

By: Senator(s) Horhn

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2848

1 AN ACT TO AMEND SECTION 31-11-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT WHEN UTILIZING THE CONSTRUCTION MANAGER AT-RISK
3 METHOD OF PROJECT DELIVERY, THE DEPARTMENT OF FINANCE AND
4 ADMINISTRATION MAY REQUIRE THE MANAGER TO PROCURE ANY AND ALL
5 RESULTING CONSTRUCTION CONTRACTS NECESSARY TO COMPLETE THE
6 PROJECT; TO PROVIDE THAT ALL SUCH CONTRACTS SHALL BE BETWEEN THE
7 MANAGER AND THE CONTRACTORS AND SHALL BE EXEMPT FROM THE
8 PROVISIONS OF THE BID LAW; TO AMEND SECTION 31-7-13, MISSISSIPPI
9 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 31-11-3, Mississippi Code of 1972, is
12 amended as follows:

13 31-11-3. (1) The Department of Finance and Administration,
14 for the purposes of carrying out the provisions of this chapter,
15 in addition to all other rights and powers granted by law, shall
16 have full power and authority to employ and compensate architects
17 or other employees necessary for the purpose of making
18 inspections, preparing plans and specifications, supervising the
19 erection of any buildings, and making any repairs or additions as
20 may be determined by the Department of Finance and Administration
21 to be necessary, pursuant to the rules and regulations of the



22 State Personnel Board. The department shall have entire control
23 and supervision of, and determine what, if any, buildings,
24 additions, repairs, demolitions or improvements are to be made
25 under the provisions of this chapter, subject to the regulations
26 adopted by the Public Procurement Review Board.

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

36 (a) Build a state office building;
37 (b) Build suitable plants or buildings for the use and
38 housing of any state schools or institutions, including the
39 building of plants or buildings for new state schools or
40 institutions, as provided for by the Legislature;

41 (c) Provide state aid for the construction of school
42 buildings;

43 (d) Promote and develop the training of returned
44 veterans of the United States in all sorts of educational and
45 vocational learning to be supplied by the proper educational
46 institution of the State of Mississippi, and in so doing allocate



47 monies appropriated to it for these purposes to the Governor for
48 use by him or her in setting up, maintaining and operating an
49 office and employing a state director of on-the-job training for
50 veterans and the personnel necessary in carrying out Public Law
51 No. 346 of the United States;

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

54 (f) Build and equip additional buildings and wards at
55 the Boswell Retardation Center;

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

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

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

65 (j) Build and equip a gymnasium at Columbia Training
66 School;

67 (k) Approve or disapprove the expenditure of any money
68 appropriated by the Legislature when authorized by the bill making
69 the appropriation;

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



91 (p) Obtain business property insurance with a
92 deductible of not less than One Hundred Thousand Dollars
93 (\$100,000.00) on state-owned buildings under the management and
94 control of the department; * * *

95 (q) In consultation with and approval by the Chairmen
96 of the Public Property Committees of the Senate and the House of

97 Representatives, enter into contracts for the purpose of providing
98 parking spaces for state employees who work in the Woolfolk
99 Building, the Carroll Gartin Justice Building or the Walter
100 Sillers Office Building * * *;

101 (r) * * * Transfer up to One Million Dollars
102 (\$1,000,000.00) of available bond funds to each community college
103 requesting to be exempt from department control and supervision
104 relating to the repair, renovation and improvement of existing
105 facilities owned by the community colleges, including utility
106 infrastructure projects; heating and air conditioning systems; and
107 the replacement of furniture and equipment. The community
108 colleges shall abide by all applicable statutes related to the
109 purchase of the repair, renovation and improvement of such
110 existing facilities * * *; and

111 (s) Utilize the construction manager at-risk method of
112 project delivery in accordance with Section 31-7-13.2. If the
113 construction manager at-risk method is used for a project, the
114 department shall procure construction management services pursuant
115 to Section 31-7-13.2(5). After the department procures the
116 construction manager, the department may require the manager to
117 procure all resulting construction contracts necessary to complete
118 the project. All such contracts shall be between the manager and
119 the contractors and shall be exempt from the provisions of Section
120 31-7-13.



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

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

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

139 (c) Design manuals;

140 (d) Applicable federal guidelines;

141 (e) Current literature in the field;

142 (f) Applicable safety standards; and

143 (g) Any applicable environmental impact statements.

144 (4) The department shall observe the provisions of Section
145 31-5-23 in letting contracts and shall use Mississippi products,



146 including paint, varnish and lacquer which contain as vehicles
147 tung oil and either ester gum or modified resin (with rosin as the
148 principal base of constituents), and turpentine shall be used as a
149 solvent or thinner, where these products are available at a cost
150 not to exceed the cost of products grown, produced, prepared, made
151 or manufactured outside of the State of Mississippi.

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

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

159 (7) The department shall review and preapprove all
160 architectural or engineering service contracts entered into by any
161 state agency, institution, commission, board or authority,
162 regardless of the source of funding used to defray the costs of
163 the construction or renovation project, for which services are to
164 be obtained to ensure compliance with purchasing regulations and
165 to confirm that the contracts are procured by a competitive
166 qualification-based selection process except where such
167 appointment is for an emergency project or for a continuation of a
168 previous appointment for a directly related project. The
169 provisions of this subsection (7) shall not apply to:

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

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

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

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

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

(8) (a) The department shall have the authority to obtain annually from the state institutions of higher learning, the state community colleges and junior colleges, the Department of Mental Health, the Department of Corrections and the Department of Wildlife, Fisheries and Parks information on all renovation and repair expenditures for buildings under their operation and control, including duties, responsibilities and costs of any architect or engineer hired by any such institutions, and shall annually report the same to the Legislative Budget Office, the

194 Chairman of the House Public Property Committee and the Chairman
195 of the Senate Public Property Committee before September 1.

