

By: Senator(s) Horhn

To: Labor; Accountability,
Efficiency, Transparency

SENATE BILL NO. 2799

1 AN ACT TO ESTABLISH THE OPPORTUNITIES FOR DIVERSITY IN
2 CONTRACTING PROGRAM (ODC) TO BE ADMINISTERED BY THE MISSISSIPPI
3 DEVELOPMENT AUTHORITY TO REDUCE THE NUMBER OF SOCIALLY AND
4 ECONOMICALLY DISADVANTAGED SMALL BUSINESSES THAT DO BUSINESS WITH
5 THE STATE BY FACILITATING AND IMPROVING ACCESS TO GOVERNMENT
6 CONTRACTS; TO REQUIRE EACH STATE AGENCY TO APPOINT AN ODC
7 COMPLIANCE OFFICER WHO WILL BE RESPONSIBLE FOR MONITORING
8 COMPLIANCE WITH THE ODC PROGRAM AND FOR REPORTING COMPLIANCE OR
9 NONCOMPLIANCE FOR THEIR RESPECTIVE AGENCIES TO THE MDA; TO
10 ESTABLISH THE RESPONSIBILITIES OF ODC COMPLIANCE OFFICERS; TO
11 REQUIRE STATE AGENCIES TO INCLUDE CERTAIN LANGUAGE IN CONTRACTS
12 FOR GOODS AND SERVICES; TO ESTABLISH A PROCESS FOR ISSUING ODC
13 WAIVERS; TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, IN
14 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** This act shall be known and may be cited as the
17 "Opportunities for Diversity in Contracting Act."

18 **SECTION 2.** The State of Mississippi is committed to reducing
19 the number of concerns related to socially and economically
20 disadvantaged small businesses that do business with the state by
21 facilitating and improving access to government contracts.
22 Facilitating this access is not only the right thing to do but
23 will foster an environment in which all Mississippi businesses
24 have access to and compete fairly in the procurement process.



25 **SECTION 3.** As used in this section:

26 (a) "ODC business enterprise" means a socially and
27 economically disadvantaged small business concern certified as a
28 participant in the Opportunities for Diversity in Contracting
29 Program by the Mississippi Development Authority under this
30 section.

31 (b) "MDA" means the Mississippi Development Authority.

32 (c) "Socially and economically disadvantaged small
33 business concern" means a socially and economically disadvantaged
34 small business concern as defined under the Small Business Act (15
35 USC § 637(a)), except that the net worth of the business may not
36 be greater than Seven Hundred Fifty Thousand Dollars
37 (\$750,000.00).

38 **SECTION 4.** (1) The MDA shall establish a business

39 assistance program known as the Opportunities for Diversity in
40 Contracting Program (ODC Program) with the goal of improving the
41 number of socially and economically disadvantaged small business
42 concerns that do business with the state by facilitating and
43 improving access to government contracts. MDA shall adopt rules
44 to administer the program that do all of the following:

45 (a) Establish procedures by which a sole
46 proprietorship, association, partnership, corporation, limited
47 liability corporation, or joint venture may apply for
48 certification as an ODC business enterprise;

49 (b) Except as provided in paragraph (n) of this
50 subsection, establish agency procurement goals for contracting
51 with ODC business enterprises in the award of contracts based on
52 the availability of eligible program participants as determined by
53 the MDA;

54 (i) Goals established under this paragraph shall
55 be based on a percentage level of participation and a percentage
56 of contractor availability;

63 (c) Establish a system of certifying ODC business
64 enterprises;

65 (d) Establish standards to determine when an ODC
66 business enterprise no longer qualifies for ODC business
67 enterprise certification;

68 (e) Develop a process for evaluating and adjusting
69 goals established by this section to determine what adjustments
70 are necessary to achieve participation goals established by the
71 executive director;

72 (f) Establish a point system or comparable system to
73 evaluate bid proposals to encourage ODC business enterprises to



74 participate in the procurement of professional services and
75 information technology services;

76 (g) Establish a system to track data and analyze each
77 certification category established under paragraph (b) (ii) of this
78 subsection;

79 (h) Establish a process to mediate complaints and to
80 review ODC business enterprise certification appeals;

81 (i) Implement an outreach program to educate potential
82 participants about the Opportunities for Diversity in Contracting
83 Program;

84 (j) Establish a system to assist state agencies in
85 identifying and utilizing ODC business enterprises in their
86 contracting processes;

87 (k) Implement a system of self-reporting by ODC
88 business enterprises as well as an on-site inspection process to
89 validate the qualifications of an ODC business enterprise;

90 (l) Establish a waiver mechanism to waive program goals
91 or participation requirements for those companies that, despite
92 their documented best efforts, are unable to contract with
93 certified ODC business enterprises;

94 (m) Establish a process for monitoring overall program
95 compliance in which equal employment opportunity officers
96 primarily are responsible for monitoring their respective
97 agencies; and



98 (n) Establish guidelines for institutions of higher
99 learning to allow the institutions of higher learning to establish
100 agency procurement goals for contracting with ODC business
101 enterprises.

102 (2) Business and personal financial information and trade
103 secrets submitted by Opportunities for Diversity in Contracting
104 Program applicants pursuant to this section shall be exempt from
105 the provisions of the Mississippi Public Records Act of 1983,
106 unless the executive director presents the financial information
107 or trade secrets at a public hearing or public proceeding
108 regarding the applicant's eligibility to participate in the
109 program.

