (v) One (1) member appointed by the Lieutenant  
61 Governor to serve for a term ending on June 30, 2020.

62 After the expiration of the initial terms, all appointed  
63 members' terms shall be for a period of four (4) years from the  
64 expiration date of the previous term, and until such time as the  
65 member's successor is duly appointed and qualified.

66 (c) When appointing members to the Public Procurement  
67 Review Board, the Governor and Lieutenant Governor shall take into  
68 consideration persons who possess at least five (5) years of  
69 management experience in general business, health care or finance  
70 for an organization, corporation or other public or private  
71 entity. Any person, or any employee or owner of a company, who



72 receives any grants, procurements or contracts that are subject to  
73 approval under this section shall not be appointed to the Public  
74 Procurement Review Board. Any person, or any employee or owner of  
75 a company, who is a principal of the source providing a personal  
76 or professional service shall not be appointed to the Public  
77 Procurement Review Board if the principal owns or controls a  
78 greater than five percent (5%) interest or has an ownership value  
79 of One Million Dollars (\$1,000,000.00) in the source's business,  
80 whichever is smaller. No member shall be an officer or employee  
81 of the State of Mississippi while serving as a voting member on  
82 the Public Procurement Review Board.

83 (d) Members of the Public Procurement Review Board  
84 shall be entitled to per diem as authorized by Section 25-3-69 and  
85 travel reimbursement as authorized by Section 25-3-41.

86 (e) The members of the Public Procurement Review Board  
87 shall elect a chair from among the membership, and he or she shall  
88 preside over the meetings of the board. The board shall annually  
89 elect a vice chair, who shall serve in the absence of the chair.  
90 No business shall be transacted, including adoption of rules of  
91 procedure, without the presence of a quorum of the board. Three  
92 (3) members shall be a quorum. No action shall be valid unless  
93 approved by a majority of the members present and voting, entered  
94 upon the minutes of the board and signed by the chair. Necessary  
95 clerical and administrative support for the board shall be  
96 provided by the Department of Finance and Administration. Minutes



97 shall be kept of the proceedings of each meeting, copies of which  
98 shall be filed on a monthly basis with the chairs of the  
99 Accountability, Efficiency and Transparency Committees of the  
100 Senate and House of Representatives and the chairs of the  
101 Appropriations Committees of the Senate and House of  
102 Representatives.

103 (2) The Public Procurement Review Board shall have the  
104 following powers and responsibilities:

105 (a) Approve all purchasing regulations governing the  
106 purchase or lease by any agency, as defined in Section 31-7-1, of  
107 commodities and equipment, except computer equipment acquired  
108 pursuant to Sections 25-53-1 through 25-53-29;

109 (b) Adopt regulations governing the approval of  
110 contracts let for the construction and maintenance of state  
111 buildings and other state facilities as well as related contracts  
112 for architectural and engineering services.

113 The provisions of this paragraph (b) shall not apply to such  
114 contracts involving buildings and other facilities of state  
115 institutions of higher learning which are self-administered as  
116 provided under this paragraph (b) or Section 37-101-15(m);

117 (c) Adopt regulations governing any lease or rental  
118 agreement by any state agency or department, including any state  
119 agency financed entirely by federal funds, for space outside the  
120 buildings under the jurisdiction of the Department of Finance and  
121 Administration. These regulations shall require each agency



122 requesting to lease such space to provide the following  
123 information that shall be published by the Department of Finance  
124 and Administration on its website: the agency to lease the space;  
125 the terms of the lease; the approximate square feet to be leased;  
126 the use for the space; a description of a suitable space; the  
127 general location desired for the leased space; the contact  
128 information for a person from the agency; the deadline date for  
129 the agency to have received a lease proposal; any other specific  
130 terms or conditions of the agency; and any other information  
131 deemed appropriate by the Division of Real Property Management of  
132 the Department of Finance and Administration or the Public  
133 Procurement Review Board. The information shall be provided  
134 sufficiently in advance of the time the space is needed to allow  
135 the Division of Real Property Management of the Department of  
136 Finance and Administration to review and preapprove the lease  
137 before the time for advertisement begins;

138 \* \* \*

139 ( \* \* \*d) In consultation with and approval by the  
140 Chairs of the Senate and House Public Property Committees, approve  
141 leases, for a term not to exceed eighteen (18) months, entered  
142 into by state agencies for the purpose of providing parking  
143 arrangements for state employees who work in the Woolfolk  
144 Building, the Carroll Gartin Justice Building or the Walter  
145 Sillers Office Building;



146 ( \* \* \*e) (i) Except as otherwise provided in  
147 subparagraph (ii) of this paragraph, promulgate rules and  
148 regulations governing the solicitation and selection of  
149 contractual services personnel, including personal and  
150 professional services contracts for any form of consulting, policy  
151 analysis, public relations, marketing, public affairs, legislative  
152 advocacy services or any other contract that the board deems  
153 appropriate for oversight, with the exception of:

154 1. Any personal service contracts entered  
155 into by any agency that employs only nonstate service employees as  
156 defined in Section 25-9-107(c);

157 2. Any personal service contracts entered  
158 into for computer or information technology-related services  
159 governed by the Mississippi Department of Information Technology  
160 Services;

161 3. Any personal service contracts entered  
162 into by the individual state institutions of higher learning;

163 4. Any personal service contracts entered  
164 into by the Mississippi Department of Transportation;

165 5. Any personal service contracts entered  
166 into by the Department of Human Services through June 30, 2019,  
167 which the Executive Director of the Department of Human Services  
168 determines would be useful in establishing and operating the  
169 Department of Child Protection Services;



170                   6. Any personal service contracts entered  
171 into by the Department of Child Protection Services through June  
172 30, 2019;

173                   7. Any contracts for entertainers and/or  
174 performers at the Mississippi State Fairgrounds entered into by  
175 the Mississippi Fair Commission;

176                   8. Any contracts entered into by the  
177 Department of Finance and Administration when procuring aircraft  
178 maintenance, parts, equipment and/or services;

179                   9. Any contract entered into by the  
180 Department of Public Safety for service on specialized equipment  
181 and/or software required for the operation of such specialized  
182 equipment for use by the Office of Forensics Laboratories;

183                   10. Any personal or professional service  
184 contract entered into by the Mississippi Department of Health or  
185 the Department of Revenue solely in connection with their  
186 respective responsibilities under the Mississippi Medical Cannabis  
187 Act from February 2, 2022, through June 30, 2026;

188                   11. Any contract for attorney, accountant,  
189 actuary auditor, architect, engineer, anatomical pathologist, or  
190 utility rate expert services;

191                   12. Any personal service contracts approved  
192 by the Executive Director of the Department of Finance and  
193 Administration and entered into by the Coordinator of Mental  
194 Health Accessibility through June 30, 2022;



195                   13. Any personal or professional services  
196 contract entered into by the State Department of Health in  
197 carrying out its responsibilities under the ARPA Rural Water  
198 Associations Infrastructure Grant Program through June 30, 2026;

199                   14. And any personal or professional services  
200 contract entered into by the Mississippi Department of  
201 Environmental Quality in carrying out its responsibilities under  
202 the Mississippi Municipality and County Water Infrastructure Grant  
203 Program Act of 2022, through June 30, 2026;

204                   15. Any personal or professional services  
205 contract entered into by an agency for the design, operation or  
206 maintenance of museum exhibits. An agency making a purchase under  
207 this exemption shall publicly advertise a Request for  
208 Qualifications but shall be otherwise exempt. Any contracts  
209 arising from the use of this exemption must be approved by the  
210 Public Procurement Review Board prior to execution by the agency;  
211 and

212                   16. Any personal or professional services  
213 contract entered into by the Mississippi Department of  
214 Environmental Quality in carrying out its responsibilities under  
215 Section 49-2-13(1). This item \* \* \* 16 shall stand repealed on  
216 July 1, 2028.

217           Any such rules and regulations shall provide for maintaining  
218 continuous internal audit covering the activities of such agency  
219 affecting its revenue and expenditures as required under Section



220 7-7-3(6)(d). Any rules and regulation changes related to personal  
221 and professional services contracts that the Public Procurement  
222 Review Board may propose shall be submitted to the Chairs of the  
223 Accountability, Efficiency and Transparency Committees of the  
224 Senate and House of Representatives and the Chairs of the  
225 Appropriation Committees of the Senate and House of  
226 Representatives at least fifteen (15) days before the board votes  
227 on the proposed changes, and those rules and regulation changes,  
228 if adopted, shall be promulgated in accordance with the  
229 Mississippi Administrative Procedures Act.

230 (ii) From and after July 1, 2024, the Public  
231 Procurement Review Board shall promulgate rules and regulations  
232 that require the Department of Finance and Administration to  
233 conduct personal and professional services solicitations as  
234 provided in subparagraph (i) of this paragraph for those services  
235 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the  
236 Department of Marine Resources, the Department of Wildlife,  
237 Fisheries and Parks, the Mississippi Emergency Management Agency  
238 and the Mississippi Development Authority, with assistance to be  
239 provided from these entities. Any powers that have been conferred  
240 upon agencies in order to comply with the provisions of this  
241 section for personal and professional services solicitations shall  
242 be conferred upon the Department of Finance and Administration to  
243 conduct personal and professional services solicitations for the  
244 Department of Marine Resources, the Department of Wildlife,



245 Fisheries and Parks, the Mississippi Emergency Management Agency  
246 and the Mississippi Development Authority for those services in  
247 excess of Seventy-five Thousand Dollars (\$75,000.00). The  
248 Department of Finance and Administration shall make any  
249 submissions that are required to be made by other agencies to the  
250 Public Procurement Review Board for the Department of Marine  
251 Resources, the Department of Wildlife, Fisheries and Parks, the  
252 Mississippi Emergency Management Agency and the Mississippi  
253 Development Authority.

254 The provisions of this subparagraph (ii) shall stand repealed  
255 on June 30, 2027;

256 ( \* \* \*f) Approve all personal and professional  
257 services contracts involving the expenditures of funds in excess  
258 of Seventy-five Thousand Dollars (\$75,000.00), except as provided  
259 in paragraph ( \* \* \*e) of this subsection (2) and in subsection  
260 (8);

261 ( \* \* \*g) Develop mandatory standards with respect to  
262 contractual services personnel that require invitations for public  
263 bid, requests for proposals, record keeping and financial  
264 responsibility of contractors. The Public Procurement Review  
265 Board shall, unless exempted under this paragraph ( \* \* \*g) or  
266 under paragraph ( \* \* \*h) or ( \* \* \*n) of this subsection (2),  
267 require the agency involved to submit the procurement to a  
268 competitive procurement process, and may reserve the right to  
269 reject any or all resulting procurements;



270 ( \* \* \*h) Prescribe certain circumstances by which  
271 agency heads may enter into contracts for personal and  
272 professional services without receiving prior approval from the  
273 Public Procurement Review Board. The Public Procurement Review  
274 Board may establish a preapproved list of providers of various  
275 personal and professional services for set prices with which state  
276 agencies may contract without bidding or prior approval from the  
277 board;

278 (i) Agency requirements may be fulfilled by  
279 procuring services performed incident to the state's own programs.  
280 The agency head shall determine in writing whether the price  
281 represents a fair market value for the services. When the  
282 procurements are made from other governmental entities, the  
283 private sector need not be solicited; however, these contracts  
284 shall still be submitted for approval to the Public Procurement  
285 Review Board.

286 (ii) Contracts between two (2) state agencies,  
287 both under Public Procurement Review Board purview, shall not  
288 require Public Procurement Review Board approval. However, the  
289 contracts shall still be entered into the enterprise resource  
290 planning system;

291 ( \* \* \*i) Provide standards for the issuance of  
292 requests for proposals, the evaluation of proposals received,  
293 consideration of costs and quality of services proposed, contract  
294 negotiations, the administrative monitoring of contract



295 performance by the agency and successful steps in terminating a  
296 contract;

297 ( \* \* \*j) Present recommendations for governmental  
298 privatization and to evaluate privatization proposals submitted by  
299 any state agency;

300 ( \* \* \*k) Authorize personal and professional service  
301 contracts to be effective for more than one (1) year provided a  
302 funding condition is included in any such multiple year contract,  
303 except the State Board of Education, which shall have the  
304 authority to enter into contractual agreements for student  
305 assessment for a period up to ten (10) years. The State Board of  
306 Education shall procure these services in accordance with the  
307 Public Procurement Review Board procurement regulations;

308 ( \* \* \*l) Request the State Auditor to conduct a  
309 performance audit on any personal or professional service  
310 contract;

311 ( \* \* \*m) Prepare an annual report to the Legislature  
312 concerning the issuance of personal and professional services  
313 contracts during the previous year, collecting any necessary  
314 information from state agencies in making such report;

315 ( \* \* \*n) Develop and implement the following standards  
316 and procedures for the approval of any sole source contract for  
317 personal and professional services regardless of the value of the  
318 procurement:



319 (i) For the purposes of this paragraph ( \* \* \*n),  
320 the term "sole source" means only one (1) source is available that  
321 can provide the required personal or professional service.

322 (ii) An agency that has been issued a binding,  
323 valid court order mandating that a particular source or provider  
324 must be used for the required service must include a copy of the  
325 applicable court order in all future sole source contract reviews  
326 for the particular personal or professional service referenced in  
327 the court order.

328 (iii) Any agency alleging to have a sole source  
329 for any personal or professional service, other than those  
330 exempted under paragraph ( \* \* \*e) of this subsection (2) and  
331 subsection (8), shall publish on the procurement portal website  
332 established by Sections 25-53-151 and 27-104-165, for at least  
333 fourteen (14) days, the terms of the proposed contract for those  
334 services. In addition, the publication shall include, but is not  
335 limited to, the following information:

336 1. The personal or professional service  
337 offered in the contract;

338 2. An explanation of why the personal or  
339 professional service is the only one (1) that can meet the needs  
340 of the agency;

341 3. An explanation of why the source is the  
342 only person or entity that can provide the required personal or  
343 professional service;



344                   4. An explanation of why the amount to be  
345 expended for the personal or professional service is reasonable;  
346 and

347                   5. The efforts that the agency went through  
348 to obtain the best possible price for the personal or professional  
349 service.

350                   (iv) If any person or entity objects and proposes  
351 that the personal or professional service published under  
352 subparagraph (iii) of this paragraph ( \* \* \*n) is not a sole  
353 source service and can be provided by another person or entity,  
354 then the objecting person or entity shall notify the Public  
355 Procurement Review Board and the agency that published the  
356 proposed sole source contract with a detailed explanation of why  
357 the personal or professional service is not a sole source service.

358                   (v) 1. If the agency determines after review that  
359 the personal or professional service in the proposed sole source  
360 contract can be provided by another person or entity, then the  
361 agency must withdraw the sole source contract publication from the  
362 procurement portal website and submit the procurement of the  
363 personal or professional service to an advertised competitive bid  
364 or selection process.

365                   2. If the agency determines after review that  
366 there is only one (1) source for the required personal or  
367 professional service, then the agency may appeal to the Public  
368 Procurement Review Board. The agency has the burden of proving



369 that the personal or professional service is only provided by one  
370 (1) source.

371                   3. If the Public Procurement Review Board has  
372 any reasonable doubt as to whether the personal or professional  
373 service can only be provided by one (1) source, then the agency  
374 must submit the procurement of the personal or professional  
375 service to an advertised competitive bid or selection process. No  
376 action taken by the Public Procurement Review Board in this appeal  
377 process shall be valid unless approved by a majority of the  
378 members of the Public Procurement Review Board present and voting.