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

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

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

209 (9) As an alternative to other methods of awarding contracts
210 as prescribed by law, the department may elect to use the method
211 of contracting for construction projects set out in Sections
212 31-7-13.1 and 31-7-13.2; however, the design-build method of
213 construction contracting authorized under Section 31-7-13.1 may be
214 used only when the Legislature has specifically required or
215 authorized the use of this method in the legislation authorizing a
216 project.

217 (10) The department shall have the authority, for the
218 purposes of carrying out the provisions of this chapter, and in

219 addition to all other rights and powers granted by law, to create
220 and maintain a list of suspended and debarred contractors and
221 subcontractors. Consistent with this authority, the department
222 may adopt regulations governing the suspension or debarment of
223 contractors and subcontractors, which regulations shall be subject
224 to the approval of the Public Procurement Review Board. A
225 suspended or debarred contractor or subcontractor shall be
226 disqualified from consideration for contracts with the department
227 during the suspension or debarment period in accordance with the
228 department's regulations.

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

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

233 31-7-13. All agencies and governing authorities shall
234 purchase their commodities and printing; contract for garbage
235 collection or disposal; contract for solid waste collection or
236 disposal; contract for sewage collection or disposal; contract for
237 public construction; and contract for rentals as herein provided.

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

239 Purchases which do not involve an expenditure of more than Five
240 Thousand Dollars (\$5,000.00), exclusive of freight or shipping
241 charges, may be made without advertising or otherwise requesting
242 competitive bids. However, nothing contained in this paragraph
243 (a) shall be construed to prohibit any agency or governing

244 authority from establishing procedures which require competitive
245 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

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



or purchase clerk, or his designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. "Competitive" shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and without knowledge of other bids or prospective bids. Any bid item for construction in excess of Five Thousand Dollars (\$5,000.00) shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written bids and become part of the bid evaluation criteria. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids submitted by electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities.

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

(i) Publication requirement.



294 bidder after advertising for competitive bids once each week for
295 two (2) consecutive weeks in a regular newspaper published in the
296 county or municipality in which such agency or governing authority
297 is located. However, all American Recovery and Reinvestment Act
298 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
299 shall be bid. All references to American Recovery and
300 Reinvestment Act projects in this section shall not apply to
301 programs identified in Division B of the American Recovery and
302 Reinvestment Act.

303 2. Reverse auctions shall be the primary
304 method for receiving bids during the bidding process. If a
305 purchasing entity determines that a reverse auction is not in the
306 best interest of the state, then that determination must be
307 approved by the Public Procurement Review Board. The purchasing
308 entity shall submit a detailed explanation of why a reverse
309 auction would not be in the best interest of the state and present
310 an alternative process to be approved by the Public Procurement
311 Review Board. If the Public Procurement Review Board authorizes
312 the purchasing entity to solicit bids with a method other than
313 reverse auction, then the purchasing entity may designate the
314 other methods by which the bids will be received, including, but
315 not limited to, bids sealed in an envelope, bids received
316 electronically in a secure system, or bids received by any other
317 method that promotes open competition and has been approved by the
318 Office of Purchasing and Travel. However, reverse auction shall



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



344 published and the notice for the purchase of such construction
345 shall be published once each week for two (2) consecutive weeks.
346 The notice of intention to let contracts or purchase equipment
347 shall state the time and place at which bids shall be received,
348 list the contracts to be made or types of equipment or supplies to
349 be purchased, and, if all plans and/or specifications are not
350 published, refer to the plans and/or specifications on file. If
351 there is no newspaper published in the county or municipality,
352 then such notice shall be given by posting same at the courthouse,
353 or for municipalities at the city hall, and at two (2) other
354 public places in the county or municipality, and also by
355 publication once each week for two (2) consecutive weeks in some
356 newspaper having a general circulation in the county or
357 municipality in the above-provided manner. On the same date that
358 the notice is submitted to the newspaper for publication, the
359 agency or governing authority involved shall mail written notice
360 to, or provide electronic notification to the main office of the
361 Mississippi Procurement Technical Assistance Program under the
362 Mississippi Development Authority that contains the same
363 information as that in the published notice. Within one (1)
364 working day of the contract award, the agency or governing
365 authority shall post to the designated web page maintained by the
366 Department of Finance and Administration, notice of the award,
367 including the award recipient, the contract amount, and a brief
368 summary of the contract in accordance with rules promulgated by



369 the department. Within one (1) working day of the contract
370 execution, the agency or governing authority shall post to the
371 designated web page maintained by the Department of Finance and
372 Administration a summary of the executed contract and make a copy
373 of the appropriately redacted contract documents available for
374 linking to the designated web page in accordance with the rules
375 promulgated by the department. The information provided by the
376 agency or governing authority shall be posted to the web page
377 until the project is completed.



394 notification of amendments may be made via mail, facsimile,
395 electronic mail or other generally accepted method of information
396 distribution. No addendum to bid specifications may be issued
397 within two (2) working days of the time established for the
398 receipt of bids unless such addendum also amends the bid opening
399 to a date not less than five (5) working days after the date of
400 the addendum.

401 (iii) **Filing requirement.** In all cases involving
402 governing authorities, before the notice shall be published or
403 posted, the plans or specifications for the construction or
404 equipment being sought shall be filed with the clerk of the board
405 of the governing authority. In addition to these requirements, a
406 bid file shall be established which shall indicate those vendors
407 to whom such solicitations and specifications were issued, and
408 such file shall also contain such information as is pertinent to
409 the bid.