110 **SECTION 5.** (1) Each state agency shall appoint an ODC
111 compliance officer who will be responsible for monitoring
112 compliance with the ODC Program and for reporting compliance or
113 noncompliance for their respective agencies to the MDA. The ODC
114 compliance officer shall also be responsible for:

115 (a) Analyzing spending on goods, services and
116 construction projects for his agency and determining missed
117 opportunities for the inclusion of ODC vendors;

118 (b) Analyzing the spending of the state agency with ODC
119 vendors, as well as ODC vendor availability by regions of the
120 state so the MDA may determine the appropriate ODC goal for each
121 contract;

(c) Reporting ODC enrollment for all contracts issued by each state agency to the MDA;

(d) Implementing a scorecard system that will be developed by MDA, which tracks each state agency's ODC Program expenditures;

(e) Implementing an outreach and training plan that will be developed by MDA, to ensure compliance with ODC Program requirements;

(f) Attending semiannual training conducted by MDA on ODC Program requirements; and

(g) Participating in an annual compliance review conducted by MDA and implementing recommendations made by MDA as a result of the review process.

(2) State agencies shall ensure that all contracts for the purchase of goods and services contain language that:

(a) Prohibits contractors and subcontractors from engaging in discriminatory employment practices:

(b) Certifies that contractors and subcontractors are in compliance with all applicable state and federal law governing fair labor and employment practices; and

(c) Encourages contractors and subcontractors to purchase goods and services from certified QDC vendors

(3) State agencies shall not issue ODC waivers without undertaking the following:



146 (a) Having all ODC waivers reviewed by the agency's
147 procurement officer, in collaboration with its ODC compliance
148 officer, who will certify that each ODC waiver issued by the
149 agency complies with criteria for granting an ODC waiver;

150 (b) Submitting quarterly reports to MDA that list each
151 ODC waiver granted by the agency; and

152 (c) Permitting MDA to complete its review of each state
153 agency's quarterly reports and to conduct periodic audits of each
154 state agency's administration of the ODC waiver process.

155 (4) If MDA determines that a state agency has not properly
156 administered the issuance of ODC waivers, subsequent ODC waivers
157 shall not be issued without the approval of MDA. MDA may release
158 a state agency from the approval process once MDA has determined
159 that an agency has the ability to consistently administer the
160 waiver process.

161 **SECTION 6.** The MDA shall file an annual report with the
162 Governor, Lieutenant Governor and Speaker of the House of
163 Representatives regarding describing progress in advancing the ODC
164 Program as well as any initiatives that are implemented to
165 increase the number of certified ODC vendors doing business with
166 the state.

167 **SECTION 7.** Section 31-7-13, Mississippi Code of 1972, is
168 amended as follows:

31-7-13. All agencies and governing authorities shall purchase their commodities and printing; contract for garbage

171 collection or disposal; contract for solid waste collection or
172 disposal; contract for sewage collection or disposal; contract for
173 public construction; and contract for rentals as herein provided.

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

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

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

183 **not over \$75,000.00.** Purchases which involve an expenditure of
184 more than Five Thousand Dollars (\$5,000.00) but not more than
185 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
186 and shipping charges, may be made from the lowest and best bidder
187 without publishing or posting advertisement for bids, provided at
188 least two (2) competitive written bids have been obtained. In
189 determining the lowest and best bidder, a point system or
190 comparable system established under the Opportunities for
191 Diversity in Contracting Act shall be utilized. Any state agency
192 or community or junior college purchasing commodities or procuring
193 construction pursuant to this paragraph (b) may authorize its
194 purchasing agent, or his designee, to accept the lowest
195 competitive written bid under Seventy-five Thousand Dollars



196 (\$75,000.00). Any governing authority purchasing commodities
197 pursuant to this paragraph (b) may authorize its purchasing agent,
198 or his designee, with regard to governing authorities other than
199 counties, or its purchase clerk, or his designee, with regard to
200 counties, to accept the lowest and best competitive written bid.
201 Such authorization shall be made in writing by the governing
202 authority and shall be maintained on file in the primary office of
203 the agency and recorded in the official minutes of the governing
204 authority, as appropriate. The purchasing agent or the purchase
205 clerk, or his designee, as the case may be, and not the governing
206 authority, shall be liable for any penalties and/or damages as may
207 be imposed by law for any act or omission of the purchasing agent
208 or purchase clerk, or his designee, constituting a violation of
209 law in accepting any bid without approval by the governing
210 authority. The term "competitive written bid" shall mean a bid
211 submitted on a bid form furnished by the buying agency or
212 governing authority and signed by authorized personnel
213 representing the vendor, or a bid submitted on a vendor's
214 letterhead or identifiable bid form and signed by authorized
215 personnel representing the vendor. "Competitive" shall mean that
216 the bids are developed based upon comparable identification of the
217 needs and are developed independently and without knowledge of
218 other bids or prospective bids. Any bid item for construction in
219 excess of Five Thousand Dollars (\$5,000.00) shall be broken down
220 by components to provide detail of component description and



221 pricing. These details shall be submitted with the written bids
222 and become part of the bid evaluation criteria. Bids may be
223 submitted by facsimile, electronic mail or other generally
224 accepted method of information distribution. Bids submitted by
225 electronic transmission shall not require the signature of the
226 vendor's representative unless required by agencies or governing
227 authorities.

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

229 (i) **Publication requirement.**

230 1. Purchases which involve an expenditure of
231 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of
232 freight and shipping charges, may be made from the lowest and best
233 bidder after advertising for competitive bids once each week for
234 two (2) consecutive weeks in a regular newspaper published in the
235 county or municipality in which such agency or governing authority
236 is located. In determining the lowest and best bidder, a point
237 system or comparable system established under the Opportunities
238 for Diversity in Contracting Act shall be utilized. However, all
239 American Recovery and Reinvestment Act projects in excess of
240 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. All
241 references to American Recovery and Reinvestment Act projects in
242 this section shall not apply to programs identified in Division B
243 of the American Recovery and Reinvestment Act.