379                   (vi) The Public Procurement Review Board shall  
380 prepare and submit a quarterly report to the House of  
381 Representatives and Senate Accountability, Efficiency and  
382 Transparency Committees that details the sole source contracts  
383 presented to the Public Procurement Review Board and the reasons  
384 that the Public Procurement Review Board approved or rejected each  
385 contract. These quarterly reports shall also include the  
386 documentation and memoranda required in subsection (4) of this  
387 section. An agency that submitted a sole source contract shall be  
388 prepared to explain the sole source contract to each committee by  
389 December 15 of each year upon request by the committee; and

390                   ( \* \* \*o) Assess any fines and administrative penalties  
391 provided for in Sections 31-7-401 through 31-7-423.

392                   (3) All submissions shall be made sufficiently in advance of  
393 each monthly meeting of the Public Procurement Review Board as



394 prescribed by the Public Procurement Review Board. If the Public  
395 Procurement Review Board rejects any contract submitted for review  
396 or approval, the Public Procurement Review Board shall clearly set  
397 out the reasons for its action, including, but not limited to, the  
398 policy that the agency has violated in its submitted contract and  
399 any corrective actions that the agency may take to amend the  
400 contract to comply with the rules and regulations of the Public  
401 Procurement Review Board.

402 (4) All sole source contracts for personal and professional  
403 services awarded by state agencies, other than those exempted  
404 under Section 27-104-7(2) ( \* \* \*e) and (8), whether approved by an  
405 agency head or the Public Procurement Review Board, shall contain  
406 in the procurement file a written determination for the approval,  
407 using a request form furnished by the Public Procurement Review  
408 Board. The written determination shall document the basis for the  
409 determination, including any market analysis conducted in order to  
410 ensure that the service required was practicably available from  
411 only one (1) source. A memorandum shall accompany the request  
412 form and address the following four (4) points:

413 (a) Explanation of why this service is the only service  
414 that can meet the needs of the purchasing agency;

415 (b) Explanation of why this vendor is the only  
416 practicably available source from which to obtain this service;

417 (c) Explanation of why the price is considered  
418 reasonable; and



419 (d) Description of the efforts that were made to  
420 conduct a noncompetitive negotiation to get the best possible  
421 price for the taxpayers.

422 (5) In conjunction with the State Personnel Board, the  
423 Public Procurement Review Board shall develop and promulgate rules  
424 and regulations to define the allowable legal relationship between  
425 contract employees and the contracting departments, agencies and  
426 institutions of state government under the jurisdiction of the  
427 State Personnel Board, in compliance with the applicable rules and  
428 regulations of the federal Internal Revenue Service (IRS) for  
429 federal employment tax purposes. Under these regulations, the  
430 usual common law rules are applicable to determine and require  
431 that such worker is an independent contractor and not an employee,  
432 requiring evidence of lawful behavioral control, lawful financial  
433 control and lawful relationship of the parties. Any state  
434 department, agency or institution shall only be authorized to  
435 contract for personnel services in compliance with those  
436 regulations.

437 (6) No member of the Public Procurement Review Board shall  
438 use his or her official authority or influence to coerce, by  
439 threat of discharge from employment, or otherwise, the purchase of  
440 commodities, the contracting for personal or professional  
441 services, or the contracting for public construction under this  
442 chapter.



443 (7) Notwithstanding any other laws or rules to the contrary,  
444 the provisions of subsection (2) of this section shall not be  
445 applicable to the Mississippi State Port Authority at Gulfport.

446 (8) Nothing in this section shall impair or limit the  
447 authority of the Board of Trustees of the Public Employees'  
448 Retirement System to enter into any personal or professional  
449 services contracts directly related to their constitutional  
450 obligation to manage the trust funds, including, but not limited  
451 to, actuarial, custodial banks, cash management, investment  
452 consultant and investment management contracts. Nothing in this  
453 section shall impair or limit the authority of the State Treasurer  
454 to enter into any personal or professional services contracts  
455 involving the management of trust funds, including, but not  
456 limited to, actuarial, custodial banks, cash management,  
457 investment consultant and investment management contracts.

458 (9) Through December 31, 2026, the provisions of this  
459 section related to rental agreements or leasing of real property  
460 for the purpose of conducting agency business shall not apply to  
461 the Office of Workforce Development created in Section 37-153-7.

462 **SECTION 3.** Section 31-7-13, Mississippi Code of 1972, is  
463 amended as follows:

464 31-7-13. All agencies and governing authorities shall  
465 purchase their commodities and printing; contract for garbage  
466 collection or disposal; contract for solid waste collection or



467 disposal; contract for sewage collection or disposal; contract for  
468 public construction; and contract for rentals as herein provided.

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

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

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

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

478 **not over \$75,000.00.** Purchases which involve an expenditure of  
479 more than Five Thousand Dollars (\$5,000.00) but not more than  
480 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
481 and shipping charges, may be made from the lowest and best bidder  
482 without publishing or posting advertisement for bids, provided at  
483 least two (2) competitive written bids have been obtained. Any  
484 state agency or community or junior college purchasing commodities  
485 or procuring construction pursuant to this paragraph (b) may  
486 authorize its purchasing agent, or his or her designee, to accept  
487 the lowest competitive written bid under Seventy-five Thousand  
488 Dollars (\$75,000.00). Any governing authority purchasing  
489 commodities pursuant to this paragraph (b) may authorize its  
490 purchasing agent, or his or her designee, with regard to governing  
491 authorities other than counties, or its purchase clerk, or his or



492 her designee, with regard to counties, to accept the lowest and  
493 best competitive written bid. Such authorization shall be made in  
494 writing by the governing authority and shall be maintained on file  
495 in the primary office of the agency and recorded in the official  
496 minutes of the governing authority, as appropriate. The  
497 purchasing agent or the purchase clerk, or his or her designee, as  
498 the case may be, and not the governing authority, shall be liable  
499 for any penalties and/or damages as may be imposed by law for any  
500 act or omission of the purchasing agent or purchase clerk, or his  
501 or her designee, constituting a violation of law in accepting any  
502 bid without approval by the governing authority. The term  
503 "competitive written bid" shall mean a bid submitted on a bid form  
504 furnished by the buying agency or governing authority and signed  
505 by authorized personnel representing the vendor, or a bid  
506 submitted on a vendor's letterhead or identifiable bid form and  
507 signed by authorized personnel representing the vendor.  
508 "Competitive" shall mean that the bids are developed based upon  
509 comparable identification of the needs and are developed  
510 independently and without knowledge of other bids or prospective  
511 bids. Any bid item for construction in excess of Five Thousand  
512 Dollars (\$5,000.00) shall be broken down by components to provide  
513 detail of component description and pricing. These details shall  
514 be submitted with the written bids and become part of the bid  
515 evaluation criteria. Bids may be submitted by facsimile,  
516 electronic mail or other generally accepted method of information



517 distribution. Bids submitted by electronic transmission shall not  
518 require the signature of the vendor's representative unless  
519 required by agencies or governing authorities.

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

521 (i) **Publication requirement.**

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

534 2. Reverse auctions shall be the primary  
535 method for receiving bids during the bidding process. If a  
536 purchasing entity determines that a reverse auction is not in the  
537 best interest of the state, then that determination must be  
538 approved by the Public Procurement Review Board. The purchasing  
539 entity shall submit a detailed explanation of why a reverse  
540 auction would not be in the best interest of the state and present  
541 an alternative process to be approved by the Public Procurement



542 Review Board. If the Public Procurement Review Board authorizes  
543 the purchasing entity to solicit bids with a method other than  
544 reverse auction, then the purchasing entity may designate the  
545 other methods by which the bids will be received, including, but  
546 not limited to, bids sealed in an envelope, bids received  
547 electronically in a secure system, or bids received by any other  
548 method that promotes open competition and has been approved by the  
549 Office of Purchasing and Travel. However, reverse auction shall  
550 not be used for any public contract for design, construction,  
551 improvement, repair or remodeling of any public facilities,  
552 including the purchase of materials, supplies, equipment or goods  
553 for same and including buildings, roads and bridges. The Public  
554 Procurement Review Board must approve any contract entered into by  
555 alternative process. The provisions of this item 2 shall not  
556 apply to the individual state institutions of higher learning.  
557 The provisions of this item 2 requiring reverse auction as the  
558 primary method of receiving bids shall not apply to term contract  
559 purchases as provided in paragraph (n) of this section; however, a  
560 purchasing entity may, in its discretion, utilize reverse auction  
561 for such purchases. The provisions of this item 2 shall not apply  
562 to individual public schools, including public charter schools and  
563 public school districts, only when purchasing copyrighted  
564 educational supplemental materials and software as a service  
565 product. For such purchases, a local school board may authorize a  
566 purchasing entity in its jurisdiction to use a Request for



567 Qualifications which promotes open competition and meets the  
568 requirements of the Office of Purchasing and Travel.

569                   3. The date as published for the bid opening  
570 shall not be less than seven (7) working days after the last  
571 published notice; however, if the purchase involves a construction  
572 project in which the estimated cost is in excess of Seventy-five  
573 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
574 less than fifteen (15) working days after the last notice is  
575 published and the notice for the purchase of such construction  
576 shall be published once each week for two (2) consecutive weeks.  
577 The notice of intention to let contracts or purchase equipment  
578 shall state the time and place at which bids shall be received,  
579 list the contracts to be made or types of equipment or supplies to  
580 be purchased, and, if all plans and/or specifications are not  
581 published, refer to the plans and/or specifications on file. If  
582 there is no newspaper published in the county or municipality,  
583 then such notice shall be given by posting same at the courthouse,  
584 or for municipalities at the city hall, and at two (2) other  
585 public places in the county or municipality, and also by  
586 publication once each week for two (2) consecutive weeks in some  
587 newspaper having a general circulation in the county or  
588 municipality in the above-provided manner. On the same date that  
589 the notice is submitted to the newspaper for publication, the  
590 agency or governing authority involved shall mail written notice  
591 to, or provide electronic notification to the main office of the



592 Mississippi Procurement Technical Assistance Program under the  
593 Mississippi Development Authority that contains the same  
594 information as that in the published notice. Within one (1)  
595 working day of the contract award, the agency or governing  
596 authority shall post to the designated web page maintained by the  
597 Department of Finance and Administration, notice of the award,  
598 including the award recipient, the contract amount, and a brief  
599 summary of the contract in accordance with rules promulgated by  
600 the department. Within one (1) working day of the contract  
601 execution, the agency or governing authority shall post to the  
602 designated web page maintained by the Department of Finance and  
603 Administration a summary of the executed contract and make a copy  
604 of the appropriately redacted contract documents available for  
605 linking to the designated web page in accordance with the rules  
606 promulgated by the department. The information provided by the  
607 agency or governing authority shall be posted to the web page  
608 until the project is completed.

609                   4. Agencies and governing authorities using  
610 federal funds for the procurement of any good or service,  
611 including exempt personal and professional services, must comply  
612 with the Uniform Administrative Requirements, Cost Principles, and  
613 Audit Requirements for Federal Awards - Subpart D - Post Federal  
614 Award Requirements Procurement Standards, in accordance with 2 CFR  
615 200.317 through 2 CFR 200.327.



616                   (ii) **Bidding process amendment procedure.** If all  
617 plans and/or specifications are published in the notification,  
618 then the plans and/or specifications may not be amended. If all  
619 plans and/or specifications are not published in the notification,  
620 then amendments to the plans/specifications, bid opening date, bid  
621 opening time and place may be made, provided that the agency or  
622 governing authority maintains a list of all prospective bidders  
623 who are known to have received a copy of the bid documents and all  
624 such prospective bidders are sent copies of all amendments. This  
625 notification of amendments may be made via mail, facsimile,  
626 electronic mail or other generally accepted method of information  
627 distribution. No addendum to bid specifications may be issued  
628 within two (2) working days of the time established for the  
629 receipt of bids unless such addendum also amends the bid opening  
630 to a date not less than five (5) working days after the date of  
631 the addendum.

632                   (iii) **Filing requirement.** In all cases involving  
633 governing authorities, before the notice shall be published or  
634 posted, the plans or specifications for the construction or  
635 equipment being sought shall be filed with the clerk of the board  
636 of the governing authority. In addition to these requirements, a  
637 bid file shall be established which shall indicate those vendors  
638 to whom such solicitations and specifications were issued, and  
639 such file shall also contain such information as is pertinent to  
640 the bid.



641 (iv) **Specification restrictions.**

642 1. Specifications pertinent to such bidding  
643 shall be written so as not to exclude comparable equipment of  
644 domestic manufacture. However, if valid justification is  
645 presented, the Department of Finance and Administration or the  
646 board of a governing authority may approve a request for specific  
647 equipment necessary to perform a specific job. Further, such  
648 justification, when placed on the minutes of the board of a  
649 governing authority, may serve as authority for that governing  
650 authority to write specifications to require a specific item of  
651 equipment needed to perform a specific job. In addition to these  
652 requirements, from and after July 1, 1990, vendors of relocatable  
653 classrooms and the specifications for the purchase of such  
654 relocatable classrooms published by local school boards shall meet  
655 all pertinent regulations of the State Board of Education,  
656 including prior approval of such bid by the State Department of  
657 Education.

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



666                   (v) **Electronic bids.** Agencies and governing  
667 authorities shall provide a secure electronic interactive system  
668 for the submittal of bids requiring competitive bidding that shall  
669 be an additional bidding option for those bidders who choose to  
670 submit their bids electronically. The Department of Finance and  
671 Administration shall provide, by regulation, the standards that  
672 agencies must follow when receiving electronic bids. Agencies and  
673 governing authorities shall make the appropriate provisions  
674 necessary to accept electronic bids from those bidders who choose  
675 to submit their bids electronically for all purchases requiring  
676 competitive bidding under this section. Any special condition or  
677 requirement for the electronic bid submission shall be specified  
678 in the advertisement for bids required by this section. Agencies  
679 or governing authorities that are currently without available high  
680 speed Internet access shall be exempt from the requirement of this  
681 subparagraph (v) until such time that high speed Internet access  
682 becomes available. Any county having a population of less than  
683 twenty thousand (20,000) shall be exempt from the provisions of  
684 this subparagraph (v). Any municipality having a population of  
685 less than ten thousand (10,000) shall be exempt from the  
686 provisions of this subparagraph (v). The provisions of this  
687 subparagraph (v) shall not require any bidder to submit bids  
688 electronically. When construction bids are submitted  
689 electronically, the requirement for including a certificate of  
690 responsibility, or a statement that the bid enclosed does not



691 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
692 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
693 deemed in compliance with by including same as an attachment with  
694 the electronic bid submittal.

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

696 (i) **Decision procedure.** Purchases may be made  
697 from the lowest and best bidder. In determining the lowest and  
698 best bid, freight and shipping charges shall be included.  
699 Life-cycle costing, total cost bids, warranties, guaranteed  
700 buy-back provisions and other relevant provisions may be included  
701 in the best bid calculation. All best bid procedures for state  
702 agencies must be in compliance with regulations established by the  
703 Department of Finance and Administration. If any governing  
704 authority accepts a bid other than the lowest bid actually  
705 submitted, it shall place on its minutes detailed calculations and  
706 narrative summary showing that the accepted bid was determined to  
707 be the lowest and best bid, including the dollar amount of the  
708 accepted bid and the dollar amount of the lowest bid. No agency  
709 or governing authority shall accept a bid based on items not  
710 included in the specifications.