410 (iv) **Specification restrictions.**

411 1. Specifications pertinent to such bidding
412 shall be written so as not to exclude comparable equipment of
413 domestic manufacture. However, if valid justification is
414 presented, the Department of Finance and Administration or the
415 board of a governing authority may approve a request for specific
416 equipment necessary to perform a specific job. Further, such
417 justification, when placed on the minutes of the board of a
418 governing authority, may serve as authority for that governing



419 authority to write specifications to require a specific item of
420 equipment needed to perform a specific job. In addition to these
421 requirements, from and after July 1, 1990, vendors of relocatable
422 classrooms and the specifications for the purchase of such
423 relocatable classrooms published by local school boards shall meet
424 all pertinent regulations of the State Board of Education,
425 including prior approval of such bid by the State Department of
426 Education.

435 (v) **Electronic bids.** Agencies and governing
436 authorities shall provide a secure electronic interactive system
437 for the submittal of bids requiring competitive bidding that shall
438 be an additional bidding option for those bidders who choose to
439 submit their bids electronically. The Department of Finance and
440 Administration shall provide, by regulation, the standards that
441 agencies must follow when receiving electronic bids. Agencies and
442 governing authorities shall make the appropriate provisions
443 necessary to accept electronic bids from those bidders who choose



444 to submit their bids electronically for all purchases requiring
445 competitive bidding under this section. Any special condition or
446 requirement for the electronic bid submission shall be specified
447 in the advertisement for bids required by this section. Agencies
448 or governing authorities that are currently without available high
449 speed Internet access shall be exempt from the requirement of this
450 subparagraph (v) until such time that high speed Internet access
451 becomes available. Any county having a population of less than
452 twenty thousand (20,000) shall be exempt from the provisions of
453 this subparagraph (v). Any municipality having a population of
454 less than ten thousand (10,000) shall be exempt from the
455 provisions of this subparagraph (v). The provisions of this
456 subparagraph (v) shall not require any bidder to submit bids
457 electronically. When construction bids are submitted
458 electronically, the requirement for including a certificate of
459 responsibility, or a statement that the bid enclosed does not
460 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
461 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
462 deemed in compliance with by including same as an attachment with
463 the electronic bid submittal.

(d) Lowest and best bid decision procedure.

(i) **Decision procedure.** Purchases may be made

466 from the lowest and best bidder. In determining the lowest and
467 best bid, freight and shipping charges shall be included.
468 Life-cycle costing, total cost bids, warranties, guaranteed



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

(ii) Decision procedure for Certified Purchasing

481 **Offices.** In addition to the decision procedure set forth in
482 subparagraph (i) of this paragraph (d), Certified Purchasing
483 Offices may also use the following procedure: Purchases may be
484 made from the bidder offering the best value. In determining the
485 best value bid, freight and shipping charges shall be included.
486 Life-cycle costing, total cost bids, warranties, guaranteed
487 buy-back provisions, documented previous experience, training
488 costs and other relevant provisions, including, but not limited
489 to, a bidder having a local office and inventory located within
490 the jurisdiction of the governing authority, may be included in
491 the best value calculation. This provision shall authorize
492 Certified Purchasing Offices to utilize a Request For Proposals
493 (RFP) process when purchasing commodities. All best value



494 procedures for state agencies must be in compliance with
495 regulations established by the Department of Finance and
496 Administration. No agency or governing authority shall accept a
497 bid based on items or criteria not included in the specifications.

(iii) Decision procedure for Mississippi

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



519 bid other than the lowest bid actually submitted, it shall place
520 on its minutes detailed calculations and narrative summary showing
521 that the accepted bid was determined to be the lowest and best
522 bid, including the dollar amount of the accepted bid and the
523 dollar amount of the lowest bid. No agency or governing authority
524 shall accept a bid based on items not included in the
525 specifications.

(iv) Construction project negotiations authority.

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

(e) **Lease-purchase authorization.** For the purposes of

533 this section, the term "equipment" shall mean equipment, furniture
534 and, if applicable, associated software and other applicable
535 direct costs associated with the acquisition. Any lease-purchase
536 of equipment which an agency is not required to lease-purchase
537 under the master lease-purchase program pursuant to Section
538 31-7-10 and any lease-purchase of equipment which a governing
539 authority elects to lease-purchase may be acquired by a
540 lease-purchase agreement under this paragraph (e). Lease-purchase
541 financing may also be obtained from the vendor or from a
542 third-party source after having solicited and obtained at least
543 two (2) written competitive bids, as defined in paragraph (b) of



544 this section, for such financing without advertising for such
545 bids. Solicitation for the bids for financing may occur before or
546 after acceptance of bids for the purchase of such equipment or,
547 where no such bids for purchase are required, at any time before
548 the purchase thereof. No such lease-purchase agreement shall be
549 for an annual rate of interest which is greater than the overall
550 maximum interest rate to maturity on general obligation
551 indebtedness permitted under Section 75-17-101, and the term of
552 such lease-purchase agreement shall not exceed the useful life of
553 equipment covered thereby as determined according to the upper
554 limit of the asset depreciation range (ADR) guidelines for the
555 Class Life Asset Depreciation Range System established by the
556 Internal Revenue Service pursuant to the United States Internal
557 Revenue Code and regulations thereunder as in effect on December
558 31, 1980, or comparable depreciation guidelines with respect to
559 any equipment not covered by ADR guidelines. Any lease-purchase
560 agreement entered into pursuant to this paragraph (e) may contain
561 any of the terms and conditions which a master lease-purchase
562 agreement may contain under the provisions of Section 31-7-10(5),
563 and shall contain an annual allocation dependency clause
564 substantially similar to that set forth in Section 31-7-10(8).
565 Each agency or governing authority entering into a lease-purchase
566 transaction pursuant to this paragraph (e) shall maintain with
567 respect to each such lease-purchase transaction the same
568 information as required to be maintained by the Department of