244 2. Reverse auctions shall be the primary
245 method for receiving bids during the bidding process. If a



246 purchasing entity determines that a reverse auction is not in the
247 best interest of the state, then that determination must be
248 approved by the Public Procurement Review Board. The purchasing
249 entity shall submit a detailed explanation of why a reverse
250 auction would not be in the best interest of the state and present
251 an alternative process to be approved by the Public Procurement
252 Review Board. If the Public Procurement Review Board authorizes
253 the purchasing entity to solicit bids with a method other than
254 reverse auction, then the purchasing entity may designate the
255 other methods by which the bids will be received, including, but
256 not limited to, bids sealed in an envelope, bids received
257 electronically in a secure system, or bids received by any other
258 method that promotes open competition and has been approved by the
259 Office of Purchasing and Travel. However, reverse auction shall
260 not be used for any public contract for design, construction,
261 improvement, repair or remodeling of any public facilities,
262 including the purchase of materials, supplies, equipment or goods
263 for same and including buildings, roads and bridges. The Public
264 Procurement Review Board must approve any contract entered into by
265 alternative process. The provisions of this item 2 shall not
266 apply to the individual state institutions of higher learning.
267 The provisions of this item 2 requiring reverse auction as the
268 primary method of receiving bids shall not apply to term contract
269 purchases as provided in paragraph (n) of this section; however, a
270 purchasing entity may, in its discretion, utilize reverse auction



271 for such purchases. The provisions of this item 2 shall not apply
272 to individual public schools, including public charter schools and
273 public school districts, only when purchasing copyrighted
274 educational supplemental materials and software as a service
275 product. For such purchases, a local school board may authorize a
276 purchasing entity in its jurisdiction to use a Request for
277 Qualifications which promotes open competition and meets the
278 requirements of the Office of Purchasing and Travel.

3. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Seventy-five Thousand Dollars (\$75,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by



296 publication once each week for two (2) consecutive weeks in some
297 newspaper having a general circulation in the county or
298 municipality in the above-provided manner. On the same date that
299 the notice is submitted to the newspaper for publication, the
300 agency or governing authority involved shall mail written notice
301 to, or provide electronic notification to the main office of the
302 Mississippi Procurement Technical Assistance Program under the
303 Mississippi Development Authority that contains the same
304 information as that in the published notice. Within one (1)
305 working day of the contract award, the agency or governing
306 authority shall post to the designated web page maintained by the
307 Department of Finance and Administration, notice of the award,
308 including the award recipient, the contract amount, and a brief
309 summary of the contract in accordance with rules promulgated by
310 the department. Within one (1) working day of the contract
311 execution, the agency or governing authority shall post to the
312 designated web page maintained by the Department of Finance and
313 Administration a summary of the executed contract and make a copy
314 of the appropriately redacted contract documents available for
315 linking to the designated web page in accordance with the rules
316 promulgated by the department. The information provided by the
317 agency or governing authority shall be posted to the web page
318 until the project is completed.

319 4. Agencies and governing authorities using
320 federal funds for the procurement of any good or service,

321 including exempt personal and professional services, must comply
322 with the Uniform Administrative Requirements, Cost Principles, and
323 Audit Requirements for Federal Awards - Subpart D - Post Federal
324 Award Requirements Procurement Standards, in accordance with 2 CFR
325 200.317 through 2 CFR 200.327.

326 (ii) **Bidding process amendment procedure.** If all
327 plans and/or specifications are published in the notification,
328 then the plans and/or specifications may not be amended. If all
329 plans and/or specifications are not published in the notification,
330 then amendments to the plans/specifications, bid opening date, bid
331 opening time and place may be made, provided that the agency or
332 governing authority maintains a list of all prospective bidders
333 who are known to have received a copy of the bid documents and all
334 such prospective bidders are sent copies of all amendments. This
335 notification of amendments may be made via mail, facsimile,
336 electronic mail or other generally accepted method of information
337 distribution. No addendum to bid specifications may be issued
338 within two (2) working days of the time established for the
339 receipt of bids unless such addendum also amends the bid opening
340 to a date not less than five (5) working days after the date of
341 the addendum

342 (iii) **Filing requirement.** In all cases involving
343 governing authorities, before the notice shall be published or
344 posted, the plans or specifications for the construction or
345 equipment being sought shall be filed with the clerk of the board



346 of the governing authority. In addition to these requirements, a
347 bid file shall be established which shall indicate those vendors
348 to whom such solicitations and specifications were issued, and
349 such file shall also contain such information as is pertinent to
350 the bid.

351 (iv) **Specification restrictions.**

352 1. Specifications pertinent to such bidding
353 shall be written so as not to exclude comparable equipment of
354 domestic manufacture. However, if valid justification is
355 presented, the Department of Finance and Administration or the
356 board of a governing authority may approve a request for specific
357 equipment necessary to perform a specific job. Further, such
358 justification, when placed on the minutes of the board of a
359 governing authority, may serve as authority for that governing
360 authority to write specifications to require a specific item of
361 equipment needed to perform a specific job. In addition to these
362 requirements, from and after July 1, 1990, vendors of relocatable
363 classrooms and the specifications for the purchase of such
364 relocatable classrooms published by local school boards shall meet
365 all pertinent regulations of the State Board of Education,
366 including prior approval of such bid by the State Department of
367 Education.

368 2. Specifications for construction projects
369 may include an allowance for commodities, equipment, furniture,
370 construction materials or systems in which prospective bidders are



371 instructed to include in their bids specified amounts for such
372 items so long as the allowance items are acquired by the vendor in
373 a commercially reasonable manner and approved by the
374 agency/governing authority. Such acquisitions shall not be made
375 to circumvent the public purchasing laws.