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



716 best value bid, freight and shipping charges shall be included.  
717 Life-cycle costing, total cost bids, warranties, guaranteed  
718 buy-back provisions, documented previous experience, training  
719 costs and other relevant provisions, including, but not limited  
720 to, a bidder having a local office and inventory located within  
721 the jurisdiction of the governing authority, may be included in  
722 the best value calculation. This provision shall authorize  
723 Certified Purchasing Offices to utilize a Request For Proposals  
724 (RFP) process when purchasing commodities. All best value  
725 procedures for state agencies must be in compliance with  
726 regulations established by the Department of Finance and  
727 Administration. No agency or governing authority shall accept a  
728 bid based on items or criteria not included in the specifications.

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

730 **Landmarks.** In addition to the decision procedure set forth in  
731 subparagraph (i) of this paragraph (d), where purchase involves  
732 renovation, restoration, or both, of the State Capitol Building or  
733 any other historical building designated for at least five (5)  
734 years as a Mississippi Landmark by the Board of Trustees of the  
735 Department of Archives and History under the authority of Sections  
736 39-7-7 and 39-7-11, the agency or governing authority may use the  
737 following procedure: Purchases may be made from the lowest and  
738 best prequalified bidder. Prequalification of bidders shall be  
739 determined not less than fifteen (15) working days before the  
740 first published notice of bid opening. Prequalification criteria



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

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

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

763 (e) **Lease-purchase authorization.** For the purposes of  
764 this section, the term "equipment" shall mean equipment, furniture  
765 and, if applicable, associated software and other applicable



766 direct costs associated with the acquisition. Any lease-purchase  
767 of equipment which an agency is not required to lease-purchase  
768 under the master lease-purchase program pursuant to Section  
769 31-7-10 and any lease-purchase of equipment which a governing  
770 authority elects to lease-purchase may be acquired by a  
771 lease-purchase agreement under this paragraph (e). Lease-purchase  
772 financing may also be obtained from the vendor or from a  
773 third-party source after having solicited and obtained at least  
774 two (2) written competitive bids, as defined in paragraph (b) of  
775 this section, for such financing without advertising for such  
776 bids. Solicitation for the bids for financing may occur before or  
777 after acceptance of bids for the purchase of such equipment or,  
778 where no such bids for purchase are required, at any time before  
779 the purchase thereof. No such lease-purchase agreement shall be  
780 for an annual rate of interest which is greater than the overall  
781 maximum interest rate to maturity on general obligation  
782 indebtedness permitted under Section 75-17-101, and the term of  
783 such lease-purchase agreement shall not exceed the useful life of  
784 equipment covered thereby as determined according to the upper  
785 limit of the asset depreciation range (ADR) guidelines for the  
786 Class Life Asset Depreciation Range System established by the  
787 Internal Revenue Service pursuant to the United States Internal  
788 Revenue Code and regulations thereunder as in effect on December  
789 31, 1980, or comparable depreciation guidelines with respect to  
790 any equipment not covered by ADR guidelines. Any lease-purchase



791 agreement entered into pursuant to this paragraph (e) may contain  
792 any of the terms and conditions which a master lease-purchase  
793 agreement may contain under the provisions of Section 31-7-10(5),  
794 and shall contain an annual allocation dependency clause  
795 substantially similar to that set forth in Section 31-7-10(8).  
796 Each agency or governing authority entering into a lease-purchase  
797 transaction pursuant to this paragraph (e) shall maintain with  
798 respect to each such lease-purchase transaction the same  
799 information as required to be maintained by the Department of  
800 Finance and Administration pursuant to Section 31-7-10(13).  
801 However, nothing contained in this section shall be construed to  
802 permit agencies to acquire items of equipment with a total  
803 acquisition cost in the aggregate of less than Ten Thousand  
804 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
805 equipment, and the purchase thereof by any lessor, acquired by  
806 lease-purchase under this paragraph and all lease-purchase  
807 payments with respect thereto shall be exempt from all Mississippi  
808 sales, use and ad valorem taxes. Interest paid on any  
809 lease-purchase agreement under this section shall be exempt from  
810 State of Mississippi income taxation.

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



816 alternate bids procedure unless the lowest and best bidder cannot  
817 deliver the commodities contained in his or her bid. In that  
818 event, purchases of such commodities may be made from one (1) of  
819 the bidders whose bid was accepted as an alternate.

820 (g) **Construction contract change authorization.** In the  
821 event a determination is made by an agency or governing authority  
822 after a construction contract is let that changes or modifications  
823 to the original contract are necessary or would better serve the  
824 purpose of the agency or the governing authority, such agency or  
825 governing authority may, in its discretion, order such changes  
826 pertaining to the construction that are necessary under the  
827 circumstances without the necessity of further public bids;  
828 provided that such change shall be made in a commercially  
829 reasonable manner and shall not be made to circumvent the public  
830 purchasing statutes. In addition to any other authorized person,  
831 the architect or engineer hired by an agency or governing  
832 authority with respect to any public construction contract shall  
833 have the authority, when granted by an agency or governing  
834 authority, to authorize changes or modifications to the original  
835 contract without the necessity of prior approval of the agency or  
836 governing authority when any such change or modification is less  
837 than one percent (1%) of the total contract amount. The agency or  
838 governing authority may limit the number, manner or frequency of  
839 such emergency changes or modifications.



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

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



865 execution of the contract or in the production or manufacture of  
866 materials for use in such performance. Such industry-wide index  
867 shall be established and published monthly by the Mississippi  
868 Department of Transportation with a copy thereof to be mailed,  
869 upon request, to the clerks of the governing authority of each  
870 municipality and the clerks of each board of supervisors  
871 throughout the state. The price adjustment clause shall be based  
872 on the cost of such petroleum products only and shall not include  
873 any additional profit or overhead as part of the adjustment. The  
874 bid proposals or document contract shall contain the basis and  
875 methods of adjusting unit prices for the change in the cost of  
876 such petroleum products.

877 (j) **State agency emergency purchase procedure.** If the  
878 governing board or the executive head, or his or her designees, of  
879 any agency of the state shall determine that an emergency exists  
880 in regard to the purchase of any commodities or repair contracts,  
881 so that the delay incident to giving opportunity for competitive  
882 bidding would be detrimental to the interests of the state, then  
883 the head of such agency, or his or her designees, shall file with  
884 the Department of Finance and Administration (i) a statement  
885 explaining the conditions and circumstances of the emergency,  
886 which shall include a detailed description of the events leading  
887 up to the situation and the negative impact to the entity if the  
888 purchase is made following the statutory requirements set forth in  
889 paragraph (a), (b) or (c) of this section, and (ii) a certified



890 copy of the appropriate minutes of the board of such agency  
891 requesting the emergency purchase, if applicable. Upon receipt of  
892 the statement and applicable board certification, the State Fiscal  
893 Officer, or his or her designees, may, in writing, authorize the  
894 purchase or repair without having to comply with competitive  
895 bidding requirements.

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

908 Total purchases made under this paragraph (j) shall only be  
909 for the purpose of meeting needs created by the emergency  
910 situation. Following the emergency purchase, documentation of the  
911 purchase, including a description of the commodity purchased, the  
912 purchase price thereof and the nature of the emergency shall be  
913 filed with the Department of Finance and Administration. Any



914 contract awarded pursuant to this paragraph (j) shall not exceed a  
915 term of one (1) year.

916 Purchases under the grant program established under Section  
917 37-68-7 in response to COVID-19 and the directive that school  
918 districts create a distance learning plan and fulfill technology  
919 needs expeditiously shall be deemed an emergency purchase for  
920 purposes of this paragraph (j).

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

922 If the governing authority, or the governing authority acting  
923 through its designee, shall determine that an emergency exists in  
924 regard to the purchase of any commodities or repair contracts, so  
925 that the delay incident to giving opportunity for competitive  
926 bidding would be detrimental to the interest of the governing  
927 authority, then the provisions herein for competitive bidding  
928 shall not apply and any officer or agent of such governing  
929 authority having general or special authority therefor in making  
930 such purchase or repair shall approve the bill presented therefor,  
931 and he or she shall certify in writing thereon from whom such  
932 purchase was made, or with whom such a repair contract was made.  
933 At the board meeting next following the emergency purchase or  
934 repair contract, documentation of the purchase or repair contract,  
935 including a description of the commodity purchased, the price  
936 thereof and the nature of the emergency shall be presented to the  
937 board and shall be placed on the minutes of the board of such  
938 governing authority. Purchases under the grant program



939 established under Section 37-68-7 in response to COVID-19 and the  
940 directive that school districts create a distance learning plan  
941 and fulfill technology needs expeditiously shall be deemed an  
942 emergency purchase for purposes of this paragraph (k).

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

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

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



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

966 (m) **Exceptions from bidding requirements.** Excepted  
967 from bid requirements are:

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

969 Purchasing agreements, contracts and maximum price regulations  
970 executed or approved by the Department of Finance and  
971 Administration.

972 (ii) **Outside equipment repairs.** Repairs to  
973 equipment, when such repairs are made by repair facilities in the  
974 private sector; however, engines, transmissions, rear axles and/or  
975 other such components shall not be included in this exemption when  
976 replaced as a complete unit instead of being repaired and the need  
977 for such total component replacement is known before disassembly  
978 of the component; however, invoices identifying the equipment,  
979 specific repairs made, parts identified by number and name,  
980 supplies used in such repairs, and the number of hours of labor  
981 and costs therefor shall be required for the payment for such  
982 repairs.

983 (iii) **In-house equipment repairs.** Purchases of  
984 parts for repairs to equipment, when such repairs are made by  
985 personnel of the agency or governing authority; however, entire  
986 assemblies, such as engines or transmissions, shall not be  
987 included in this exemption when the entire assembly is being  
988 replaced instead of being repaired.



989                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
990 of gravel or fill dirt which are to be removed and transported by  
991 the purchaser.

992                   (v) **Governmental equipment auctions.** Motor  
993 vehicles or other equipment purchased from a federal agency or  
994 authority, another governing authority or state agency of the  
995 State of Mississippi, or any governing authority or state agency  
996 of another state at a public auction held for the purpose of  
997 disposing of such vehicles or other equipment. Any purchase by a  
998 governing authority under the exemption authorized by this  
999 subparagraph (v) shall require advance authorization spread upon  
1000 the minutes of the governing authority to include the listing of  
1001 the item or items authorized to be purchased and the maximum bid  
1002 authorized to be paid for each item or items.

1003                   (vi) **Intergovernmental sales and transfers.**  
1004 Purchases, sales, transfers or trades by governing authorities or  
1005 state agencies when such purchases, sales, transfers or trades are  
1006 made by a private treaty agreement or through means of  
1007 negotiation, from any federal agency or authority, another  
1008 governing authority or state agency of the State of Mississippi,  
1009 or any state agency or governing authority of another state.  
1010 Nothing in this section shall permit such purchases through public  
1011 auction except as provided for in subparagraph (v) of this  
1012 paragraph (m). It is the intent of this section to allow  
1013 governmental entities to dispose of and/or purchase commodities



1014 from other governmental entities at a price that is agreed to by  
1015 both parties. This shall allow for purchases and/or sales at  
1016 prices which may be determined to be below the market value if the  
1017 selling entity determines that the sale at below market value is  
1018 in the best interest of the taxpayers of the state. Governing  
1019 authorities shall place the terms of the agreement and any  
1020 justification on the minutes, and state agencies shall obtain  
1021 approval from the Department of Finance and Administration, prior  
1022 to releasing or taking possession of the commodities.

1023 (vii) **Perishable supplies or food.** Perishable  
1024 supplies or food purchased for use in connection with hospitals,  
1025 the school lunch programs, homemaking programs and for the feeding  
1026 of county or municipal prisoners.

1027 (viii) **Single-source items.** Noncompetitive items  
1028 available from one (1) source only. In connection with the  
1029 purchase of noncompetitive items only available from one (1)  
1030 source, a certification of the conditions and circumstances  
1031 requiring the purchase shall be filed by the agency with the  
1032 Department of Finance and Administration and by the governing  
1033 authority with the board of the governing authority. Upon receipt  
1034 of that certification the Department of Finance and Administration  
1035 or the board of the governing authority, as the case may be, may,  
1036 in writing, authorize the purchase, which authority shall be noted  
1037 on the minutes of the body at the next regular meeting thereafter.  
1038 In those situations, a governing authority is not required to



1039 obtain the approval of the Department of Finance and  
1040 Administration. Following the purchase, the executive head of the  
1041 state agency, or his or her designees, shall file with the  
1042 Department of Finance and Administration, documentation of the  
1043 purchase, including a description of the commodity purchased, the  
1044 purchase price thereof and the source from whom it was purchased.

1045 (ix) **Waste disposal facility construction**  
1046 **contracts.** Construction of incinerators and other facilities for  
1047 disposal of solid wastes in which products either generated  
1048 therein, such as steam, or recovered therefrom, such as materials  
1049 for recycling, are to be sold or otherwise disposed of; however,  
1050 in constructing such facilities, a governing authority or agency  
1051 shall publicly issue requests for proposals, advertised for in the  
1052 same manner as provided herein for seeking bids for public  
1053 construction projects, concerning the design, construction,  
1054 ownership, operation and/or maintenance of such facilities,  
1055 wherein such requests for proposals when issued shall contain  
1056 terms and conditions relating to price, financial responsibility,  
1057 technology, environmental compatibility, legal responsibilities  
1058 and such other matters as are determined by the governing  
1059 authority or agency to be appropriate for inclusion; and after  
1060 responses to the request for proposals have been duly received,  
1061 the governing authority or agency may select the most qualified  
1062 proposal or proposals on the basis of price, technology and other  
1063 relevant factors and from such proposals, but not limited to the



1064 terms thereof, negotiate and enter contracts with one or more of  
1065 the persons or firms submitting proposals.

1066                   (x) **Hospital group purchase contracts.** Supplies,  
1067 commodities and equipment purchased by hospitals through group  
1068 purchase programs pursuant to Section 31-7-38.

1069                   (xi) **Information technology products.** Purchases  
1070 of information technology products made by governing authorities  
1071 under the provisions of purchase schedules, or contracts executed  
1072 or approved by the Mississippi Department of Information  
1073 Technology Services and designated for use by governing  
1074 authorities.

1075                   (xii) **Energy efficiency services and equipment.**  
1076 Energy efficiency services and equipment acquired by school  
1077 districts, community and junior colleges, institutions of higher  
1078 learning and state agencies or other applicable governmental  
1079 entities on a shared-savings, lease or lease-purchase basis  
1080 pursuant to Section 31-7-14.

1081                   (xiii) **Municipal electrical utility system fuel.**  
1082 Purchases of coal and/or natural gas by municipally owned electric  
1083 power generating systems that have the capacity to use both coal  
1084 and natural gas for the generation of electric power.

1085                   (xiv) **Library books and other reference materials.**  
1086 Purchases by libraries or for libraries of books and periodicals;  
1087 processed film, videocassette tapes, filmstrips and slides;  
1088 recorded audiotapes, cassettes and diskettes; and any such items



1089 as would be used for teaching, research or other information  
1090 distribution; however, equipment such as projectors, recorders,  
1091 audio or video equipment, and monitor televisions are not exempt  
1092 under this subparagraph.