569 Finance and Administration pursuant to Section 31-7-10(13).
570 However, nothing contained in this section shall be construed to
571 permit agencies to acquire items of equipment with a total
572 acquisition cost in the aggregate of less than Ten Thousand
573 Dollars (\$10,000.00) by a single lease-purchase transaction. All
574 equipment, and the purchase thereof by any lessor, acquired by
575 lease-purchase under this paragraph and all lease-purchase
576 payments with respect thereto shall be exempt from all Mississippi
577 sales, use and ad valorem taxes. Interest paid on any
578 lease-purchase agreement under this section shall be exempt from
579 State of Mississippi income taxation.

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

589 (g) **Construction contract change authorization.** In the
590 event a determination is made by an agency or governing authority
591 after a construction contract is let that changes or modifications
592 to the original contract are necessary or would better serve the
593 purpose of the agency or the governing authority, such agency or



governing authority may, in its discretion, order such changes pertaining to the construction that are necessary under the circumstances without the necessity of further public bids; provided that such change shall be made in a commercially reasonable manner and shall not be made to circumvent the public purchasing statutes. In addition to any other authorized person, the architect or engineer hired by an agency or governing authority with respect to any public construction contract shall have the authority, when granted by an agency or governing authority, to authorize changes or modifications to the original contract without the necessity of prior approval of the agency or governing authority when any such change or modification is less than one percent (1%) of the total contract amount. The agency or governing authority may limit the number, manner or frequency of such emergency changes or modifications.

609 (h) **Petroleum purchase alternative.** In addition to
610 other methods of purchasing authorized in this chapter, when any
611 agency or governing authority shall have a need for gas, diesel
612 fuel, oils and/or other petroleum products in excess of the amount
613 set forth in paragraph (a) of this section, such agency or
614 governing authority may purchase the commodity after having
615 solicited and obtained at least two (2) competitive written bids,
616 as defined in paragraph (b) of this section. If two (2)
617 competitive written bids are not obtained, the entity shall comply
618 with the procedures set forth in paragraph (c) of this section.



619 In the event any agency or governing authority shall have
620 advertised for bids for the purchase of gas, diesel fuel, oils and
621 other petroleum products and coal and no acceptable bids can be
622 obtained, such agency or governing authority is authorized and
623 directed to enter into any negotiations necessary to secure the
624 lowest and best contract available for the purchase of such
625 commodities.

626 (i) **Road construction petroleum products price**

627 **adjustment clause authorization.** Any agency or governing

628 authority authorized to enter into contracts for the construction,

629 maintenance, surfacing or repair of highways, roads or streets,

630 may include in its bid proposal and contract documents a price

631 adjustment clause with relation to the cost to the contractor,

632 including taxes, based upon an industry-wide cost index, of

633 petroleum products including asphalt used in the performance or

634 execution of the contract or in the production or manufacture of

635 materials for use in such performance. Such industry-wide index

636 shall be established and published monthly by the Mississippi

637 Department of Transportation with a copy thereof to be mailed,

638 upon request, to the clerks of the governing authority of each

639 municipality and the clerks of each board of supervisors

640 throughout the state. The price adjustment clause shall be based

641 on the cost of such petroleum products only and shall not include

642 any additional profit or overhead as part of the adjustment. The

643 bid proposals or document contract shall contain the basis and



644 methods of adjusting unit prices for the change in the cost of
645 such petroleum products.

646 (j) **State agency emergency purchase procedure.** If the
647 governing board or the executive head, or his designees, of any
648 agency of the state shall determine that an emergency exists in
649 regard to the purchase of any commodities or repair contracts, so
650 that the delay incident to giving opportunity for competitive
651 bidding would be detrimental to the interests of the state, then
652 the head of such agency, or his designees, shall file with the
653 Department of Finance and Administration (i) a statement
654 explaining the conditions and circumstances of the emergency,
655 which shall include a detailed description of the events leading
656 up to the situation and the negative impact to the entity if the
657 purchase is made following the statutory requirements set forth in
658 paragraph (a), (b) or (c) of this section, and (ii) a certified
659 copy of the appropriate minutes of the board of such agency
660 requesting the emergency purchase, if applicable. Upon receipt of
661 the statement and applicable board certification, the State Fiscal
662 Officer, or his designees, may, in writing, authorize the purchase
663 or repair without having to comply with competitive bidding
664 requirements.

665 If the governing board or the executive head, or his
666 designees, of any agency determines that an emergency exists in
667 regard to the purchase of any commodities or repair contracts, so
668 that the delay incident to giving opportunity for competitive



669 bidding would threaten the health or safety of any person, or the
670 preservation or protection of property, then the provisions in
671 this section for competitive bidding shall not apply, and any
672 officer or agent of the agency having general or specific
673 authority for making the purchase or repair contract shall approve
674 the bill presented for payment, and he shall certify in writing
675 from whom the purchase was made, or with whom the repair contract
676 was made.

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

685 Purchases under the grant program established under Section
686 37-68-7 in response to COVID-19 and the directive that school
687 districts create a distance learning plan and fulfill technology
688 needs expeditiously shall be deemed an emergency purchase for
689 purposes of this paragraph (j).