376 (v) **Electronic bids.** Agencies and governing
377 authorities shall provide a secure electronic interactive system
378 for the submittal of bids requiring competitive bidding that shall
379 be an additional bidding option for those bidders who choose to
380 submit their bids electronically. The Department of Finance and
381 Administration shall provide, by regulation, the standards that
382 agencies must follow when receiving electronic bids. Agencies and
383 governing authorities shall make the appropriate provisions
384 necessary to accept electronic bids from those bidders who choose
385 to submit their bids electronically for all purchases requiring
386 competitive bidding under this section. Any special condition or
387 requirement for the electronic bid submission shall be specified
388 in the advertisement for bids required by this section. Agencies
389 or governing authorities that are currently without available high
390 speed Internet access shall be exempt from the requirement of this
391 subparagraph (v) until such time that high speed Internet access
392 becomes available. Any county having a population of less than
393 twenty thousand (20,000) shall be exempt from the provisions of
394 this subparagraph (v). Any municipality having a population of
395 less than ten thousand (10,000) shall be exempt from the



396 provisions of this subparagraph (v). The provisions of this
397 subparagraph (v) shall not require any bidder to submit bids
398 electronically. When construction bids are submitted
399 electronically, the requirement for including a certificate of
400 responsibility, or a statement that the bid enclosed does not
401 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
402 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
403 deemed in compliance with by including same as an attachment with
404 the electronic bid submittal.

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

406 (i) **Decision procedure.** Purchases may be made
407 from the lowest and best bidder. In determining the lowest and
408 best bid, freight and shipping charges shall be included.
409 Life-cycle costing, total cost bids, warranties, guaranteed
410 buy-back provisions and other relevant provisions may be included
411 in the best bid calculation. All best bid procedures for state
412 agencies must be in compliance with regulations established by the
413 Department of Finance and Administration. If any governing
414 authority accepts a bid other than the lowest bid actually
415 submitted, it shall place on its minutes detailed calculations and
416 narrative summary showing that the accepted bid was determined to
417 be the lowest and best bid, including the dollar amount of the
418 accepted bid and the dollar amount of the lowest bid. No agency
419 or governing authority shall accept a bid based on items not
420 included in the specifications.



421 (ii) **Decision procedure for Certified Purchasing**

422 **Offices.** In addition to the decision procedure set forth in
423 subparagraph (i) of this paragraph (d), Certified Purchasing
424 Offices may also use the following procedure: Purchases may be
425 made from the bidder offering the best value. In determining the
426 best value bid, freight and shipping charges shall be included.
427 Life-cycle costing, total cost bids, warranties, guaranteed
428 buy-back provisions, documented previous experience, training
429 costs and other relevant provisions, including, but not limited
430 to, a bidder having a local office and inventory located within
431 the jurisdiction of the governing authority, may be included in
432 the best value calculation. This provision shall authorize
433 Certified Purchasing Offices to utilize a Request For Proposals
434 (RFP) process when purchasing commodities. All best value
435 procedures for state agencies must be in compliance with
436 regulations established by the Department of Finance and
437 Administration. No agency or governing authority shall accept a
438 bid based on items or criteria not included in the specifications.

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

440 **Landmarks.** In addition to the decision procedure set forth in
441 subparagraph (i) of this paragraph (d), where purchase involves
442 renovation, restoration, or both, of the State Capitol Building or
443 any other historical building designated for at least five (5)
444 years as a Mississippi Landmark by the Board of Trustees of the
445 Department of Archives and History under the authority of Sections



446 39-7-7 and 39-7-11, the agency or governing authority may use the
447 following procedure: Purchases may be made from the lowest and
448 best prequalified bidder. Prequalification of bidders shall be
449 determined not less than fifteen (15) working days before the
450 first published notice of bid opening. Prequalification criteria
451 shall be limited to bidder's knowledge and experience in
452 historical restoration, preservation and renovation. In
453 determining the lowest and best bid, freight and shipping charges
454 shall be included. Life-cycle costing, total cost bids,
455 warranties, guaranteed buy-back provisions and other relevant
456 provisions may be included in the best bid calculation. All best
457 bid and prequalification procedures for state agencies must be in
458 compliance with regulations established by the Department of
459 Finance and Administration. If any governing authority accepts a
460 bid other than the lowest bid actually submitted, it shall place
461 on its minutes detailed calculations and narrative summary showing
462 that the accepted bid was determined to be the lowest and best
463 bid, including the dollar amount of the accepted bid and the
464 dollar amount of the lowest bid. No agency or governing authority
465 shall accept a bid based on items not included in the
466 specifications.

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

468 If the lowest and best bid is not more than ten percent (10%)
469 above the amount of funds allocated for a public construction or
470 renovation project, then the agency or governing authority shall



471 be permitted to negotiate with the lowest bidder in order to enter
472 into a contract for an amount not to exceed the funds allocated.

473 (e) **Lease-purchase authorization.** For the purposes of
474 this section, the term "equipment" shall mean equipment, furniture
475 and, if applicable, associated software and other applicable
476 direct costs associated with the acquisition. Any lease-purchase
477 of equipment which an agency is not required to lease-purchase
478 under the master lease-purchase program pursuant to Section
479 31-7-10 and any lease-purchase of equipment which a governing
480 authority elects to lease-purchase may be acquired by a
481 lease-purchase agreement under this paragraph (e). Lease-purchase
482 financing may also be obtained from the vendor or from a
483 third-party source after having solicited and obtained at least
484 two (2) written competitive bids, as defined in paragraph (b) of
485 this section, for such financing without advertising for such
486 bids. Solicitation for the bids for financing may occur before or
487 after acceptance of bids for the purchase of such equipment or,
488 where no such bids for purchase are required, at any time before
489 the purchase thereof. No such lease-purchase agreement shall be
490 for an annual rate of interest which is greater than the overall
491 maximum interest rate to maturity on general obligation
492 indebtedness permitted under Section 75-17-101, and the term of
493 such lease-purchase agreement shall not exceed the useful life of
494 equipment covered thereby as determined according to the upper
495 limit of the asset depreciation range (ADR) guidelines for the