1093 (xv) **Unmarked vehicles.** Purchases of unmarked  
1094 vehicles when such purchases are made in accordance with  
1095 purchasing regulations adopted by the Department of Finance and  
1096 Administration pursuant to Section 31-7-9(2).

1097 (xvi) **Election ballots.** Purchases of ballots  
1098 printed pursuant to Section 23-15-351.

1099 (xvii) **Multichannel interactive video systems.**  
1100 From and after July 1, 1990, contracts by Mississippi Authority  
1101 for Educational Television with any private educational  
1102 institution or private nonprofit organization whose purposes are  
1103 educational in regard to the construction, purchase, lease or  
1104 lease-purchase of facilities and equipment and the employment of  
1105 personnel for providing multichannel interactive video systems  
1106 (ITSF) in the school districts of this state.

1107 (xviii) **Purchases of prison industry products by**  
1108 **the Department of Corrections, regional correctional facilities or**  
1109 **privately owned prisons.** Purchases made by the Mississippi  
1110 Department of Corrections, regional correctional facilities or  
1111 privately owned prisons involving any item that is manufactured,  
1112 processed, grown or produced from the state's prison industries.



1113                   (xix)    **Undercover operations equipment.** Purchases  
1114 of surveillance equipment or any other high-tech equipment to be  
1115 used by law enforcement agents in undercover operations, provided  
1116 that any such purchase shall be in compliance with regulations  
1117 established by the Department of Finance and Administration.

1118                   (xx)     **Junior college books for rent.** Purchases by  
1119 community or junior colleges of textbooks which are obtained for  
1120 the purpose of renting such books to students as part of a book  
1121 service system.

1122                   (xxi)    **Certain school district purchases.**  
1123 Purchases of commodities made by school districts from vendors  
1124 with which any levying authority of the school district, as  
1125 defined in Section 37-57-1, has contracted through competitive  
1126 bidding procedures for purchases of the same commodities.

1127                   (xxii)   **Garbage, solid waste and sewage contracts.**  
1128 Contracts for garbage collection or disposal, contracts for solid  
1129 waste collection or disposal and contracts for sewage collection  
1130 or disposal.

1131                   (xxiii)   **Municipal water tank maintenance**  
1132 **contracts.** Professional maintenance program contracts for the  
1133 repair or maintenance of municipal water tanks, which provide  
1134 professional services needed to maintain municipal water storage  
1135 tanks for a fixed annual fee for a duration of two (2) or more  
1136 years.



1137                   (xxiv)   **Purchases of Mississippi Industries for the**  
1138 **Blind products or services.** Purchases made by state agencies or  
1139 governing authorities involving any item that is manufactured,  
1140 processed or produced by, or any services provided by, the  
1141 Mississippi Industries for the Blind.

1142                   (xxv)   **Purchases of state-adopted textbooks.**  
1143 Purchases of state-adopted textbooks by public school districts.

1144                   (xxvi)   **Certain purchases under the Mississippi**  
1145 **Major Economic Impact Act.** Contracts entered into pursuant to the  
1146 provisions of Section 57-75-9(2), (3) and (4).

1147                   (xxvii) **Used heavy or specialized machinery or**  
1148 **equipment for installation of soil and water conservation**  
1149 **practices purchased at auction.** Used heavy or specialized  
1150 machinery or equipment used for the installation and  
1151 implementation of soil and water conservation practices or  
1152 measures purchased subject to the restrictions provided in  
1153 Sections 69-27-331 through 69-27-341. Any purchase by the State  
1154 Soil and Water Conservation Commission under the exemption  
1155 authorized by this subparagraph shall require advance  
1156 authorization spread upon the minutes of the commission to include  
1157 the listing of the item or items authorized to be purchased and  
1158 the maximum bid authorized to be paid for each item or items.

1159                   (xxviii) **Hospital lease of equipment or services.**  
1160 Leases by hospitals of equipment or services if the leases are in  
1161 compliance with paragraph (1)(ii).



1162                   (xxix)   **Purchases made pursuant to qualified**  
1163 **cooperative purchasing agreements.** Purchases made by certified  
1164 purchasing offices of state agencies or governing authorities  
1165 under cooperative purchasing agreements previously approved by the  
1166 Office of Purchasing and Travel and established by or for any  
1167 municipality, county, parish or state government or the federal  
1168 government, provided that the notification to potential  
1169 contractors includes a clause that sets forth the availability of  
1170 the cooperative purchasing agreement to other governmental  
1171 entities. Such purchases shall only be made if the use of the  
1172 cooperative purchasing agreements is determined to be in the best  
1173 interest of the governmental entity.

1174                   (xxx)   **School yearbooks.** Purchases of school  
1175 yearbooks by state agencies or governing authorities; however,  
1176 state agencies and governing authorities shall use for these  
1177 purchases the RFP process as set forth in the Mississippi  
1178 Procurement Manual adopted by the Office of Purchasing and Travel.

1179                   (xxxi)   **Design-build method of contracting and**  
1180 **certain other contracts.** Contracts entered into under the  
1181 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

1182                   (xxxii)   **Toll roads and bridge construction**  
1183 **projects.** Contracts entered into under the provisions of Section  
1184 65-43-1 or 65-43-3.



1185 (xxxiii) **Certain purchases under Section 57-1-221.**  
1186 Contracts entered into pursuant to the provisions of Section  
1187 57-1-221.

1188 (xxxiv) **Certain transfers made pursuant to the**  
1189 **provisions of Section 57-105-1(7).** Transfers of public property  
1190 or facilities under Section 57-105-1(7) and construction related  
1191 to such public property or facilities.

1192 (xxxv) **Certain purchases or transfers entered into**  
1193 **with local electrical power associations.** Contracts or agreements  
1194 entered into under the provisions of Section 55-3-33.

1195 (xxxvi) **Certain purchases by an academic medical**  
1196 **center or health sciences school.** Purchases by an academic  
1197 medical center or health sciences school, as defined in Section  
1198 37-115-50, of commodities that are used for clinical purposes and  
1199 1. intended for use in the diagnosis of disease or other  
1200 conditions or in the cure, mitigation, treatment or prevention of  
1201 disease, and 2. medical devices, biological, drugs and  
1202 radiation-emitting devices as defined by the United States Food  
1203 and Drug Administration.

1204 (xxxvii) **Certain purchases made under the Alyce G.**  
1205 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
1206 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
1207 Lottery Law.

1208 (xxxviii) **Certain purchases made by the Department**  
1209 **of Health and the Department of Revenue.** Purchases made by the



1210 Department of Health and the Department of Revenue solely for the  
1211 purpose of fulfilling their respective responsibilities under the  
1212 Mississippi Medical Cannabis Act. This subparagraph shall stand  
1213 repealed on June 30, 2026.

1214 (xxxix) **Purchases made by state agencies related**  
1215 **to museum exhibits.** Purchases made by an agency related to the  
1216 fabrication, construction, installation or refurbishing of museum  
1217 exhibits. An agency making a purchase under this exemption in  
1218 excess of the bid threshold set forth in paragraph (c) of this  
1219 section shall publicly advertise a Request for Qualifications or  
1220 Request for Proposals in which price as an evaluation factor is at  
1221 least twenty percent (20%) out of the one hundred percent (100%)  
1222 total weight, but shall be otherwise exempt. Any contract arising  
1223 from a purchase using this exemption must be approved by the  
1224 Public Procurement Review Board prior to execution by the agency.  
1225 The agency shall submit a written report on December 1 of each  
1226 year to the Chairs of the Senate and House Appropriations  
1227 Committees, the Chairs of the Senate and House Accountability,  
1228 Efficiency and Transparency Committees and the Chair of the Public  
1229 Procurement Review Board, identifying all purchases made by the  
1230 agency using this exemption in which the cost of the option  
1231 selected by the agency was more than twenty-five percent (25%)  
1232 higher than the lowest cost option available.

1233 (n) **Term contract authorization.** All contracts for the  
1234 purchase of:



1235 (i) All contracts for the purchase of commodities,  
1236 equipment and public construction (including, but not limited to,  
1237 repair and maintenance), may be let for periods of not more than  
1238 sixty (60) months in advance, subject to applicable statutory  
1239 provisions prohibiting the letting of contracts during specified  
1240 periods near the end of terms of office. Term contracts for a  
1241 period exceeding twenty-four (24) months shall also be subject to  
1242 ratification or cancellation by governing authority boards taking  
1243 office subsequent to the governing authority board entering the  
1244 contract.

1245 (ii) Bid proposals and contracts may include price  
1246 adjustment clauses with relation to the cost to the contractor  
1247 based upon a nationally published industry-wide or nationally  
1248 published and recognized cost index. The cost index used in a  
1249 price adjustment clause shall be determined by the Department of  
1250 Finance and Administration for the state agencies and by the  
1251 governing board for governing authorities. The bid proposal and  
1252 contract documents utilizing a price adjustment clause shall  
1253 contain the basis and method of adjusting unit prices for the  
1254 change in the cost of such commodities, equipment and public  
1255 construction.

1256 (o) **Purchase law violation prohibition and vendor**  
1257 **penalty.** No contract or purchase as herein authorized shall be  
1258 made for the purpose of circumventing the provisions of this  
1259 section requiring competitive bids, nor shall it be lawful for any



1260 person or concern to submit individual invoices for amounts within  
1261 those authorized for a contract or purchase where the actual value  
1262 of the contract or commodity purchased exceeds the authorized  
1263 amount and the invoices therefor are split so as to appear to be  
1264 authorized as purchases for which competitive bids are not  
1265 required. Submission of such invoices shall constitute a  
1266 misdemeanor punishable by a fine of not less than Five Hundred  
1267 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
1268 or by imprisonment for thirty (30) days in the county jail, or  
1269 both such fine and imprisonment. In addition, the claim or claims  
1270 submitted shall be forfeited.

1271 (p) **Electrical utility petroleum-based equipment**  
1272 **purchase procedure.** When in response to a proper advertisement  
1273 therefor, no bid firm as to price is submitted to an electric  
1274 utility for power transformers, distribution transformers, power  
1275 breakers, reclosers or other articles containing a petroleum  
1276 product, the electric utility may accept the lowest and best bid  
1277 therefor although the price is not firm.

1278 (q) **Fuel management system bidding procedure.** Any  
1279 governing authority or agency of the state shall, before  
1280 contracting for the services and products of a fuel management or  
1281 fuel access system, enter into negotiations with not fewer than  
1282 two (2) sellers of fuel management or fuel access systems for  
1283 competitive written bids to provide the services and products for  
1284 the systems. In the event that the governing authority or agency



1285 cannot locate two (2) sellers of such systems or cannot obtain  
1286 bids from two (2) sellers of such systems, it shall show proof  
1287 that it made a diligent, good-faith effort to locate and negotiate  
1288 with two (2) sellers of such systems. Such proof shall include,  
1289 but not be limited to, publications of a request for proposals and  
1290 letters soliciting negotiations and bids. For purposes of this  
1291 paragraph (q), a fuel management or fuel access system is an  
1292 automated system of acquiring fuel for vehicles as well as  
1293 management reports detailing fuel use by vehicles and drivers, and  
1294 the term "competitive written bid" shall have the meaning as  
1295 defined in paragraph (b) of this section. Governing authorities  
1296 and agencies shall be exempt from this process when contracting  
1297 for the services and products of fuel management or fuel access  
1298 systems under the terms of a state contract established by the  
1299 Office of Purchasing and Travel.

1300 (r) **Solid waste contract proposal procedure.** Before  
1301 entering into any contract for garbage collection or disposal,  
1302 contract for solid waste collection or disposal or contract for  
1303 sewage collection or disposal, which involves an expenditure of  
1304 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1305 authority or agency shall issue publicly a request for proposals  
1306 concerning the specifications for such services which shall be  
1307 advertised for in the same manner as provided in this section for  
1308 seeking bids for purchases which involve an expenditure of more  
1309 than the amount provided in paragraph (c) of this section. Any



1310 request for proposals when issued shall contain terms and  
1311 conditions relating to price, financial responsibility,  
1312 technology, legal responsibilities and other relevant factors as  
1313 are determined by the governing authority or agency to be  
1314 appropriate for inclusion; all factors determined relevant by the  
1315 governing authority or agency or required by this paragraph (r)  
1316 shall be duly included in the advertisement to elicit proposals.  
1317 After responses to the request for proposals have been duly  
1318 received, the governing authority or agency shall select the most  
1319 qualified proposal or proposals on the basis of price, technology  
1320 and other relevant factors and from such proposals, but not  
1321 limited to the terms thereof, negotiate and enter into contracts  
1322 with one or more of the persons or firms submitting proposals. If  
1323 the governing authority or agency deems none of the proposals to  
1324 be qualified or otherwise acceptable, the request for proposals  
1325 process may be reinitiated. Notwithstanding any other provisions  
1326 of this paragraph, where a county with at least thirty-five  
1327 thousand (35,000) nor more than forty thousand (40,000)  
1328 population, according to the 1990 federal decennial census, owns  
1329 or operates a solid waste landfill, the governing authorities of  
1330 any other county or municipality may contract with the governing  
1331 authorities of the county owning or operating the landfill,  
1332 pursuant to a resolution duly adopted and spread upon the minutes  
1333 of each governing authority involved, for garbage or solid waste  
1334 collection or disposal services through contract negotiations.



1335 (s) **Minority set-aside authorization. \* \* \***  
1336 Notwithstanding any federal law to the contrary, the governing  
1337 authority of any state, county or municipal agencies, departments,  
1338 offices and institutions, and any political subdivisions thereof,  
1339 are prohibited from entering into minority set-aside purchases  
1340 with a minority business or from providing minority businesses  
1341 with preferential treatment in regards to public contracts, on the  
1342 basis of race, ethnicity or sex of the business owner or owners.

1343 For the purposes of this paragraph, the term "minority  
1344 business" means a business which is owned by a person or a  
1345 majority of persons who are United States citizens or permanent  
1346 resident aliens (as defined by the Immigration and Naturalization  
1347 Service) of the United States, and who are Asian, Black, Hispanic  
1348 or Native American, according to the following definitions:

1349 (i) "Asian" means persons having origins in any of  
1350 the original people of the Far East, Southeast Asia, the Indian  
1351 subcontinent, or the Pacific Islands.

1352 (ii) "Black" means persons having origins in any  
1353 black racial group of Africa.

1354 (iii) "Hispanic" means persons of Spanish or  
1355 Portuguese culture with origins in Mexico, South or Central  
1356 America, or the Caribbean Islands, regardless of race.

1357 (iv) "Native American" means persons having  
1358 origins in any of the original people of North America, including  
1359 American Indians, Eskimos and Aleuts.



1360           For the purpose of this paragraph, "minority business" shall  
1361 also include a business which is owned by a person or a majority  
1362 of persons who are classified as a minority due to the sex of the  
1363 owner or owners.

1364           (t)   **Construction punch list restriction.**   The  
1365 architect, engineer or other representative designated by the  
1366 agency or governing authority that is contracting for public  
1367 construction or renovation may prepare and submit to the  
1368 contractor only one (1) preliminary punch list of items that do  
1369 not meet the contract requirements at the time of substantial  
1370 completion and one (1) final list immediately before final  
1371 completion and final payment.