690 (k) **Governing authority emergency purchase procedure.**
691 If the governing authority, or the governing authority acting
692 through its designee, shall determine that an emergency exists in
693 regard to the purchase of any commodities or repair contracts, so



694 that the delay incident to giving opportunity for competitive
695 bidding would be detrimental to the interest of the governing
696 authority, then the provisions herein for competitive bidding
697 shall not apply and any officer or agent of such governing
698 authority having general or special authority therefor in making
699 such purchase or repair shall approve the bill presented therefor,
700 and he shall certify in writing thereon from whom such purchase
701 was made, or with whom such a repair contract was made. At the
702 board meeting next following the emergency purchase or repair
703 contract, documentation of the purchase or repair contract,
704 including a description of the commodity purchased, the price
705 thereof and the nature of the emergency shall be presented to the
706 board and shall be placed on the minutes of the board of such
707 governing authority. Purchases under the grant program
708 established under Section 37-68-7 in response to COVID-19 and the
709 directive that school districts create a distance learning plan
710 and fulfill technology needs expeditiously shall be deemed an
711 emergency purchase for purposes of this paragraph (k).

712 (1) Hospital purchase, lease-purchase and lease
713 authorization.

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



719 (ii) In addition to the authority granted in
720 subparagraph (i) of this paragraph (1), the commissioners or board
721 of trustees is authorized to enter into contracts for the lease of
722 equipment or services, or both, which it considers necessary for
723 the proper care of patients if, in its opinion, it is not
724 financially feasible to purchase the necessary equipment or
725 services. Any such contract for the lease of equipment or
726 services executed by the commissioners or board shall not exceed a
727 maximum of five (5) years' duration and shall include a
728 cancellation clause based on unavailability of funds. If such
729 cancellation clause is exercised, there shall be no further
730 liability on the part of the lessee. Any such contract for the
731 lease of equipment or services executed on behalf of the
732 commissioners or board that complies with the provisions of this
733 subparagraph (ii) shall be excepted from the bid requirements set
734 forth in this section.

735 (m) **Exceptions from bidding requirements.** Excepted
736 from bid requirements are:

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

738 Purchasing agreements, contracts and maximum price regulations

739 executed or approved by the Department of Finance and

740 Administration.

741 (ii) **Outside equipment repairs.** Repairs to
742 equipment, when such repairs are made by repair facilities in the
743 private sector; however, engines, transmissions, rear axles and/or



744 other such components shall not be included in this exemption when
745 replaced as a complete unit instead of being repaired and the need
746 for such total component replacement is known before disassembly
747 of the component; however, invoices identifying the equipment,
748 specific repairs made, parts identified by number and name,
749 supplies used in such repairs, and the number of hours of labor
750 and costs therefor shall be required for the payment for such
751 repairs.

752 (iii) **In-house equipment repairs.** Purchases of
753 parts for repairs to equipment, when such repairs are made by
754 personnel of the agency or governing authority; however, entire
755 assemblies, such as engines or transmissions, shall not be
756 included in this exemption when the entire assembly is being
757 replaced instead of being repaired.

758 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
759 of gravel or fill dirt which are to be removed and transported by
760 the purchaser.

761 (v) **Governmental equipment auctions.** Motor
762 vehicles or other equipment purchased from a federal agency or
763 authority, another governing authority or state agency of the
764 State of Mississippi, or any governing authority or state agency
765 of another state at a public auction held for the purpose of
766 disposing of such vehicles or other equipment. Any purchase by a
767 governing authority under the exemption authorized by this
768 subparagraph (v) shall require advance authorization spread upon



769 the minutes of the governing authority to include the listing of
770 the item or items authorized to be purchased and the maximum bid
771 authorized to be paid for each item or items.

772 (vi) **Intergovernmental sales and transfers.**

773 Purchases, sales, transfers or trades by governing authorities or
774 state agencies when such purchases, sales, transfers or trades are
775 made by a private treaty agreement or through means of
776 negotiation, from any federal agency or authority, another
777 governing authority or state agency of the State of Mississippi,
778 or any state agency or governing authority of another state.

779 Nothing in this section shall permit such purchases through public
780 auction except as provided for in subparagraph (v) of this
781 paragraph (m). It is the intent of this section to allow
782 governmental entities to dispose of and/or purchase commodities
783 from other governmental entities at a price that is agreed to by
784 both parties. This shall allow for purchases and/or sales at
785 prices which may be determined to be below the market value if the
786 selling entity determines that the sale at below market value is
787 in the best interest of the taxpayers of the state. Governing
788 authorities shall place the terms of the agreement and any
789 justification on the minutes, and state agencies shall obtain
790 approval from the Department of Finance and Administration, prior
791 to releasing or taking possession of the commodities.

792 (vii) **Perishable supplies or food.** Perishable
793 supplies or food purchased for use in connection with hospitals,



794 the school lunch programs, homemaking programs and for the feeding
795 of county or municipal prisoners.

796 (viii) **Single-source items.** Noncompetitive items
797 available from one (1) source only. In connection with the
798 purchase of noncompetitive items only available from one (1)
799 source, a certification of the conditions and circumstances
800 requiring the purchase shall be filed by the agency with the
801 Department of Finance and Administration and by the governing
802 authority with the board of the governing authority. Upon receipt
803 of that certification the Department of Finance and Administration
804 or the board of the governing authority, as the case may be, may,
805 in writing, authorize the purchase, which authority shall be noted
806 on the minutes of the body at the next regular meeting thereafter.
807 In those situations, a governing authority is not required to
808 obtain the approval of the Department of Finance and
809 Administration. Following the purchase, the executive head of the
810 state agency, or his designees, shall file with the Department of
811 Finance and Administration, documentation of the purchase,
812 including a description of the commodity purchased, the purchase
813 price thereof and the source from whom it was purchased.