496 Class Life Asset Depreciation Range System established by the
497 Internal Revenue Service pursuant to the United States Internal
498 Revenue Code and regulations thereunder as in effect on December
499 31, 1980, or comparable depreciation guidelines with respect to
500 any equipment not covered by ADR guidelines. Any lease-purchase
501 agreement entered into pursuant to this paragraph (e) may contain
502 any of the terms and conditions which a master lease-purchase
503 agreement may contain under the provisions of Section 31-7-10(5),
504 and shall contain an annual allocation dependency clause
505 substantially similar to that set forth in Section 31-7-10(8).
506 Each agency or governing authority entering into a lease-purchase
507 transaction pursuant to this paragraph (e) shall maintain with
508 respect to each such lease-purchase transaction the same
509 information as required to be maintained by the Department of
510 Finance and Administration pursuant to Section 31-7-10(13).
511 However, nothing contained in this section shall be construed to
512 permit agencies to acquire items of equipment with a total
513 acquisition cost in the aggregate of less than Ten Thousand
514 Dollars (\$10,000.00) by a single lease-purchase transaction. All
515 equipment, and the purchase thereof by any lessor, acquired by
516 lease-purchase under this paragraph and all lease-purchase
517 payments with respect thereto shall be exempt from all Mississippi
518 sales, use and ad valorem taxes. Interest paid on any
519 lease-purchase agreement under this section shall be exempt from
520 State of Mississippi income taxation.



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



546 governing authority when any such change or modification is less
547 than one percent (1%) of the total contract amount. The agency or
548 governing authority may limit the number, manner or frequency of
549 such emergency changes or modifications.

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

567 (i) **Road construction petroleum products price
568 adjustment clause authorization.** Any agency or governing
569 authority authorized to enter into contracts for the construction,
570 maintenance, surfacing or repair of highways, roads or streets,

571 may include in its bid proposal and contract documents a price
572 adjustment clause with relation to the cost to the contractor,
573 including taxes, based upon an industry-wide cost index, of
574 petroleum products including asphalt used in the performance or
575 execution of the contract or in the production or manufacture of
576 materials for use in such performance. Such industry-wide index
577 shall be established and published monthly by the Mississippi
578 Department of Transportation with a copy thereof to be mailed,
579 upon request, to the clerks of the governing authority of each
580 municipality and the clerks of each board of supervisors
581 throughout the state. The price adjustment clause shall be based
582 on the cost of such petroleum products only and shall not include
583 any additional profit or overhead as part of the adjustment. The
584 bid proposals or document contract shall contain the basis and
585 methods of adjusting unit prices for the change in the cost of
586 such petroleum products.



596 which shall include a detailed description of the events leading
597 up to the situation and the negative impact to the entity if the
598 purchase is made following the statutory requirements set forth in
599 paragraph (a), (b) or (c) of this section, and (ii) a certified
600 copy of the appropriate minutes of the board of such agency
601 requesting the emergency purchase, if applicable. Upon receipt of
602 the statement and applicable board certification, the State Fiscal
603 Officer, or his designees, may, in writing, authorize the purchase
604 or repair without having to comply with competitive bidding
605 requirements.

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

618 Total purchases made under this paragraph (j) shall only be
619 for the purpose of meeting needs created by the emergency
620 situation. Following the emergency purchase, documentation of the

621 purchase, including a description of the commodity purchased, the
622 purchase price thereof and the nature of the emergency shall be
623 filed with the Department of Finance and Administration. Any
624 contract awarded pursuant to this paragraph (j) shall not exceed a
625 term of one (1) year.

626 Purchases under the grant program established under Section
627 37-68-7 in response to COVID-19 and the directive that school
628 districts create a distance learning plan and fulfill technology
629 needs expeditiously shall be deemed an emergency purchase for
630 purposes of this paragraph (j).

631 (k) **Governing authority emergency purchase procedure.**
632 If the governing authority, or the governing authority acting
633 through its designee, shall determine that an emergency exists in
634 regard to the purchase of any commodities or repair contracts, so
635 that the delay incident to giving opportunity for competitive
636 bidding would be detrimental to the interest of the governing
637 authority, then the provisions herein for competitive bidding
638 shall not apply and any officer or agent of such governing
639 authority having general or special authority therefor in making
640 such purchase or repair shall approve the bill presented therefor,
641 and he shall certify in writing thereon from whom such purchase
642 was made, or with whom such a repair contract was made. At the
643 board meeting next following the emergency purchase or repair
644 contract, documentation of the purchase or repair contract,
645 including a description of the commodity purchased, the price

646 thereof and the nature of the emergency shall be presented to the
647 board and shall be placed on the minutes of the board of such
648 governing authority. Purchases under the grant program
649 established under Section 37-68-7 in response to COVID-19 and the
650 directive that school districts create a distance learning plan
651 and fulfill technology needs expeditiously shall be deemed an
652 emergency purchase for purposes of this paragraph (k).

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

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

660 (ii) In addition to the authority granted in
661 subparagraph (i) of this paragraph (1), the commissioners or board
662 of trustees is authorized to enter into contracts for the lease of
663 equipment or services, or both, which it considers necessary for
664 the proper care of patients if, in its opinion, it is not
665 financially feasible to purchase the necessary equipment or
666 services. Any such contract for the lease of equipment or
667 services executed by the commissioners or board shall not exceed a
668 maximum of five (5) years' duration and shall include a
669 cancellation clause based on unavailability of funds. If such
670 cancellation clause is exercised, there shall be no further



671 liability on the part of the lessee. Any such contract for the
672 lease of equipment or services executed on behalf of the
673 commissioners or board that complies with the provisions of this
674 subparagraph (ii) shall be excepted from the bid requirements set
675 forth in this section.

676 (m) **Exceptions from bidding requirements.** Excepted
677 from bid requirements are:

678 (i) **Purchasing agreements approved by department.**
679 Purchasing agreements, contracts and maximum price regulations
680 executed or approved by the Department of Finance and
681 Administration.

682 (ii) **Outside equipment repairs.** Repairs to
683 equipment, when such repairs are made by repair facilities in the
684 private sector; however, engines, transmissions, rear axles and/or
685 other such components shall not be included in this exemption when
686 replaced as a complete unit instead of being repaired and the need
687 for such total component replacement is known before disassembly
688 of the component; however, invoices identifying the equipment,
689 specific repairs made, parts identified by number and name,
690 supplies used in such repairs, and the number of hours of labor
691 and costs therefor shall be required for the payment for such
692 repairs.