1372           (u)   **Procurement of construction services by state**  
1373 **institutions of higher learning.**   Contracts for privately financed  
1374 construction of auxiliary facilities on the campus of a state  
1375 institution of higher learning may be awarded by the Board of  
1376 Trustees of State Institutions of Higher Learning to the lowest  
1377 and best bidder, where sealed bids are solicited, or to the  
1378 offeror whose proposal is determined to represent the best value  
1379 to the citizens of the State of Mississippi, where requests for  
1380 proposals are solicited.

1381           (v)   **Insurability of bidders for public construction or**  
1382 **other public contracts.**   In any solicitation for bids to perform  
1383 public construction or other public contracts to which this  
1384 section applies, including, but not limited to, contracts for



1385 repair and maintenance, for which the contract will require  
1386 insurance coverage in an amount of not less than One Million  
1387 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1388 submit proof of current insurance coverage in the specified amount  
1389 or demonstrate ability to obtain the required coverage amount of  
1390 insurance if the contract is awarded to the bidder. Proof of  
1391 insurance coverage shall be submitted within five (5) business  
1392 days from bid acceptance.

1393           (w) **Purchase authorization clarification.** Nothing in  
1394 this section shall be construed as authorizing any purchase not  
1395 authorized by law.

1396           (x) **Mississippi Regional Pre-Need Disaster Clean Up**  
1397 **Act.** (i) The Department of Finance and Administration shall  
1398 develop and implement a process that creates a preferred vendor  
1399 list for both disaster debris removal and monitoring.

1400                   (ii) Any board of supervisors of any county or any  
1401 governing authority of any municipality may opt in to the benefits  
1402 and services provided under the appropriate and relevant contract  
1403 established in subparagraph (i) of this paragraph at the time of a  
1404 disaster event in that county or municipality. At the time of opt  
1405 in, the county or municipality shall assume responsibility for  
1406 payment in full to the contractor for the disaster-related solid  
1407 waste collection, disposal or monitoring services provided.  
1408 Nothing in this subparagraph (ii) shall be construed as requiring



1409 a county or municipality to opt in to any such contract  
1410 established in subparagraph (i) of this paragraph.

1411 **SECTION 4.** Section 57-69-5, Mississippi Code of 1972, is  
1412 amended as follows:

1413 57-69-5. (1) There is hereby created the Office of Minority  
1414 Business Enterprises of the Mississippi Development Authority  
1415 under the Mississippi Development Authority. The Executive  
1416 Director of the Mississippi Development Authority shall appoint an  
1417 executive director for the office. The executive director may  
1418 employ a staff subject to approval of the Executive Director of  
1419 the Mississippi Development Authority as necessary to carry out  
1420 the purposes of this office.

1421 (2) The office shall perform the following:

1422 (a) Develop, plan and implement programs to provide an  
1423 opportunity for participation by qualified minority owned  
1424 businesses in public works and the process by which goods and  
1425 services are procured by state agencies and educational  
1426 institutions from the private sector;

1427 (b) Develop a comprehensive plan encouraging that  
1428 qualified minority owned businesses are provided an opportunity to  
1429 participate in public contracts for public works and commodities  
1430 and services;

1431 (c) Identify barriers to equal participation by  
1432 qualified minority owned businesses in all state agency and  
1433 educational institution contracts;



1434 (d) Develop and maintain a central minority business  
1435 enterprise certification list for all state agencies and  
1436 educational institutions;

1437 (e) Adopt rules for the implementation of this chapter;

1438 (f) Develop and maintain a central minority business  
1439 enterprise certification program;

1440 (g) Develop and maintain a central minority business  
1441 enterprise supplier certification program;

1442 (h) Submit an annual report to the Governor and the  
1443 Legislature outlining the progress and economic impact on the  
1444 public and private sectors of implementing this chapter;

1445 (i) Increase efforts to inform minority businesses of  
1446 state government procurement procedures and policies;

1447 (j) Serve as the principal advocate in the state on  
1448 behalf of minority business enterprises and minority business  
1449 enterprise suppliers and provide advice in the consideration of  
1450 administrative requirements and legislation that affect minority  
1451 business enterprises and minority business enterprise suppliers;

1452 (k) Evaluate the effectiveness of efforts of state  
1453 agencies and other entities to assist minority business  
1454 enterprises and minority business enterprise suppliers and make  
1455 appropriate recommendations to assist the development and  
1456 strengthening of minority business enterprises and minority  
1457 business enterprise suppliers;



1458           (1) Determine the availability of financial and other  
1459 resources to minority business enterprises and minority business  
1460 enterprise suppliers and recommend methods for:

1461           (i) Increasing the availability of equity capital  
1462 and other forms of financial assistance to minority business  
1463 enterprises and minority business enterprise suppliers;

1464           (ii) Generating markets for the goods and services  
1465 of minority business enterprises and minority business enterprise  
1466 suppliers;

1467           (iii) Providing more effective education, training  
1468 and management and technical assistance to minority business  
1469 enterprises and minority business enterprise suppliers; and

1470           (iv) Providing assistance to minority business  
1471 enterprises and minority business enterprise suppliers in  
1472 complying with federal, state and local laws;

1473           (m) Serve as a focal point for receiving complaints and  
1474 suggestions concerning state government policies and activities  
1475 that affect minority business enterprises and minority business  
1476 enterprise suppliers;

1477           (n) Develop and advocate proposals for changes in state  
1478 policies and activities that adversely affect minority business  
1479 enterprises and minority business enterprise suppliers;

1480           (o) Provide to legislative committees and state  
1481 agencies information on the effects of proposed policies or



1482 actions that affect minority business enterprises and minority  
1483 business enterprise suppliers;

1484 (p) Enlist the assistance of public and private  
1485 agencies, businesses and other organizations in disseminating  
1486 information about state programs and services that benefit  
1487 minority business enterprises and minority business enterprise  
1488 suppliers and information regarding means by which minority  
1489 business enterprises and minority business enterprise suppliers  
1490 can use those programs and services;

1491 (q) Identify sources of financial assistance for  
1492 minority business enterprises, match minority business enterprises  
1493 and minority business enterprise suppliers with sources of  
1494 financial assistance, and assist minority business enterprises and  
1495 minority business enterprise suppliers with the preparation of  
1496 applications for loans from governmental or private sources;

1497 (r) Sponsor meetings, to the extent practicable in  
1498 cooperation with public and private educational institutions, to  
1499 provide training and disseminate information beneficial to  
1500 minority business enterprises and minority business enterprise  
1501 suppliers;

1502 (s) Assist minority business enterprises and minority  
1503 business enterprise suppliers in their dealings with federal,  
1504 state and local governmental agencies and provide information  
1505 regarding governmental requirements affecting minority business  
1506 enterprises and minority business enterprise suppliers;



1507           (t) Develop and implement programs to encourage  
1508 governmental agencies, public sector business associations and  
1509 other organizations to provide useful services to minority  
1510 business enterprises and minority business enterprise suppliers;

1511           (u) Use available resources within the state, such as  
1512 minority business enterprise development centers, educational  
1513 institutions and nonprofit associations, to coordinate the  
1514 provision of management and technical assistance to minority  
1515 business enterprises and minority business enterprise suppliers in  
1516 a systematic manner;

1517           (v) Publish newsletters, brochures and other documents  
1518 containing information useful to minority business enterprises and  
1519 minority business enterprise suppliers;

1520           (w) Identify successful minority business enterprise  
1521 assistance programs provided by other states and determine the  
1522 feasibility of adapting those programs for implementation in  
1523 Mississippi;

1524           (x) Establish an outreach program to make the existence  
1525 of the office known to minority business enterprises, minority  
1526 business enterprise suppliers and potential clients throughout the  
1527 state; and

1528           (y) Identify potential business opportunities for  
1529 minority business enterprises and minority business enterprise  
1530 suppliers and develop programs to maximize those opportunities.



1531 (3) No provision of this section shall require or imply that  
1532 the governing authority of any state, county or municipal  
1533 agencies, departments, institutions or offices, and its political  
1534 subdivisions, are required to provide minority businesses with  
1535 preferential treatment in regards to public contracts or purchases  
1536 on the basis of race, ethnicity or sex of the business owner or  
1537 owners. Notwithstanding any federal law to the contrary, minority  
1538 set-aside contracts for public purchases by the governing  
1539 authority of any state, county or municipal agencies, departments,  
1540 institutions or offices, and its political subdivisions, are  
1541 prohibited.

1542 **SECTION 5.** Section 57-69-9, Mississippi Code of 1972, is  
1543 amended as follows:

1544 57-69-9. Each state agency and educational institution shall  
1545 report the participation of minority business enterprises in the  
1546 public works and procurement contracts executed by the agency or  
1547 institution. The reports shall be made on a an annual basis. The  
1548 reporting requirement of this section shall not require or imply  
1549 that the governing authority of any state, county or municipal  
1550 agencies, departments, institutions or offices, and its political  
1551 subdivisions, are required to provide minority businesses with  
1552 preferential treatment in regards to public contracts or purchases  
1553 on the basis of race, ethnicity or sex of the business owner or  
1554 owners. Notwithstanding any federal law to the contrary, minority  
1555 set-aside contracts for public purchases by the governing



1556 authority of any state, county or municipal agencies, departments,  
1557 institutions or offices, and its political subdivisions, are  
1558 prohibited.

1559 **SECTION 6.** Section 57-75-9, Mississippi Code of 1972, is  
1560 amended as follows:

1561 57-75-9. (1) The authority is hereby designated and  
1562 empowered to act on behalf of the state in submitting a siting  
1563 proposal for any project eligible for assistance under this act.  
1564 The authority is empowered to take all steps appropriate or  
1565 necessary to effect the siting, development, and operation of the  
1566 project within the state, including the negotiation of a  
1567 fee-in-lieu. If the state is selected as the preferred site for  
1568 the project, the authority is hereby designated and empowered to  
1569 act on behalf of the state and to represent the state in the  
1570 planning, financing, development, construction and operation of  
1571 the project or any facility related to the project, with the  
1572 concurrence of the affected public agency. The authority may take  
1573 affirmative steps to coordinate fully all aspects of the  
1574 submission of a siting proposal for the project and, if the state  
1575 is selected as the preferred site, to coordinate fully, with the  
1576 concurrence of the affected public agency, the development of the  
1577 project or any facility related to the project with private  
1578 business, the United States government and other public agencies.  
1579 All public agencies are encouraged to cooperate to the fullest  
1580 extent possible to effectuate the duties of the authority;



1581 however, the development of the project or any facility related to  
1582 the project by the authority may be done only with the concurrence  
1583 of the affected public agency.

1584 (2) (a) Contracts, by the authority or a public agency,  
1585 including, but not limited to, design and construction contracts,  
1586 for the acquisition, purchase, construction or installation of a  
1587 project defined in Section 57-75-5(f)(iv)1 or any facility related  
1588 to the project shall be exempt from the provisions of Section  
1589 31-7-13 if:

1590 (i) The authority finds and records such finding  
1591 on its minutes, that because of availability or the particular  
1592 nature of a project, it would not be in the public interest or  
1593 would less effectively achieve the purposes of this chapter to  
1594 enter into such contracts on the basis of Section 31-7-13; and

1595 (ii) The enterprise that is involved in the  
1596 project concurs in such finding.

1597 (b) When the requirements of paragraph (a) of this  
1598 subsection are met:

1599 (i) The requirements of Section 31-7-13 shall not  
1600 apply to such contracts; and

1601 (ii) The contracts may be entered into on the  
1602 basis of negotiation.

1603 (c) The enterprise involved with the project may, upon  
1604 approval of the authority, negotiate such contracts in the name of  
1605 the authority.



1606 (d) The provisions of this subsection (2) shall not  
1607 apply to contracts by the authority for excavation, fill dirt and  
1608 compaction for the preparation of the site of a project as defined  
1609 in Section 57-75-5(f) (iv)1 and such contracts may be entered into  
1610 pursuant to subsection (3) of this section.

1611 (3) (a) Contracts by the authority for excavation, fill  
1612 dirt and compaction for the preparation of the site of a project  
1613 defined in Section 57-75-5(f) (iv)1 shall be exempt from the  
1614 provisions of Section 31-7-13 and the following procedure shall be  
1615 followed in the award of such contracts:

1616 (i) The authority shall advertise for a period of  
1617 time to be set by the authority, but in no event less than one (1)  
1618 business day, the date, time and place of a meeting with the  
1619 authority to receive specifications on a request for proposals on  
1620 excavation, fill dirt and compaction for the preparation of the  
1621 site of the project defined in Section 57-75-5(f) (iv)1.

1622 (ii) The authority shall set the minimum  
1623 qualifications necessary to be considered for award of the  
1624 contract and the advertisement shall set forth such minimum  
1625 qualifications.

1626 (iii) Following the meeting the authority shall,  
1627 in its discretion, select one or more of the qualified contractors  
1628 with whom to negotiate or award the contract. The decision of the  
1629 authority concerning the selection of the contractor shall be  
1630 final.



1631 (b) Contracts by the authority or a public agency for  
1632 site preparation, utilities, real estate improvements, wastewater  
1633 or for public works for a project defined in Section  
1634 57-75-5(f) (xxi) or Section 57-75-5(f) (xxii) shall be exempt from  
1635 the provisions of Section 31-7-13 and the following procedure  
1636 shall be followed in the award of such contracts:

1637 (i) The authority or the public agency shall  
1638 advertise for a period of time to be set by the authority or the  
1639 public agency, but in no event less than one (1) nor more than  
1640 five (5) calendar days, the date, time and place of a meeting with  
1641 the authority or the public agency to receive specifications on  
1642 the preparation of the site of the project defined in Section  
1643 57-75-5(f) (xxi) or Section 57-75-5(f) (xxii).

1644 (ii) The authority or the public agency shall set  
1645 the minimum qualifications necessary to be considered for award of  
1646 the contract and the advertisement shall set forth such minimum  
1647 qualifications.

1648 (iii) Following the meeting the authority or the  
1649 public agency shall, in its discretion, select one or more of the  
1650 qualified contractors with whom to negotiate or award the  
1651 contract. The decision of the authority or the public agency  
1652 concerning the selection of the contractor shall be final.

1653 (c) Contracts by a public agency for site preparation,  
1654 utilities, real estate improvements, infrastructure, roads or for  
1655 public works for a project defined in Section 57-75-5(f) (xxiii),



1656 Section 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section  
1657 57-75-5(f) (xxxii), Section 57-75-5(f) (xxxii) or Section  
1658 57-75-5(f) (xxxiii) may be exempt from the provisions of Section  
1659 31-7-13 and the following procedure shall be followed in the award  
1660 of contracts:

1661 (i) The public agency shall advertise for a period  
1662 of time to be set by the public agency, but in no event less than  
1663 one (1) nor more than five (5) calendar days, the date, time and  
1664 place of a meeting with the public agency to receive  
1665 specifications on site preparation, utilities, real estate  
1666 improvements, infrastructure, roads or for public works related to  
1667 the project defined in Section 57-75-5(f) (xxiii), Section  
1668 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section  
1669 57-75-5(f) (xxxii), Section 57-75-5(f) (xxxii) or Section  
1670 57-75-5(f) (xxxiii).

1671 (ii) The public agency shall set the minimum  
1672 qualifications necessary to be considered for award of the  
1673 contract and the advertisement shall set forth such minimum  
1674 qualifications.