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

815 **contracts.** Construction of incinerators and other facilities for
816 disposal of solid wastes in which products either generated
817 therein, such as steam, or recovered therefrom, such as materials
818 for recycling, are to be sold or otherwise disposed of; however,

819 in constructing such facilities, a governing authority or agency
820 shall publicly issue requests for proposals, advertised for in the
821 same manner as provided herein for seeking bids for public
822 construction projects, concerning the design, construction,
823 ownership, operation and/or maintenance of such facilities,
824 wherein such requests for proposals when issued shall contain
825 terms and conditions relating to price, financial responsibility,
826 technology, environmental compatibility, legal responsibilities
827 and such other matters as are determined by the governing
828 authority or agency to be appropriate for inclusion; and after
829 responses to the request for proposals have been duly received,
830 the governing authority or agency may select the most qualified
831 proposal or proposals on the basis of price, technology and other
832 relevant factors and from such proposals, but not limited to the
833 terms thereof, negotiate and enter contracts with one or more of
834 the persons or firms submitting proposals.

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

838 (xi) **Information technology products.** Purchases
839 of information technology products made by governing authorities
840 under the provisions of purchase schedules, or contracts executed
841 or approved by the Mississippi Department of Information
842 Technology Services and designated for use by governing
843 authorities.



844 (xii) **Energy efficiency services and equipment.**

845 Energy efficiency services and equipment acquired by school
846 districts, community and junior colleges, institutions of higher
847 learning and state agencies or other applicable governmental
848 entities on a shared-savings, lease or lease-purchase basis
849 pursuant to Section 31-7-14.

850 (xiii) Municipal electrical utility system fuel.

851 Purchases of coal and/or natural gas by municipally owned electric
852 power generating systems that have the capacity to use both coal
853 and natural gas for the generation of electric power.

854 (xiv) Library books and other reference materials.

855 Purchases by libraries or for libraries of books and periodicals;
856 processed film, videocassette tapes, filmstrips and slides;
857 recorded audiotapes, cassettes and diskettes; and any such items
858 as would be used for teaching, research or other information
859 distribution; however, equipment such as projectors, recorders,
860 audio or video equipment, and monitor televisions are not exempt
861 under this subparagraph.

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

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



(xvii) Multichannel interactive video systems.

869 From and after July 1, 1990, contracts by Mississippi Authority
870 for Educational Television with any private educational
871 institution or private nonprofit organization whose purposes are
872 educational in regard to the construction, purchase, lease or
873 lease-purchase of facilities and equipment and the employment of
874 personnel for providing multichannel interactive video systems
875 (ITSF) in the school districts of this state.

876 (xviii) **Purchases of prison industry products by**
877 **the Department of Corrections, regional correctional facilities or**
878 **privately owned prisons.** Purchases made by the Mississippi
879 Department of Corrections, regional correctional facilities or
880 privately owned prisons involving any item that is manufactured,
881 processed, grown or produced from the state's prison industries.

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

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

891 (xxi) Certain school district purchases.

892 Purchases of commodities made by school districts from vendors



893 with which any levying authority of the school district, as
894 defined in Section 37-57-1, has contracted through competitive
895 bidding procedures for purchases of the same commodities.

(xxii) Garbage, solid waste and sewage contracts.

897 Contracts for garbage collection or disposal, contracts for solid
898 waste collection or disposal and contracts for sewage collection
899 or disposal.

(xxiii) Municipal water tank maintenance

901 **contracts.** Professional maintenance program contracts for the
902 repair or maintenance of municipal water tanks, which provide
903 professional services needed to maintain municipal water storage
904 tanks for a fixed annual fee for a duration of two (2) or more
905 years.

(xxiv) Purchases of Mississippi Industries for the

907 **Blind products or services.** Purchases made by state agencies or
908 governing authorities involving any item that is manufactured,
909 processed or produced by, or any services provided by, the
910 Mississippi Industries for the Blind.

(xxv) Purchases of state-adopted textbooks.

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

(xxvi) Certain purchases under the Mississippi

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

(xxvii) Used heavy or specialized machinery or

917 equipment for installation of soil and water conservation



918 **practices purchased at auction.** Used heavy or specialized
919 machinery or equipment used for the installation and
920 implementation of soil and water conservation practices or
921 measures purchased subject to the restrictions provided in
922 Sections 69-27-331 through 69-27-341. Any purchase by the State
923 Soil and Water Conservation Commission under the exemption
924 authorized by this subparagraph shall require advance
925 authorization spread upon the minutes of the commission to include
926 the listing of the item or items authorized to be purchased and
927 the maximum bid authorized to be paid for each item or items.

(xxviii) Hospital lease of equipment or services.

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

(xxix) Purchases made pursuant to qualified

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



943 (xxx) **School yearbooks.** Purchases of school
944 yearbooks by state agencies or governing authorities; however,
945 state agencies and governing authorities shall use for these
946 purchases the RFP process as set forth in the Mississippi
947 Procurement Manual adopted by the Office of Purchasing and Travel.

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

951 (xxxii) **Toll roads and bridge construction**
952 **projects.** Contracts entered into under the provisions of Section
953 65-43-1 or 65-43-3.

954 (xxxiii) **Certain purchases under Section 57-1-221.**

955 Contracts entered into pursuant to the provisions of Section

956 57-1-221.

957 (xxxiv) **Certain transfers made pursuant to the**
958 **provisions of Section 57-105-1(7).** Transfers of public property
959 or facilities under Section 57-105-1(7) and construction related
960 to such public property or facilities.

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

964 (xxxvi) **Certain purchases by an academic medical**
965 **center or health sciences school.** Purchases by an academic
966 medical center or health sciences school, as defined in Section
967 37-115-50, of commodities that are used for clinical purposes and



968 1. intended for use in the diagnosis of disease or other
969 conditions or in the cure, mitigation, treatment or prevention of
970 disease, and 2. medical devices, biological, drugs and
971 radiation-emitting devices as defined by the United States Food
972 and Drug Administration.