693 (iii) **In-house equipment repairs.** Purchases of
694 parts for repairs to equipment, when such repairs are made by
695 personnel of the agency or governing authority; however, entire



696 assemblies, such as engines or transmissions, shall not be
697 included in this exemption when the entire assembly is being
698 replaced instead of being repaired.

699 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
700 of gravel or fill dirt which are to be removed and transported by
701 the purchaser.

702 (v) **Governmental equipment auctions.** Motor
703 vehicles or other equipment purchased from a federal agency or
704 authority, another governing authority or state agency of the
705 State of Mississippi, or any governing authority or state agency
706 of another state at a public auction held for the purpose of
707 disposing of such vehicles or other equipment. Any purchase by a
708 governing authority under the exemption authorized by this
709 subparagraph (v) shall require advance authorization spread upon
710 the minutes of the governing authority to include the listing of
711 the item or items authorized to be purchased and the maximum bid
712 authorized to be paid for each item or items.

713 (vi) **Intergovernmental sales and transfers.**
714 Purchases, sales, transfers or trades by governing authorities or
715 state agencies when such purchases, sales, transfers or trades are
716 made by a private treaty agreement or through means of
717 negotiation, from any federal agency or authority, another
718 governing authority or state agency of the State of Mississippi,
719 or any state agency or governing authority of another state.
720 Nothing in this section shall permit such purchases through public

721 auction except as provided for in subparagraph (v) of this
722 paragraph (m). It is the intent of this section to allow
723 governmental entities to dispose of and/or purchase commodities
724 from other governmental entities at a price that is agreed to by
725 both parties. This shall allow for purchases and/or sales at
726 prices which may be determined to be below the market value if the
727 selling entity determines that the sale at below market value is
728 in the best interest of the taxpayers of the state. Governing
729 authorities shall place the terms of the agreement and any
730 justification on the minutes, and state agencies shall obtain
731 approval from the Department of Finance and Administration, prior
732 to releasing or taking possession of the commodities.

733 (vii) **Perishable supplies or food.** Perishable
734 supplies or food purchased for use in connection with hospitals,
735 the school lunch programs, homemaking programs and for the feeding
736 of county or municipal prisoners.

737 (viii) **Single-source items.** Noncompetitive items
738 available from one (1) source only. In connection with the
739 purchase of noncompetitive items only available from one (1)
740 source, a certification of the conditions and circumstances
741 requiring the purchase shall be filed by the agency with the
742 Department of Finance and Administration and by the governing
743 authority with the board of the governing authority. Upon receipt
744 of that certification the Department of Finance and Administration
745 or the board of the governing authority, as the case may be, may,

746 in writing, authorize the purchase, which authority shall be noted
747 on the minutes of the body at the next regular meeting thereafter.
748 In those situations, a governing authority is not required to
749 obtain the approval of the Department of Finance and
750 Administration. Following the purchase, the executive head of the
751 state agency, or his designees, shall file with the Department of
752 Finance and Administration, documentation of the purchase,
753 including a description of the commodity purchased, the purchase
754 price thereof and the source from whom it was purchased.

(ix) Waste disposal facility construction

756 **contracts.** Construction of incinerators and other facilities for
757 disposal of solid wastes in which products either generated
758 therein, such as steam, or recovered therefrom, such as materials
759 for recycling, are to be sold or otherwise disposed of; however,
760 in constructing such facilities, a governing authority or agency
761 shall publicly issue requests for proposals, advertised for in the
762 same manner as provided herein for seeking bids for public
763 construction projects, concerning the design, construction,
764 ownership, operation and/or maintenance of such facilities,
765 wherein such requests for proposals when issued shall contain
766 terms and conditions relating to price, financial responsibility,
767 technology, environmental compatibility, legal responsibilities
768 and such other matters as are determined by the governing
769 authority or agency to be appropriate for inclusion; and after
770 responses to the request for proposals have been duly received,



771 the governing authority or agency may select the most qualified
772 proposal or proposals on the basis of price, technology and other
773 relevant factors and from such proposals, but not limited to the
774 terms thereof, negotiate and enter contracts with one or more of
775 the persons or firms submitting proposals.

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

779 (xi) **Information technology products.** Purchases
780 of information technology products made by governing authorities
781 under the provisions of purchase schedules, or contracts executed
782 or approved by the Mississippi Department of Information
783 Technology Services and designated for use by governing
784 authorities.

785 (xii) **Energy efficiency services and equipment.**
786 Energy efficiency services and equipment acquired by school
787 districts, community and junior colleges, institutions of higher
788 learning and state agencies or other applicable governmental
789 entities on a shared-savings, lease or lease-purchase basis
790 pursuant to Section 31-7-14.

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

(xiv) Library books and other reference materials.

796 Purchases by libraries or for libraries of books and periodicals;
797 processed film, videocassette tapes, filmstrips and slides;
798 recorded audiotapes, cassettes and diskettes; and any such items
799 as would be used for teaching, research or other information
800 distribution; however, equipment such as projectors, recorders,
801 audio or video equipment, and monitor televisions are not exempt
802 under this subparagraph.

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

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

809 (xvii) Multichannel interactive video systems.

810 From and after July 1, 1990, contracts by Mississippi Authority
811 for Educational Television with any private educational
812 institution or private nonprofit organization whose purposes are
813 educational in regard to the construction, purchase, lease or
814 lease-purchase of facilities and equipment and the employment of
815 personnel for providing multichannel interactive video systems
816 (ITSF) in the school districts of this state.

817 (xviii) Purchases of prison industry products by
818 the Department of Corrections, regional correctional facilities or
819 privately owned prisons. Purchases made by the Mississippi



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

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

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

832 (xxi) **Certain school district purchases.**

833 Purchases of commodities made by school districts from vendors
834 with which any levying authority of the school district, as
835 defined in Section 37-57-1, has contracted through competitive
836 bidding procedures for purchases of the same commodities.