1675 (iii) Following the meeting the public agency  
1676 shall, in its discretion, which discretion may include  
1677 participation by an enterprise involved in the project, select one  
1678 or more of the qualified contractors with whom to negotiate or  
1679 award the contract. The decision of the public agency concerning  
1680 selection of the contractor shall be final.



1681 (4) (a) Contracts, by the authority or a public agency,  
1682 including, but not limited to, design and construction contracts,  
1683 for the acquisition, purchase, construction or installation of a  
1684 project defined in Section 57-75-5(f) (xxvi), Section  
1685 57-75-5(f) (xxvii), Section 57-75-5(f) (xxviii), Section  
1686 57-75-5(f) (xxix), Section 57-75-5(f) (xxx), Section  
1687 57-75-5(f) (xxxi), Section 57-75-5(f) (xxxii) or Section  
1688 57-75-5(f) (xxxiii), and any contracts by the authority or a public  
1689 agency for site preparation, utilities, real estate improvements,  
1690 infrastructure, roads or for other public facilities related to  
1691 any such project shall be exempt from the provisions of Section  
1692 31-7-13 if:

1693 (i) The authority finds and records such finding  
1694 on its minutes, that because of availability or the particular  
1695 nature of a project, it would not be in the public interest or  
1696 would less effectively achieve the purposes of this chapter to  
1697 enter into such contracts on the basis of Section 31-7-13; and

1698 (ii) The enterprise that is involved in the  
1699 project concurs in such finding.

1700 (b) When the requirements of paragraph (a) of this  
1701 subsection are met:

1702 (i) The requirements of Section 31-7-13 shall not  
1703 apply to such contracts; and

1704 (ii) The contracts may be entered into on the  
1705 basis of negotiation with the authority or such public agency, and



1706 the authority or such public agency may, as part of such  
1707 negotiations, further negotiate and require the level of  
1708 participation by the enterprise involved in the project in the  
1709 negotiation of such contracts.

1710 (c) Contracts by the authority or a public agency for  
1711 site preparation, utilities, real estate improvements,  
1712 infrastructure, roads or for other public facilities related to a  
1713 project defined in Section 57-75-5(f)(xxxii), shall be exempt from  
1714 the provisions of Section 65-1-85, and the authority or public  
1715 agency is authorized to use any method for design and/or  
1716 construction procurement and contracting. With respect to any  
1717 such contract that is anticipated to be federally funded, in whole  
1718 or in part, the authority or public agency may nonetheless comply  
1719 with the provisions of Section 65-1-85 for purposes of compliance  
1720 with any applicable federal funding requirements.

1721 (d) The decision of the authority or the public agency  
1722 concerning selection of the contractor shall be final.

1723 (e) The company shall make commercially reasonable  
1724 efforts to place out for bid, such that Mississippi Contractors  
1725 and Mississippi Disadvantaged Business Enterprises ("DBEs") shall  
1726 have an equal opportunity to respond to such bid, any contract by  
1727 the company which (i) is subject to tax pursuant to Mississippi  
1728 Code Section 27-65-21 (i.e., contracts for constructing, building,  
1729 erecting, grading, excavating, etc.), and (ii) will be paid, or  
1730 payment thereunder by the company will be reimbursed, using any



1731 portion of the grant proceeds or funds provided by the authority  
1732 to the company in accordance with this agreement. In carrying out  
1733 such efforts, in order to increase the pool of qualified DBE  
1734 bidders, the company will request that successful prime contract  
1735 bidders include in their response a commitment to (a) participate  
1736 in and/or host forums that highlight subcontract bidding  
1737 opportunities for DBEs; and (b) work with various trade  
1738 associations and the Mississippi Development Authority to promote  
1739 increased participation from DBEs. With respect to awarding any  
1740 contract placed out for bid, the company shall be allowed to award  
1741 such contract in the company's sole discretion (e.g., based upon  
1742 optimization of quality, cost and efficiency or on any other basis  
1743 as the company may see fit). MDA agrees that it will offer to  
1744 eligible contractor DBEs that have an opportunity to work on the  
1745 project assistance through its Minority Surety Bond Guaranty  
1746 Program. Agreement by MDA to offer the use of the Minority Surety  
1747 Bond Guaranty Program shall not require or imply that the  
1748 governing authority of any state, county or municipal agencies,  
1749 departments, institutions or offices, and its political  
1750 subdivisions, are required to provide minority businesses with  
1751 preferential treatment in regards to public contracts or purchases  
1752 on the basis of race, ethnicity or sex of the business owner or  
1753 owners. Notwithstanding any federal law to the contrary, minority  
1754 set-aside contracts for public purchases by the governing  
1755 authority of any state, county or municipal agencies, departments,



1756 institutions or offices, and its political subdivisions, are  
1757 prohibited.

1758 (5) The Department of Employment Security is authorized to  
1759 provide to the authority any information received, obtained or  
1760 produced, or findings or determinations made thereby, with respect  
1761 to any jobs created or maintained for a project that has been  
1762 certified by the authority as a project as defined in Section  
1763 57-75-5(f).

1764 **SECTION 7.** Section 57-75-11, Mississippi Code of 1972, is  
1765 amended as follows:

1766 57-75-11. The authority, in addition to any and all powers  
1767 now or hereafter granted to it, is empowered and shall exercise  
1768 discretion and the use of these powers depending on the  
1769 circumstances of the project or projects:

1770 (a) To maintain an office at a place or places within  
1771 the state.

1772 (b) To employ or contract with architects, engineers,  
1773 attorneys, accountants, construction and financial experts and  
1774 such other advisors, consultants and agents as may be necessary in  
1775 its judgment and to fix and pay their compensation.

1776 (c) To make such applications and enter into such  
1777 contracts for financial assistance as may be appropriate under  
1778 applicable federal or state law.

1779 (d) To apply for, accept and utilize grants, gifts and  
1780 other funds or aid from any source for any purpose contemplated by



1781 the act, and to comply, subject to the provisions of this act,  
1782 with the terms and conditions thereof.

1783 (e) (i) To acquire by purchase, lease, gift, or in  
1784 other manner, including quick-take eminent domain, or obtain  
1785 options to acquire, and to own, maintain, use, operate and convey  
1786 any and all property of any kind, real, personal, or mixed, or any  
1787 interest or estate therein, within the project area, necessary for  
1788 the project or any facility related to the project. The  
1789 provisions of this paragraph that allow the acquisition of  
1790 property by quick-take eminent domain shall be repealed by  
1791 operation of law on July 1, 1994; and

1792 (ii) Notwithstanding any other provision of this  
1793 paragraph (e), from and after November 6, 2000, to exercise the  
1794 right of immediate possession pursuant to the provisions of  
1795 Sections 11-27-81 through 11-27-89 for the purpose of acquiring  
1796 land, property and/or rights-of-way in the county in which a  
1797 project as defined in Section 57-75-5(f)(iv)(1) is located, that  
1798 are necessary for such project or any facility related to the  
1799 project.

1800 (f) To acquire by purchase or lease any public lands  
1801 and public property, including sixteenth section lands and lieu  
1802 lands, within the project area, which are necessary for the  
1803 project. Sixteenth section lands or lieu lands acquired under  
1804 this act shall be deemed to be acquired for the purposes of  
1805 industrial development thereon and such acquisition will serve a



1806 higher public interest in accordance with the purposes of this  
1807 act.

1808 (g) If the authority identifies any land owned by the  
1809 state as being necessary, for the location or use of the project,  
1810 or any facility related to the project, to recommend to the  
1811 Legislature the conveyance of such land or any interest therein,  
1812 as the Legislature deems appropriate.

1813 (h) To make or cause to be made such examinations and  
1814 surveys as may be necessary to the planning, design, construction  
1815 and operation of the project.

1816 (i) From and after the date of notification to the  
1817 authority by the enterprise that the state has been finally  
1818 selected as the site of the project, to acquire by condemnation  
1819 and to own, maintain, use, operate and convey or otherwise dispose  
1820 of any and all property of any kind, real, personal or mixed, or  
1821 any interest or estate therein, within the project area, necessary  
1822 for the project or any facility related to the project, with the  
1823 concurrence of the affected public agency, and the exercise of the  
1824 powers granted by this act, according to the procedures provided  
1825 by Chapter 27, Title 11, Mississippi Code of 1972, except as  
1826 modified by this act.

1827 (i) Except as otherwise provided in subparagraph  
1828 (iii) of this paragraph (i), in acquiring lands by condemnation,  
1829 the authority shall not acquire minerals or royalties in minerals  
1830 unless a competent registered professional engineer shall have



1831 certified that the acquisition of such minerals and royalties in  
1832 minerals is necessary for purposes of the project; provided that  
1833 limestone, clay, chalk, sand and gravel shall not be considered as  
1834 minerals for the purposes of subparagraphs (i) and (ii) of this  
1835 paragraph (i);

1836                   (ii) Unless minerals or royalties in minerals have  
1837 been acquired by condemnation or otherwise, no person or persons  
1838 owning the drilling rights or the right to share in production of  
1839 minerals shall be prevented from exploring, developing, or  
1840 producing oil or gas with necessary rights-of-way for ingress and  
1841 egress, pipelines and other means of transporting interests on any  
1842 land or interest therein of the authority held or used for the  
1843 purposes of this act; but any such activities shall be under such  
1844 reasonable regulation by the authority as will adequately protect  
1845 the project contemplated by this act as provided in paragraph (r)  
1846 of this section; and

1847                   (iii) In acquiring lands by condemnation,  
1848 including the exercise of immediate possession, for a project, as  
1849 defined in Section 57-75-5(f)(iv)1, the authority may acquire  
1850 minerals or royalties in minerals.

1851                   (j) To negotiate the necessary relocation or rerouting  
1852 of roads and highways, railroad, telephone and telegraph lines and  
1853 properties, electric power lines, pipelines and related  
1854 facilities, or to require the anchoring or other protection of any  
1855 of these, provided due compensation is paid to the owners thereof



1856 or agreement is had with such owners regarding the payment of the  
1857 cost of such relocation, and to acquire by condemnation or  
1858 otherwise easements or rights-of-way for such relocation or  
1859 rerouting and to convey the same to the owners of the facilities  
1860 being relocated or rerouted in connection with the purposes of  
1861 this act.

1862 (k) To negotiate the necessary relocation of graves and  
1863 cemeteries and to pay all reasonable costs thereof.

1864 (l) To perform or have performed any and all acts and  
1865 make all payments necessary to comply with all applicable federal  
1866 laws, rules or regulations including, but not limited to, the  
1867 Uniform Relocation Assistance and Real Property Acquisition  
1868 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651  
1869 to 4655) and relocation rules and regulations promulgated by any  
1870 agency or department of the federal government.

1871 (m) To construct, extend, improve, maintain, and  
1872 reconstruct, to cause to be constructed, extended, improved,  
1873 maintained, and reconstructed, and to use and operate any and all  
1874 components of the project or any facility related to the project,  
1875 with the concurrence of the affected public agency, within the  
1876 project area, necessary to the project and to the exercise of such  
1877 powers, rights, and privileges granted the authority.

1878 (n) To incur or defray any designated portion of the  
1879 cost of any component of the project or any facility related to  
1880 the project acquired or constructed by any public agency.



1881           (o) (i) To lease, sell or convey any or all property  
1882 acquired by the authority under the provisions of this act to the  
1883 enterprise, its successors or assigns, and/or any entity for  
1884 purposes in furtherance of economic development as determined by  
1885 the authority, and in connection therewith to pay the costs of  
1886 title search, perfection of title, title insurance and recording  
1887 fees as may be required. The authority may provide in the  
1888 instrument conveying such property a provision that such property  
1889 shall revert to the authority if, as and when the property is  
1890 declared by the transferee to be no longer needed.

1891           (ii) To lease, sell, transfer or convey on any  
1892 terms agreed upon by the authority any or all real and personal  
1893 property, improvements, leases, funds and contractual obligations  
1894 of a project as defined in Section 57-75-5(f)(vi) and conveyed to  
1895 the State of Mississippi by a Quitclaim Deed from the United  
1896 States of America dated February 23, 1996, filed of record at  
1897 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,  
1898 Tishomingo County, Mississippi, to any governmental authority  
1899 located within the geographic boundaries of the county wherein  
1900 such project exists upon agreement of such governmental authority  
1901 to undertake and assume from the State of Mississippi all  
1902 obligations and responsibilities in connection with ownership and  
1903 operation of the project. Property leased, sold, transferred or  
1904 otherwise conveyed by the authority under this paragraph (o) shall  
1905 be used only for economic development purposes.



1906           (p) To enter into contracts with any person or public  
1907 agency, including, but not limited to, contracts authorized by  
1908 Section 57-75-17, in furtherance of any of the purposes authorized  
1909 by this act upon such consideration as the authority and such  
1910 person or public agency may agree. Any such contract may extend  
1911 over any period of time, notwithstanding any rule of law to the  
1912 contrary, may be upon such terms as the parties thereto shall  
1913 agree, and may provide that it shall continue in effect until  
1914 bonds specified therein, refunding bonds issued in lieu of such  
1915 bonds, and all other obligations specified therein are paid or  
1916 terminated. Any such contract shall be binding upon the parties  
1917 thereto according to its terms. Such contracts may include an  
1918 agreement to reimburse the enterprise, its successors and assigns  
1919 for any assistance provided by the enterprise in the acquisition  
1920 of real property for the project or any facility related to the  
1921 project.

1922           (q) To establish and maintain reasonable rates and  
1923 charges for the use of any facility within the project area owned  
1924 or operated by the authority, and from time to time, to adjust  
1925 such rates and to impose penalties for failure to pay such rates  
1926 and charges when due.

1927           (r) To adopt and enforce with the concurrence of the  
1928 affected public agency all necessary and reasonable rules and  
1929 regulations to carry out and effectuate the implementation of the  
1930 project and any land use plan or zoning classification adopted for



1931 the project area, including, but not limited to, rules,  
1932 regulations, and restrictions concerning mining, construction,  
1933 excavation or any other activity the occurrence of which may  
1934 endanger the structure or operation of the project. Such rules  
1935 may be enforced within the project area and without the project  
1936 area as necessary to protect the structure and operation of the  
1937 project. The authority is authorized to plan or replan, zone or  
1938 rezone, and make exceptions to any regulations, whether local or  
1939 state, with the concurrence of the affected public agency which  
1940 are inconsistent with the design, planning, construction or  
1941 operation of the project and facilities related to the project.

1942 (s) To plan, design, coordinate and implement measures  
1943 and programs to mitigate impacts on the natural environment caused  
1944 by the project or any facility related to the project.

1945 (t) To develop plans for technology transfer activities  
1946 to ensure private sector conduits for exchange of information,  
1947 technology and expertise related to the project to generate  
1948 opportunities for commercial development within the state.

1949 (u) To consult with the State Department of Education  
1950 and other public agencies for the purpose of improving public  
1951 schools and curricula within the project area.

1952 (v) To consult with the State Board of Health and other  
1953 public agencies for the purpose of improving medical centers,  
1954 hospitals and public health centers in order to provide  
1955 appropriate health care facilities within the project area.