973 (xxxvii) **Certain purchases made under the Alyce G.**
974 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
975 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
976 Lottery Law.

977 (xxxviii) **Certain purchases made by the Department**
978 **of Health and the Department of Revenue.** Purchases made by the
979 Department of Health and the Department of Revenue solely for the
980 purpose of fulfilling their respective responsibilities under the
981 Mississippi Medical Cannabis Act. This subparagraph shall stand
982 repealed on June 30, 2026.

983 (xxxix) **Purchases made by state agencies related**
984 **to museum exhibits.** Purchases made by an agency related to the
985 fabrication, construction, installation or refurbishing of museum
986 exhibits. An agency making a purchase under this exemption in
987 excess of the bid threshold set forth in paragraph (c) of this
988 section shall publicly advertise a Request for Qualifications or
989 Request for Proposals in which price as an evaluation factor is at
990 least twenty percent (20%) out of the one hundred percent (100%)
991 total weight, but shall be otherwise exempt. Any contract arising
992 from a purchase using this exemption must be approved by the



993 Public Procurement Review Board prior to execution by the agency.
994 The agency shall submit a written report on December 1 of each
995 year to the Chairs of the Senate and House Appropriations
996 Committees, the Chairs of the Senate and House Accountability,
997 Efficiency and Transparency Committees and the Chair of the Public
998 Procurement Review Board, identifying all purchases made by the
999 agency using this exemption in which the cost of the option
1000 selected by the agency was more than twenty-five percent (25%)
1001 higher than the lowest cost option available.

(xxxx) Certain construction manager at-risk

1003 **contracts.** Construction manager at-risk contracts entered into
1004 under Section 31-11-3(1)(s).

1005 (n) **Term contract authorization.** All contracts for the
1006 purchase of:

1007 (i) All contracts for the purchase of commodities,
1008 equipment and public construction (including, but not limited to,
1009 repair and maintenance), may be let for periods of not more than
1010 sixty (60) months in advance, subject to applicable statutory
1011 provisions prohibiting the letting of contracts during specified
1012 periods near the end of terms of office. Term contracts for a
1013 period exceeding twenty-four (24) months shall also be subject to
1014 ratification or cancellation by governing authority boards taking
1015 office subsequent to the governing authority board entering the
1016 contract.



1017 (ii) Bid proposals and contracts may include price
1018 adjustment clauses with relation to the cost to the contractor
1019 based upon a nationally published industry-wide or nationally
1020 published and recognized cost index. The cost index used in a
1021 price adjustment clause shall be determined by the Department of
1022 Finance and Administration for the state agencies and by the
1023 governing board for governing authorities. The bid proposal and
1024 contract documents utilizing a price adjustment clause shall
1025 contain the basis and method of adjusting unit prices for the
1026 change in the cost of such commodities, equipment and public
1027 construction.

1028 (o) **Purchase law violation prohibition and vendor**
1029 **penalty.** No contract or purchase as herein authorized shall be
1030 made for the purpose of circumventing the provisions of this
1031 section requiring competitive bids, nor shall it be lawful for any
1032 person or concern to submit individual invoices for amounts within
1033 those authorized for a contract or purchase where the actual value
1034 of the contract or commodity purchased exceeds the authorized
1035 amount and the invoices therefor are split so as to appear to be
1036 authorized as purchases for which competitive bids are not
1037 required. Submission of such invoices shall constitute a
1038 misdemeanor punishable by a fine of not less than Five Hundred
1039 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1040 or by imprisonment for thirty (30) days in the county jail, or



1041 both such fine and imprisonment. In addition, the claim or claims
1042 submitted shall be forfeited.

1043 (p) **Electrical utility petroleum-based equipment**

1044 **purchase procedure.** When in response to a proper advertisement
1045 therefor, no bid firm as to price is submitted to an electric
1046 utility for power transformers, distribution transformers, power
1047 breakers, reclosers or other articles containing a petroleum
1048 product, the electric utility may accept the lowest and best bid
1049 therefor although the price is not firm.

1050 (q) **Fuel management system bidding procedure.** Any
1051 governing authority or agency of the state shall, before
1052 contracting for the services and products of a fuel management or
1053 fuel access system, enter into negotiations with not fewer than
1054 two (2) sellers of fuel management or fuel access systems for
1055 competitive written bids to provide the services and products for
1056 the systems. In the event that the governing authority or agency
1057 cannot locate two (2) sellers of such systems or cannot obtain
1058 bids from two (2) sellers of such systems, it shall show proof
1059 that it made a diligent, good-faith effort to locate and negotiate
1060 with two (2) sellers of such systems. Such proof shall include,
1061 but not be limited to, publications of a request for proposals and
1062 letters soliciting negotiations and bids. For purposes of this
1063 paragraph (q), a fuel management or fuel access system is an
1064 automated system of acquiring fuel for vehicles as well as
1065 management reports detailing fuel use by vehicles and drivers, and



1066 the term "competitive written bid" shall have the meaning as
1067 defined in paragraph (b) of this section. Governing authorities
1068 and agencies shall be exempt from this process when contracting
1069 for the services and products of fuel management or fuel access
1070 systems under the terms of a state contract established by the
1071 Office of Purchasing and Travel.