837 (xxii) **Garbage, solid waste and sewage contracts.**

838 Contracts for garbage collection or disposal, contracts for solid
839 waste collection or disposal and contracts for sewage collection
840 or disposal.

841 (xxiii) **Municipal water tank maintenance**

842 **contracts.** Professional maintenance program contracts for the
843 repair or maintenance of municipal water tanks, which provide
844 professional services needed to maintain municipal water storage

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

847 (xxiv) **Purchases of Mississippi Industries for the**
848 **Blind products or services.** Purchases made by state agencies or
849 governing authorities involving any item that is manufactured,
850 processed or produced by, or any services provided by, the
851 Mississippi Industries for the Blind.

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

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

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

857 (xxvii) **Used heavy or specialized machinery or**
858 **equipment for installation of soil and water conservation**
859 **practices purchased at auction.** Used heavy or specialized
860 machinery or equipment used for the installation and
861 implementation of soil and water conservation practices or
862 measures purchased subject to the restrictions provided in
863 Sections 69-27-331 through 69-27-341. Any purchase by the State
864 Soil and Water Conservation Commission under the exemption
865 authorized by this subparagraph shall require advance
866 authorization spread upon the minutes of the commission to include
867 the listing of the item or items authorized to be purchased and
868 the maximum bid authorized to be paid for each item or items.

(xxviii) Hospital lease of equipment or services.

870 Leases by hospitals of equipment or services if the leases are in
871 compliance with paragraph (l)(ii).

(xxix) Purchases made pursuant to qualified

873 **cooperative purchasing agreements.** Purchases made by certified
874 purchasing offices of state agencies or governing authorities
875 under cooperative purchasing agreements previously approved by the
876 Office of Purchasing and Travel and established by or for any
877 municipality, county, parish or state government or the federal
878 government, provided that the notification to potential
879 contractors includes a clause that sets forth the availability of
880 the cooperative purchasing agreement to other governmental
881 entities. Such purchases shall only be made if the use of the
882 cooperative purchasing agreements is determined to be in the best
883 interest of the governmental entity.

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



892 (xxxii) **Toll roads and bridge construction**

893 **projects.** Contracts entered into under the provisions of Section
894 65-43-1 or 65-43-3.

895 (xxxiiii) Certain purchases under Section 57-1-221.

896 Contracts entered into pursuant to the provisions of Section
897 57-1-221.

898 (xxxiv) **Certain transfers made pursuant to the**
899 **provisions of Section 57-105-1(7).** Transfers of public property
900 or facilities under Section 57-105-1(7) and construction related
901 to such public property or facilities.

902 (xxxv) Certain purchases or transfers entered into
903 with local electrical power associations. Contracts or agreements
904 entered into under the provisions of Section 55-3-33.

905 (xxxvi) **Certain purchases by an academic medical**
906 **center or health sciences school.** Purchases by an academic
907 medical center or health sciences school, as defined in Section
908 37-115-50, of commodities that are used for clinical purposes and
909 1. intended for use in the diagnosis of disease or other
910 conditions or in the cure, mitigation, treatment or prevention of
911 disease, and 2. medical devices, biological, drugs and
912 radiation-emitting devices as defined by the United States Food
913 and Drug Administration.

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



916 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
917 Lottery Law.

918 (xxxviii) **Certain purchases made by the Department**
919 **of Health and the Department of Revenue.** Purchases made by the
920 Department of Health and the Department of Revenue solely for the
921 purpose of fulfilling their respective responsibilities under the
922 Mississippi Medical Cannabis Act. This subparagraph shall stand
923 repealed on June 30, 2026.

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



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

943 (n) **Term contract authorization.** All contracts for the
944 purchase of:

945 (i) All contracts for the purchase of commodities,
946 equipment and public construction (including, but not limited to,
947 repair and maintenance), may be let for periods of not more than
948 sixty (60) months in advance, subject to applicable statutory
949 provisions prohibiting the letting of contracts during specified
950 periods near the end of terms of office. Term contracts for a
951 period exceeding twenty-four (24) months shall also be subject to
952 ratification or cancellation by governing authority boards taking
953 office subsequent to the governing authority board entering the
954 contract.

955 (ii) Bid proposals and contracts may include price
956 adjustment clauses with relation to the cost to the contractor
957 based upon a nationally published industry-wide or nationally
958 published and recognized cost index. The cost index used in a
959 price adjustment clause shall be determined by the Department of
960 Finance and Administration for the state agencies and by the
961 governing board for governing authorities. The bid proposal and
962 contract documents utilizing a price adjustment clause shall
963 contain the basis and method of adjusting unit prices for the
964 change in the cost of such commodities, equipment and public
965 construction.



(o) Purchase law violation prohibition and vendor

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

(p) Electrical utility petroleum-based equipment

purchase procedure. When in response to a proper advertisement therefor, no bid firm as to price is submitted to an electric utility for power transformers, distribution transformers, power breakers, reclosers or other articles containing a petroleum product, the electric utility may accept the lowest and best bid therefor although the price is not firm.

(q) Fuel management system bidding procedure. Any

989 governing authority or agency of the state shall, before
990 contracting for the services and products of a fuel management or



991 fuel access system, enter into negotiations with not fewer than
992 two (2) sellers of fuel management or fuel access systems for
993 competitive written bids to provide the services and products for
994 the systems. In the event that the governing authority or agency
995 cannot locate two (2) sellers of such systems or cannot obtain
996 bids from two (2) sellers of such systems, it shall show proof
997 that it made a diligent, good-faith effort to locate and negotiate
998 with two (2) sellers of such systems. Such proof shall include,
999 but not be limited to, publications of a request for proposals and
1000 letters soliciting negotiations and bids. For purposes of this
1001 paragraph (q), a fuel management or fuel access system is an
1002 automated system of acquiring fuel for vehicles as well as
1003 management reports detailing fuel use by vehicles and drivers, and
1004 the term "competitive written bid" shall have the meaning as
1005 defined in paragraph (b) of this section. Governing authorities
1006 and agencies shall be exempt from this process when contracting
1007 for the services and products of fuel management or fuel access
1008 systems under the terms of a state contract established by the
1009 Office of Purchasing and Travel.