1956 (w) To consult with the Office of Minority Business  
1957 Enterprise Development and other public agencies for the purpose  
1958 of developing plans for technical assistance and loan programs to  
1959 maximize the economic impact related to the project for minority  
1960 business enterprises within the State of Mississippi. This  
1961 paragraph shall not require or imply that the governing authority  
1962 of any state, county or municipal agencies, departments,  
1963 institutions or offices, and its political subdivisions, are  
1964 required to provide minority businesses with preferential  
1965 treatment in regards to public contracts or purchases on the basis  
1966 of race, ethnicity or sex of the business owner or owners.  
1967 Notwithstanding any federal law to the contrary, minority  
1968 set-aside contracts for public purchases by the governing  
1969 authority of any state, county or municipal agencies, departments,  
1970 institutions or offices, and its political subdivisions, are  
1971 prohibited.

1972 (x) To deposit into the "Yellow Creek Project Area  
1973 Fund" created pursuant to Section 57-75-31:

1974 (i) Any funds or aid received as authorized in  
1975 this section for the project described in Section 57-75-5(f)(vi),  
1976 and

1977 (ii) Any funds received from the sale or lease of  
1978 property from the project described in Section 57-75-5(f)(vi)  
1979 pursuant to the powers exercised under this section.



1980 (y) To manage and develop the project described in  
1981 Section 57-75-5(f) (vi) .

1982 (z) To promulgate rules and regulations necessary to  
1983 effectuate the purposes of this act.

1984 (aa) To negotiate a fee-in-lieu with the owners of the  
1985 project.

1986 (bb) To enter into contractual agreements to warrant  
1987 any site work for a project defined in Section 57-75-5(f) (iv)1;  
1988 provided, however, that the aggregate amount of such warranties  
1989 shall not exceed Fifteen Million Dollars (\$15,000,000.00) .

1990 (cc) To provide grant funds to an enterprise operating  
1991 a project defined in Section 57-75-5(f) (iv)1 in an amount not to  
1992 exceed Thirty-nine Million Dollars (\$39,000,000.00) .

1993 (dd) (i) To own surface water transmission lines  
1994 constructed with the proceeds of bonds issued pursuant to this act  
1995 and in connection therewith to purchase and provide water to any  
1996 project defined in Section 57-75-5(f) (iv) and to certificated  
1997 water providers; and

1998 (ii) To lease such surface water transmission  
1999 lines to a public agency or public utility to provide water to  
2000 such project and to certificated water providers.

2001 (ee) To provide grant funds to an enterprise operating  
2002 a project defined in Section 57-75-5(f) (v) or, in connection with  
2003 a facility related to such a project, for job training, recruiting  
2004 and infrastructure.



2005 (ff) To enter into negotiations with persons proposing  
2006 projects defined in Section 57-75-5(f)(xi) and execute acquisition  
2007 options and conduct planning, design and environmental impact  
2008 studies with regard to such project.

2009 (gg) To establish such guidelines, rules and  
2010 regulations as the authority may deem necessary and appropriate  
2011 from time to time in its sole discretion, to promote the purposes  
2012 of this act.

2013 (hh) In connection with projects defined in Section  
2014 57-75-5(f)(ii):

2015 (i) To provide grant funds or loans to a public  
2016 agency or an enterprise owning, leasing or operating a project  
2017 defined in Section 57-75-5(f)(ii) in amounts not to exceed the  
2018 amount authorized in Section 57-75-15(3)(b);

2019 (ii) To supervise the use of all such grant funds  
2020 or loans; and

2021 (iii) To requisition money in the Mississippi  
2022 Major Economic Impact Authority Revolving Loan Fund in connection  
2023 with such loans.

2024 (ii) In connection with projects defined under Section  
2025 57-75-5(f)(xiv):

2026 (i) To provide grant funds or loans to an  
2027 enterprise owning, leasing or operating a project defined in  
2028 Section 57-75-5(f)(xiv); however, the aggregate amount of any such  
2029 loans under this paragraph (ii) shall not exceed Eighteen Million



2030 Dollars (\$18,000,000.00) and the aggregate amount of any such  
2031 grants under this paragraph (ii) shall not exceed Six Million  
2032 Dollars (\$6,000,000.00);

2033 (ii) To supervise the use of all such grant funds  
2034 or loans; and

2035 (iii) Notwithstanding any provision of this act to  
2036 the contrary, such loans shall be for a term not to exceed twenty  
2037 (20) years as may be determined by the authority, shall bear  
2038 interest at such rates as may be determined by the authority,  
2039 shall, in the sole discretion of the authority, be secured in an  
2040 amount and a manner as may be determined by the authority.

2041 (jj) In connection with projects defined under Section  
2042 57-75-5(f) (xviii):

2043 (i) To provide grant funds of Twenty-five Million  
2044 Dollars (\$25,000,000.00) to an enterprise owning or operating a  
2045 project defined in Section 57-75-5(f) (xviii) to be used for real  
2046 estate improvements and which may be disbursed as determined by  
2047 the authority;

2048 (ii) To provide loans to an enterprise owning or  
2049 operating a project defined in Section 57-75-5(f) (xviii) or make  
2050 payments to a lender providing financing to the enterprise;  
2051 subject to the following provisions:

2052 1. Not more than Ten Million Dollars  
2053 (\$10,000,000.00) may be loaned to such an enterprise for the  
2054 purpose of defraying costs incurred by the enterprise for site



2055 preparation and real property improvements during the construction  
2056 of the project in excess of budgeted costs; however, the amount of  
2057 any such loan shall not exceed fifty percent (50%) of such excess  
2058 costs;

2059                                   2. Not more than Sixty Million Dollars  
2060 (\$60,000,000.00) may be loaned to such an enterprise or paid to a  
2061 lender providing financing to the enterprise for purposes  
2062 determined appropriate by the authority, and the enterprise shall  
2063 be obligated to repay the amount of the loan or payment plus any  
2064 expenses incurred by the state as a result of the issuance of  
2065 bonds pursuant to Section 57-75-15(3) (p); however, no such loan or  
2066 payment may be made before the beginning of the fifth year after  
2067 issuance by the enterprise of debt in like amount the proceeds of  
2068 which are to be used in connection with the project;

2069                                   (iii) To supervise the use of all such loan funds;

2070                                   (iv) Loans under this paragraph (jj) may be for  
2071 any term determined appropriate by the authority provided that the  
2072 payments on any loan must be in an amount sufficient to pay the  
2073 state's debt service on bonds issued for the purpose of providing  
2074 funds for such a loan; and

2075                                   (v) The repayment obligation of the enterprise for  
2076 any loan or payment authorized under this paragraph (jj) shall, in  
2077 the discretion of the authority, be secured in an amount and a  
2078 manner as may be determined by the authority.



2079 (kk) In connection with projects defined in Section  
2080 57-75-5(f) (xxi) or a facility related to such a project:

2081 (i) To provide grant funds to reimburse public  
2082 agencies, Itawamba Community College, Northeast Mississippi  
2083 Community College, and/or East Mississippi Community College,  
2084 public or private nonprofits or an enterprise owning or operating  
2085 a project as defined in Section 57-75-5(f) (xxi) for site  
2086 preparation, real estate improvements, utilities, railroads,  
2087 roads, infrastructure, job training, recruiting and any other  
2088 expenses approved by the authority in amounts not to exceed the  
2089 amount authorized in Section 57-75-15(3) (s);

2090 (ii) To supervise the use of all such grant funds  
2091 so reimbursed; and

2092 (iii) To enter into contractual agreements to  
2093 warrant site preparation and availability for a project defined in  
2094 Section 57-75-5(f) (xxi).

2095 (ll) In connection with a project related to a Tier One  
2096 supplier:

2097 (i) To provide grant funds to reimburse public  
2098 agencies, public or private nonprofits and Tier One suppliers for  
2099 site preparation, real estate improvements, utilities, railroads,  
2100 roads, infrastructure, job training, recruiting and any other  
2101 expenses approved by the authority in amounts not to exceed the  
2102 amount authorized in Section 57-75-15(3) (t);



2103 (ii) To supervise the use of all such grant funds  
2104 so reimbursed.

2105 (mm) In connection with projects defined in Section  
2106 57-75-5(f) (xxii) or a facility related to such a project:

2107 (i) To provide grant funds to reimburse public  
2108 agencies or an enterprise owning or operating a project as defined  
2109 in Section 57-75-5(f) (xxii) for site preparation, real estate  
2110 improvements, utilities, fire protection, wastewater, railroads,  
2111 roads, infrastructure, job training, recruiting and any other  
2112 expenses approved by the authority in amounts not to exceed the  
2113 amount authorized in Section 57-75-15(3) (u); and

2114 (ii) To supervise the use of all such grant funds  
2115 so reimbursed.

2116 (nn) It is the policy of the authority and the  
2117 authority is authorized to accommodate and support any enterprise  
2118 owning or operating a project defined in Section  
2119 57-75-5(f) (xviii), 57-75-5(f) (xxi), 57-75-5(f) (xxii),  
2120 57-75-5(f) (xxvi), 57-75-5(f) (xxvii), 57-75-5(f) (xxviii),  
2121 57-75-5(f) (xxix), 57-75-5(f) (xxx), 57-75-5(f) (xxxi),  
2122 57-75-5(f) (xxxii) or 57-75-5(f) (xxxiii), or an enterprise  
2123 developing or owning a project defined in Section 57-75-5(f) (xx),  
2124 that wishes to have a program of diversity in contracting, and/or  
2125 that wishes to do business with or cause its prime contractor to  
2126 do business with Mississippi companies, including those companies  
2127 that are small business concerns owned and controlled by socially



2128 and economically disadvantaged individuals. The term "socially  
2129 and economically disadvantaged individuals" shall have the meaning  
2130 ascribed to such term under Section 8(d) of the Small Business Act  
2131 (15 USCS 637(d)) and relevant subcontracting regulations  
2132 promulgated pursuant thereto; except that women shall be presumed  
2133 to be socially and economically disadvantaged individuals for the  
2134 purposes of this paragraph.

2135 (oo) To provide grant funds to an enterprise developing  
2136 or owning a project defined in Section 57-75-5(f)(xx) for  
2137 reimbursement of costs incurred by such enterprise for  
2138 infrastructure improvements in the initial phase of development of  
2139 the project, upon dedication of such improvements to the  
2140 appropriate public agency.

2141 (pp) In connection with projects defined in Section  
2142 57-75-5(f)(xxiii):

2143 (i) To provide grant funds to reimburse public  
2144 agencies or an enterprise operating a project as defined in  
2145 Section 57-75-5(f)(xxiii) for site preparation, utilities, real  
2146 estate improvements, infrastructure, roads, public works, job  
2147 training and any other expenses approved by the authority in  
2148 amounts not to exceed the amount authorized in Section  
2149 57-75-15(3)(v); and

2150 (ii) To supervise the use of all such grant funds  
2151 so reimbursed.



2152            (qq) (i) To provide grant funds for the expansion of a  
2153 publicly owned building for the project defined in Section  
2154 57-75-5(f) (xxiv) or loans to an enterprise owning, leasing or  
2155 operating a project defined in Section 57-75-5(f) (xxiv) for the  
2156 purchase and/or relocation of equipment, or for any other purpose  
2157 related to the project as approved by the authority; however, the  
2158 aggregate amount of any such loans under this paragraph (qq) shall  
2159 not exceed Six Million Dollars (\$6,000,000.00) and the aggregate  
2160 amount of any such grants under this paragraph (qq) shall not  
2161 exceed Seven Million Dollars (\$7,000,000.00);

2162            (ii) To supervise the use of all such grant funds  
2163 or loans; and

2164            (iii) Notwithstanding any provision of this act to  
2165 the contrary, such loans shall be for a term not to exceed ten  
2166 (10) years as may be determined by the authority, shall bear a  
2167 rate of interest to be determined by the authority, and shall be  
2168 secured in an amount and a manner as may be determined by the  
2169 authority.

2170            (rr) (i) To provide grant funds to an enterprise  
2171 owning or operating a project defined in Section 57-75-5(f) (xxv)  
2172 for reimbursement of costs incurred by the enterprise in  
2173 reconfiguring the manufacturing plant and for the purchase of  
2174 equipment, or for any other purpose related to the project as  
2175 approved by the authority;

2176            (ii) To supervise the use of all such grant funds.



2177 (ss) In connection with projects defined under Section  
2178 57-75-5(f) (xxvi):

2179 (i) To provide grant funds and/or loans to a  
2180 public agency in an amount not to exceed Fifteen Million Dollars  
2181 (\$15,000,000.00) for the construction of a publicly owned building  
2182 to be leased by the enterprise owning or operating the project;

2183 (ii) To provide loan guarantees in an amount not  
2184 to exceed the total cost of the project for which financing is  
2185 sought or Twenty Million Dollars (\$20,000,000.00), whichever is  
2186 less, for the purpose of encouraging the extension of conventional  
2187 financing and the issuance of letters of credit to the enterprise  
2188 owning or operating the project;

2189 (iii) In connection with any loan guarantee made  
2190 pursuant to this paragraph, to make payments to lenders providing  
2191 financing to the enterprise owning or operating the project and  
2192 the enterprise shall be obligated to repay the amount of the  
2193 payment plus any expenses incurred by the state as a result of the  
2194 issuance of bonds pursuant to Section 57-75-15(3) (y);

2195 (iv) To supervise the use of all such grant funds,  
2196 loan funds or payments; and

2197 (v) To require the enterprise owning or operating  
2198 the project to provide security for the repayment obligation for  
2199 any loan guarantee authorized under this paragraph in an amount  
2200 and in a manner as may be determined by the authority.



2201 (tt) In connection with projects defined under Section  
2202 57-75-5(f) (xxvii):

2203 (i) To provide loans to a public agency in an  
2204 amount not to exceed Fifty Million Dollars (\$50,000,000.00) for  
2205 the construction of a publicly owned building and acquisition of  
2206 equipment to be leased by the enterprise owning or operating the  
2207 project; and

2208 (ii) To supervise the use of all such loan funds.

2209 (uu) In connection with projects defined under Section  
2210 57-75-5(f) (xxviii):

2211 (i) To provide grant funds to reimburse public  
2212 agencies or an enterprise operating a project for site  
2213 preparation, utilities, real estate purchase and improvements,  
2214 infrastructure, roads, rail improvements, public works, job  
2215 training and any other expenses approved by the authority in  
2216 amounts not to exceed the amount authorized in Section  
2217 57-75-15(3) (aa);

2218 (ii) To supervise the use of all such grant funds  
2219 so reimbursed.

2220 (vv) In connection with projects defined under Section  
2221 57-75-5(f) (xxix):

2222 (i) To provide grant funds to reimburse or  
2223 otherwise defray the costs incurred by public agencies or an  
2224 enterprise operating a project for site preparation, utilities,  
2225 real estate purchases, purchase options and improvements,



2226 infrastructure, roads, rail improvements, public works, buildings  
2227 and fixtures, job recruitment and training, as well as planning,  
2228 design, environmental mitigation and environmental impact studies  
2229 with respect to a project, and any other purposes approved by the  
2230 authority in amounts not to exceed the amount authorized in  
2231 Section 57-75-15(3) (bb);

2232           (ii) To provide loans to public agencies for site  
2233 preparation, utilities, real estate purchases, purchase options  
2234 and improvements, infrastructure, roads, rail improvements, public  
2235 works, buildings and fixtures, job recruiting and training, as  
2236 well as planning, design, environmental mitigation and  
2237 environmental impact studies with respect to a project, and any  
2238 other purposes approved by the authority in amounts not to exceed  
2239 the amount authorized in Section 57-75-15(3) (bb);

2240           (iii) To supervise the use of all such grant funds  
2241 so reimbursed and/or loans so made; and

2242           (iv) To the extent that the authority enters into  
2243 any construction or similar contract for site preparation work or  
2244 for the construction of any improvements on a project site, to  
2245 assign or otherwise transfer to an enterprise or affiliate thereof  
2246 that owns or operates such a project on such project site any and  
2247 all contractual, express or implied warranties of any kind arising  
2248 from such contract or work performed or materials purchased in  
2249 connection therewith, and cause any such contract to contain terms



2250 and provisions designating such enterprise as a third-party  
2251 beneficiary under the contract.