1072 (r) **Solid waste contract proposal procedure.** Before
1073 entering into any contract for garbage collection or disposal,
1074 contract for solid waste collection or disposal or contract for
1075 sewage collection or disposal, which involves an expenditure of
1076 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
1077 authority or agency shall issue publicly a request for proposals
1078 concerning the specifications for such services which shall be
1079 advertised for in the same manner as provided in this section for
1080 seeking bids for purchases which involve an expenditure of more
1081 than the amount provided in paragraph (c) of this section. Any
1082 request for proposals when issued shall contain terms and
1083 conditions relating to price, financial responsibility,
1084 technology, legal responsibilities and other relevant factors as
1085 are determined by the governing authority or agency to be
1086 appropriate for inclusion; all factors determined relevant by the
1087 governing authority or agency or required by this paragraph (r)
1088 shall be duly included in the advertisement to elicit proposals.
1089 After responses to the request for proposals have been duly
1090 received, the governing authority or agency shall select the most



1091 qualified proposal or proposals on the basis of price, technology
1092 and other relevant factors and from such proposals, but not
1093 limited to the terms thereof, negotiate and enter into contracts
1094 with one or more of the persons or firms submitting proposals. If
1095 the governing authority or agency deems none of the proposals to
1096 be qualified or otherwise acceptable, the request for proposals
1097 process may be reinitiated. Notwithstanding any other provisions
1098 of this paragraph, where a county with at least thirty-five
1099 thousand (35,000) nor more than forty thousand (40,000)
1100 population, according to the 1990 federal decennial census, owns
1101 or operates a solid waste landfill, the governing authorities of
1102 any other county or municipality may contract with the governing
1103 authorities of the county owning or operating the landfill,
1104 pursuant to a resolution duly adopted and spread upon the minutes
1105 of each governing authority involved, for garbage or solid waste
1106 collection or disposal services through contract negotiations.

1107 (s) **Minority set-aside authorization.** Notwithstanding
1108 any provision of this section to the contrary, any agency or
1109 governing authority, by order placed on its minutes, may, in its
1110 discretion, set aside not more than twenty percent (20%) of its
1111 anticipated annual expenditures for the purchase of commodities
1112 from minority businesses; however, all such set-aside purchases
1113 shall comply with all purchasing regulations promulgated by the
1114 Department of Finance and Administration and shall be subject to
1115 bid requirements under this section. Set-aside purchases for



1116 which competitive bids are required shall be made from the lowest
1117 and best minority business bidder. For the purposes of this
1118 paragraph, the term "minority business" means a business which is
1119 owned by a majority of persons who are United States citizens or
1120 permanent resident aliens (as defined by the Immigration and
1121 Naturalization Service) of the United States, and who are Asian,
1122 Black, Hispanic or Native American, according to the following
1123 definitions:

1124 (i) "Asian" means persons having origins in any of
1125 the original people of the Far East, Southeast Asia, the Indian
1126 subcontinent, or the Pacific Islands.

1127 (ii) "Black" means persons having origins in any
1128 black racial group of Africa.

1129 (iii) "Hispanic" means persons of Spanish or
1130 Portuguese culture with origins in Mexico, South or Central
1131 America, or the Caribbean Islands, regardless of race.

1132 (iv) "Native American" means persons having
1133 origins in any of the original people of North America, including
1134 American Indians, Eskimos and Aleuts.

1135 (t) **Construction punch list restriction.** The
1136 architect, engineer or other representative designated by the
1137 agency or governing authority that is contracting for public
1138 construction or renovation may prepare and submit to the
1139 contractor only one (1) preliminary punch list of items that do
1140 not meet the contract requirements at the time of substantial

1141 completion and one (1) final list immediately before final
1142 completion and final payment.

(u) Procurement of construction services by state

1144 **institutions of higher learning.** Contracts for privately financed
1145 construction of auxiliary facilities on the campus of a state
1146 institution of higher learning may be awarded by the Board of
1147 Trustees of State Institutions of Higher Learning to the lowest
1148 and best bidder, where sealed bids are solicited, or to the
1149 offeror whose proposal is determined to represent the best value
1150 to the citizens of the State of Mississippi, where requests for
1151 proposals are solicited.

(v) **Insurability of bidders for public construction or**

1153 **other public contracts.** In any solicitation for bids to perform
1154 public construction or other public contracts to which this
1155 section applies, including, but not limited to, contracts for
1156 repair and maintenance, for which the contract will require
1157 insurance coverage in an amount of not less than One Million
1158 Dollars (\$1,000,000.00), bidders shall be permitted to either
1159 submit proof of current insurance coverage in the specified amount
1160 or demonstrate ability to obtain the required coverage amount of
1161 insurance if the contract is awarded to the bidder. Proof of
1162 insurance coverage shall be submitted within five (5) business
1163 days from bid acceptance.



1164 (w) **Purchase authorization clarification.** Nothing in
1165 this section shall be construed as authorizing any purchase not
1166 authorized by law.

1167 (x) Mississippi Regional Pre-Need Disaster Clean Up

1168 **Act.** (i) The Department of Finance and Administration shall
1169 develop and implement a process that creates a preferred vendor
1170 list for both disaster debris removal and monitoring.

1171 (ii) Any board of supervisors of any county or any
1172 governing authority of any municipality may opt in to the benefits
1173 and services provided under the appropriate and relevant contract
1174 established in subparagraph (i) of this paragraph at the time of a
1175 disaster event in that county or municipality. At the time of opt
1176 in, the county or municipality shall assume responsibility for
1177 payment in full to the contractor for the disaster-related solid
1178 waste collection, disposal or monitoring services provided.

1179 Nothing in this subparagraph (ii) shall be construed as requiring
1180 a county or municipality to opt in to any such contract
1181 established in subparagraph (i) of this paragraph.

1182 **SECTION 3.** This act shall take effect and be in force from
1183 and after July 1, 2025.