1010 (r) **Solid waste contract proposal procedure.** Before
1011 entering into any contract for garbage collection or disposal,
1012 contract for solid waste collection or disposal or contract for
1013 sewage collection or disposal, which involves an expenditure of
1014 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
1015 authority or agency shall issue publicly a request for proposals



1016 concerning the specifications for such services which shall be
1017 advertised for in the same manner as provided in this section for
1018 seeking bids for purchases which involve an expenditure of more
1019 than the amount provided in paragraph (c) of this section. Any
1020 request for proposals when issued shall contain terms and
1021 conditions relating to price, financial responsibility,
1022 technology, legal responsibilities and other relevant factors as
1023 are determined by the governing authority or agency to be
1024 appropriate for inclusion; all factors determined relevant by the
1025 governing authority or agency or required by this paragraph (r)
1026 shall be duly included in the advertisement to elicit proposals.
1027 After responses to the request for proposals have been duly
1028 received, the governing authority or agency shall select the most
1029 qualified proposal or proposals on the basis of price, technology
1030 and other relevant factors and from such proposals, but not
1031 limited to the terms thereof, negotiate and enter into contracts
1032 with one or more of the persons or firms submitting proposals. If
1033 the governing authority or agency deems none of the proposals to
1034 be qualified or otherwise acceptable, the request for proposals
1035 process may be reinitiated. Notwithstanding any other provisions
1036 of this paragraph, where a county with at least thirty-five
1037 thousand (35,000) nor more than forty thousand (40,000)
1038 population, according to the 1990 federal decennial census, owns
1039 or operates a solid waste landfill, the governing authorities of
1040 any other county or municipality may contract with the governing



1041 authorities of the county owning or operating the landfill,
1042 pursuant to a resolution duly adopted and spread upon the minutes
1043 of each governing authority involved, for garbage or solid waste
1044 collection or disposal services through contract negotiations.

1045 (s) **Minority set-aside authorization.** Notwithstanding
1046 any provision of this section to the contrary, any agency or
1047 governing authority, by order placed on its minutes, may, in its
1048 discretion, set aside not more than twenty percent (20%) of its
1049 anticipated annual expenditures for the purchase of commodities
1050 from minority businesses; however, all such set-aside purchases
1051 shall comply with all purchasing regulations promulgated by the
1052 Department of Finance and Administration and shall be subject to
1053 bid requirements under this section. Set-aside purchases for
1054 which competitive bids are required shall be made from the lowest
1055 and best minority business bidder. For the purposes of this
1056 paragraph, the term "minority business" means a business which is
1057 owned by a majority of persons who are United States citizens or
1058 permanent resident aliens (as defined by the Immigration and
1059 Naturalization Service) of the United States, and who are Asian,
1060 Black, Hispanic or Native American, according to the following
1061 definitions:

1062 (i) "Asian" means persons having origins in any of
1063 the original people of the Far East, Southeast Asia, the Indian
1064 subcontinent, or the Pacific Islands.

1065 (ii) "Black" means persons having origins in any
1066 black racial group of Africa.

1067 (iii) "Hispanic" means persons of Spanish or
1068 Portuguese culture with origins in Mexico, South or Central
1069 America, or the Caribbean Islands, regardless of race.

1070 (iv) "Native American" means persons having
1071 origins in any of the original people of North America, including
1072 American Indians, Eskimos and Aleuts.

1081 (u) **Procurement of construction services by state**

1082 **institutions of higher learning.** Contracts for privately financed

1083 construction of auxiliary facilities on the campus of a state

1084 institution of higher learning may be awarded by the Board of

1085 Trustees of State Institutions of Higher Learning to the lowest

1086 and best bidder, where sealed bids are solicited, or to the

1087 offeror whose proposal is determined to represent the best value

1088 to the citizens of the State of Mississippi, where requests for

1089 proposals are solicited.



1090 (v) **Insurability of bidders for public construction or**
1091 **other public contracts.** In any solicitation for bids to perform
1092 public construction or other public contracts to which this
1093 section applies, including, but not limited to, contracts for
1094 repair and maintenance, for which the contract will require
1095 insurance coverage in an amount of not less than One Million
1096 Dollars (\$1,000,000.00), bidders shall be permitted to either
1097 submit proof of current insurance coverage in the specified amount
1098 or demonstrate ability to obtain the required coverage amount of
1099 insurance if the contract is awarded to the bidder. Proof of
1100 insurance coverage shall be submitted within five (5) business
1101 days from bid acceptance.

1102 (w) **Purchase authorization clarification.** Nothing in
1103 this section shall be construed as authorizing any purchase not
1104 authorized by law.

1105 (x) **Mississippi Regional Pre-Need Disaster Clean Up**

1106 **Act.** (i) The Department of Finance and Administration shall

1107 develop and implement a process that creates a preferred vendor

1108 list for both disaster debris removal and monitoring.

1109 (ii) Any board of supervisors of any county or any
1110 governing authority of any municipality may opt in to the benefits
1111 and services provided under the appropriate and relevant contract
1112 established in subparagraph (i) of this paragraph at the time of a
1113 disaster event in that county or municipality. At the time of opt
1114 in, the county or municipality shall assume responsibility for



1115 payment in full to the contractor for the disaster-related solid
1116 waste collection, disposal or monitoring services provided.
1117 Nothing in this subparagraph (ii) shall be construed as requiring
1118 a county or municipality to opt in to any such contract
1119 established in subparagraph (i) of this paragraph.

1120 **SECTION 8.** This act shall take effect and be in force from
1121 and after July 1, 2025.