2252 (ww) In connection with projects defined under Section  
2253 57-75-5(f) (xxx):

2254 (i) To provide grant funds to reimburse or  
2255 otherwise defray the costs incurred by public agencies or an  
2256 enterprise operating a project for public infrastructure needs,  
2257 site preparation, building improvements, purchase of launch  
2258 systems, recruitment of employees to fill new full-time jobs,  
2259 providing internal company training and train prospective, new and  
2260 existing employees of the enterprise associated with the project,  
2261 including training of company employees who will utilize such  
2262 instruction to teach other prospective, new and existing employees  
2263 of the company and other workforce expenses and any other expenses  
2264 approved by the authority in amounts not to exceed the amount  
2265 authorized in Section 57-75-15(3) (cc); and

2266 (ii) To supervise the use of all such grant funds  
2267 so reimbursed.

2268 (xx) In connection with projects defined under Section  
2269 57-75-5(f) (xxx):

2270 (i) To provide grant funds to reimburse or  
2271 otherwise defray the costs incurred by public agencies or any  
2272 enterprise operating one or more such projects for site  
2273 preparation, utilities, real estate purchases, purchase options  
2274 and improvements, infrastructure, utilities, roads, rail



2275 improvements, public works, buildings and fixtures, job  
2276 recruitment and training, as well as planning, design,  
2277 environmental mitigation and environmental impact studies with  
2278 respect to a project, and any other purposes approved by the  
2279 authority in amounts not to exceed the amount authorized in  
2280 Section 57-75-15(3) (dd);

2281 (ii) To provide loans to public agencies for site  
2282 preparation, utilities, real estate purchases, purchase options  
2283 and improvements, infrastructure, roads, rail improvements, public  
2284 works, buildings and fixtures, job recruiting and training, as  
2285 well as planning, design, environmental mitigation and  
2286 environmental impact studies with respect to a project, and any  
2287 other purposes approved by the authority in amounts not to exceed  
2288 the amount authorized in Section 57-75-15(3) (dd).

2289 (yy) (i) In connection with projects defined under  
2290 Section 57-75-5(f) (xxxi), the authority is further authorized to  
2291 provide to the enterprises operating one or more of the projects,  
2292 an annual grant in an amount not to exceed three and one-half  
2293 percent (3.5%) of the additional payroll for a period of ten (10)  
2294 consecutive years. Each such aggregate annual grant amount shall  
2295 be remitted to one or more of the enterprises and/or one or more  
2296 of their affiliates, in such sub-amounts as the enterprises shall  
2297 collectively direct, or that their common direct or indirect  
2298 parent company shall direct, in writing, to the authority each  
2299 year during such ten-year period. The ten-year period for the



2300 series of ten (10) annual grants authorized by this paragraph (yy)  
2301 shall commence no later than January 1, 2029.

2302 (ii) In the event that the annual number of  
2303 full-time jobs maintained or caused to be maintained by the  
2304 enterprises operating one or more projects and/or one or more  
2305 affiliates thereof falls below the minimum annual number of  
2306 full-time jobs required by the authority pursuant to a written  
2307 agreement between the authority and the enterprises and/or any  
2308 affiliate thereof for one or more years, the annual grant  
2309 authorized by this paragraph (yy) may be reduced or suspended by  
2310 the authority until the first calendar year during which the  
2311 annual number of full-time jobs maintained or caused to be  
2312 maintained by the enterprises and/or their affiliates reaches the  
2313 minimum annual number of full-time jobs required by the authority  
2314 pursuant to the written agreement.

2315 (iii) The annual grants authorized by this  
2316 paragraph (yy) may be funded from the proceeds of bonds issued  
2317 pursuant to Section 57-75-15(3) (dd); provided that the aggregate  
2318 amount of the annual grants over the entire ten-year period shall  
2319 not exceed Forty-five Million Dollars (\$45,000,000.00).

2320 (iv) For purposes of this paragraph (yy):

2321 1. "Additional payroll" shall mean the sum of  
2322 the annual payroll amount (i.e., all annual employee income that  
2323 is subject to State of Mississippi and/or federal income taxation)  
2324 for any calendar year beginning January 1, 2023, which is



2325 associated with full-time jobs created and maintained by all  
2326 enterprises that undertake any project and/or by any affiliates  
2327 thereof, in excess of the amount the annualized payroll (i.e., all  
2328 annual employee income that is subject to State of Mississippi  
2329 and/or federal income taxation), which is associated with  
2330 employees employed in the State of Mississippi by such enterprises  
2331 or their affiliates as of September 30, 2022; and

2332                   2. "Base payroll level" shall mean the  
2333 annualized payroll amount (i.e., all annual employee income that  
2334 is subject to State of Mississippi and/or federal income taxation)  
2335 paid to employees employed in the State of Mississippi by all  
2336 enterprises that undertake any project and/or by any affiliates  
2337 thereof during the twelve-month period ending on September 30,  
2338 2022.

2339                   (v) The Mississippi Development Authority may  
2340 promulgate rules and regulations necessary to administer the  
2341 provisions of this paragraph (yy) and may otherwise administer and  
2342 prescribe rules and restrictions with respect to the annual grant  
2343 authorized by this paragraph (yy) pursuant to a written agreement  
2344 between the authority and any enterprises operating one or more  
2345 projects and/or any affiliate thereof.

2346                   (zz) In connection with a project defined under Section  
2347 57-75-5(f) (xxxii):

2348                   (i) To provide grant funds to reimburse or  
2349 otherwise defray the costs incurred by public agencies or any



2350 enterprise operating one or more such projects for site  
2351 preparation, utilities, real estate purchases, purchase options  
2352 and improvements, infrastructure, utilities, roads, rail  
2353 improvements, public works, buildings and fixtures, job  
2354 recruitment and training, as well as planning, design,  
2355 environmental mitigation and environmental impact studies with  
2356 respect to a project, and any other purposes approved by the  
2357 authority in amounts not to exceed the amount authorized in  
2358 Section 57-75-15(3) (ee);

2359 (ii) To provide loans, grants and other funds to  
2360 public agencies for site preparation, utilities, real estate  
2361 purchases, purchase options and improvements, infrastructure,  
2362 roads, rail improvements, public works, buildings and fixtures,  
2363 job recruiting and training, as well as planning, design,  
2364 environmental mitigation and environmental impact studies with  
2365 respect to a project, and any other purposes approved by the  
2366 authority in amounts not to exceed the amount authorized in  
2367 Section 57-75-15(3) (ee).

2368 (aaa) In connection with a project defined under  
2369 Section 57-75-5(f) (xxxiii):

2370 (i) To provide grant funds to reimburse or  
2371 otherwise defray the costs incurred by public agencies or any  
2372 enterprise operating one or more such projects for site  
2373 preparation, utilities, real estate purchases, purchase options  
2374 and improvements, infrastructure, utilities, roads, rail



2375 improvements, public works, buildings and fixtures, job  
2376 recruitment and training, as well as planning, design,  
2377 environmental mitigation and environmental impact studies with  
2378 respect to a project, and any other purposes approved by the  
2379 authority in amounts not to exceed the amount authorized in  
2380 Section 57-75-15(3) (ff); and

2381 (ii) To provide loans to public agencies for site  
2382 preparation, utilities, real estate purchases, purchase options  
2383 and improvements, infrastructure, roads, rail improvements, public  
2384 works, buildings and fixtures, job recruiting and training, as  
2385 well as planning, design, environmental mitigation and  
2386 environmental impact studies with respect to a project, and any  
2387 other purposes approved by the authority in amounts not to exceed  
2388 the amount authorized in Section 57-75-15(3) (ff).

2389 (aab) (i) In addition to any other requirements or  
2390 conditions under this chapter, the authority shall require that  
2391 any application required by the authority for assistance regarding  
2392 a project under this chapter include, at a minimum:

2393 1. A two-year business plan (which shall  
2394 include pro forma balance sheets, income statements and monthly  
2395 cash flow statements);

2396 2. Financial statements or tax returns for  
2397 the three (3) years immediately prior to the application (if the  
2398 project is a new company or enterprise, personal financial  
2399 statements or tax returns will be required);



2400                   3. Credit reports on all persons or entities  
2401 with a twenty percent (20%) or greater interest in the project;  
2402                   4. Data supporting the expertise of the  
2403 project's principals;  
2404                   5. A cost-benefit analysis of the project  
2405 performed by a state institution of higher learning or other  
2406 entity selected by the authority; and  
2407                   6. Any other information required by the  
2408 authority.

2409                   (ii) The authority shall require that binding  
2410 commitments be entered into requiring that:

2411                   1. The applicable minimum requirements of  
2412 this chapter and such other requirements as the authority  
2413 considers proper shall be met; and

2414                   2. If the agreed upon commitments are not  
2415 met, all or a portion of the funds provided under this chapter as  
2416 determined by the authority shall be repaid.

2417                   (iii) Where appropriate, in the discretion of the  
2418 authority, the authority shall acquire a security interest in or  
2419 other lien upon any applicable collateral.

2420                   (iv) The provisions of this paragraph (xx) shall  
2421 not apply to a project defined in Section 57-75-5(f) (xxiii).

2422                   **SECTION 8.** Section 57-75-21, Mississippi Code of 1972, is  
2423 amended as follows:



2424           57-75-21. (1) (a) The authority shall \* \* \* monitor the  
2425 planning, construction, training, research, development, testing,  
2426 evaluation, personal services, procurement, and for the operation  
2427 and maintenance of any facilities or activities controlled by such  
2428 authority, with minority small business concerns owned and  
2429 controlled by socially and economically disadvantaged individuals.  
2430 For the purpose of determining the total amounts expended with  
2431 such minority small business concerns, credit shall be given for  
2432 that portion of any prime contract entered into with the authority  
2433 which inures to the benefit of such minority small business  
2434 concern as a subcontractor thereunder.

2435           (b) For the purposes of this section, the term  
2436 "socially and economically disadvantaged individuals" shall have  
2437 the meaning ascribed to such term under Section 8(d) of the Small  
2438 Business Act (15 USCS, Section 637(d)) and relevant subcontracting  
2439 regulations promulgated pursuant thereto.

2440           (c) For the purposes of this section, the term  
2441 "minority small business concern" means any small business  
2442 concern:

2443           (i) Which is at least fifty-one percent (51%)  
2444 owned by one or more socially and economically disadvantaged  
2445 individuals; or, in the case of any publicly owned businesses, at  
2446 least fifty-one percent (51%) of the stock of which is owned by  
2447 one or more socially and economically disadvantaged individuals;  
2448 and



2449 (ii) Whose management and daily business  
2450 operations are controlled by one or more of such individuals.

2451 (d) For the purpose of this section, the term "small  
2452 business concern" shall mean "small business" as the latter term  
2453 is defined in Section 57-10-155, Mississippi Code of 1972.

2454 (2) \* \* \* The provisions of this section shall not be  
2455 interpreted to require or imply that the governing authority of  
2456 any state, county or municipal agencies, departments, institutions  
2457 or offices, and its political subdivisions, are required to  
2458 provide minority small businesses with preferential treatment in  
2459 regards to public contracts or purchases on the basis of race,  
2460 ethnicity or sex of the business owner or owners. Notwithstanding  
2461 any federal law to the contrary, minority set-aside contracts for  
2462 public purchases by the governing authority of any state, county  
2463 or municipal agencies, departments, institutions or offices, and  
2464 its political subdivisions, are prohibited.

2465 (3) The authority shall:

2466 (a) Monitor the minority small business concerns  
2467 assistance programs prescribed in this section.

2468 (b) Review and determine the business capabilities of  
2469 minority small business concerns.

2470 (c) Establish standards for a certification procedure  
2471 for minority small business concerns seeking to do business with  
2472 the authority.



2473 (d) Provide technical assistance services to minority  
2474 small business concerns. Such technical assistance shall include  
2475 but not be limited to:

- 2476 (i) Research;
- 2477 (ii) Assistance in obtaining bonds;
- 2478 (iii) Bid preparation;
- 2479 (iv) Certification of business concerns;
- 2480 (v) Marketing assistance; and
- 2481 (vi) Joint venture and capital development.

2482 (e) Develop alternative bidding and contracting  
2483 procedures for minority small business concerns in conjunction  
2484 with the State Fiscal Management Board and the Governor's Office  
2485 of General Services.

2486 (f) Utilize such alternative bidding and contracting  
2487 procedures in lieu of those prescribed in Title 31, Chapters 5 and  
2488 7, Mississippi Code of 1972, when contracting with minority small  
2489 business concerns that have qualified to bid for contracts and  
2490 have satisfied any other disclosure provisions required by the  
2491 authority.

2492 (g) Be authorized to accept in lieu of any bond  
2493 otherwise required from minority small business concerns or small  
2494 business concerns contracting with the authority, in an amount  
2495 equal to one hundred percent (100%) of the total cost of the  
2496 contracted project, any combination of the following:

- 2497 (i) Cash;



2498 (ii) Certificates of deposit from any bank or  
2499 banking corporation insured by the Federal Deposit Insurance  
2500 Corporation or the Federal Savings and Loan Insurance Corporation;

2501 (iii) Federal treasury bills;

2502 (iv) Letters of credit issued by a bank as that  
2503 term is defined in Section 81-3-1, Mississippi Code of 1972; or

2504 (v) Surety bonds issued by an insurance company  
2505 licensed and qualified to do business in the State of Mississippi.

2506 (h) Be authorized, in its discretion, to waive any bond  
2507 required on any project which does not exceed a total dollar value  
2508 of One Hundred Thousand Dollars (\$100,000.00). A retainage shall  
2509 be held by the authority in an amount not to exceed fifteen  
2510 percent (15%) from each draw according to American Institute of  
2511 Architects (AIA) standards. Upon satisfactory completion of such  
2512 project, ten percent (10%) of the total cost of the contract shall  
2513 be held in an interest-bearing escrow account for one (1) year.  
2514 Funds deposited in such escrow account shall stand as a surety for  
2515 any defects in workmanship or materials detected within twelve  
2516 (12) months of completion. The balance of all monies so escrowed  
2517 including accrued interest shall be paid to the contractor at the  
2518 end of such twelve-month period.

2519 (i) Be empowered to provide an incentive of bimonthly  
2520 payments to any prime contractors utilizing minority small  
2521 business concerns as subcontractors on twenty-five percent (25%)



2522 or more of the total dollar value of any single project or  
2523 contract.

2524 (j) Submit an annual report on its progress concerning  
2525 minority small business contracts to the Legislature by January 30  
2526 of each year.

2527 (k) Take all steps necessary to implement the  
2528 provisions of this section.

2529 **SECTION 9.** This act shall take effect and be in force from  
2530 and after July 1, 2025.

