

By: Representative Hood

To: Judiciary A

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1316

1 AN ACT TO PROHIBIT ANY COURT OR COUNTY BOARD OF SUPERVISORS  
2 FROM ENTERING INTO ANY MULTIYEAR CONTRACT OR SERVICE AGREEMENT FOR  
3 THE PURCHASE OF ANY WEB-BASED APPLICATION TO BE UTILIZED WITH THE  
4 MISSISSIPPI YOUTH COURT INFORMATION DELIVERY SYSTEM (MYCIDS)  
5 WITHOUT COMPLETING A COMPETITIVE BIDDING PROCESS FOR THOSE  
6 SERVICES; TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO  
7 CONFORM TO THE PRECEDING SECTION; TO MAKE TECHNICAL REVISIONS TO  
8 THE COURT INTERPRETERS PROGRAM ADMINISTERED BY THE ADMINISTRATIVE  
9 OFFICE OF COURTS; TO AMEND SECTION 9-21-71, MISSISSIPPI CODE OF  
10 1972, TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 9-21-73,  
11 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE COURT INTERPRETER  
12 PROGRAM IS TO PROVIDE LANGUAGE ACCESS IN ALL MISSISSIPPI COURTS;  
13 TO AMEND SECTION 9-21-77, MISSISSIPPI CODE OF 1972, TO REVISE THE  
14 INTERPRETER'S OATH; TO AMEND SECTION 9-21-79, MISSISSIPPI CODE OF  
15 1972, TO REVISE PROVISIONS RELATING TO THE DETERMINATION OF  
16 WHETHER A COURT INTERPRETER IS NEEDED AND TO AUTHORIZE A LIMITED  
17 ENGLISH PROFICIENT INDIVIDUAL TO WAIVE THE SERVICES OF AN  
18 INTERPRETER; TO AMEND SECTION 9-21-80, MISSISSIPPI CODE OF 1972,  
19 TO DECLARE THAT ALL COURT INTERPRETERS ARE SUBJECT TO THE ETHICAL  
20 REQUIREMENTS OF THE MISSISSIPPI COURT INTERPRETER CREDENTIALING  
21 PROGRAM REGARDLESS OF WHETHER OR NOT THEY ARE LISTED ON THE ROSTER  
22 OF CREDENTIALLED INTERPRETERS MAINTAINED BY THE ADMINISTRATIVE  
23 OFFICE OF COURTS; TO AMEND SECTION 9-21-81, MISSISSIPPI CODE OF  
24 1972, TO AUTHORIZE THE EXPENSES OF AN INTERPRETER TO BE PAID WITH  
25 ANY FUNDS AVAILABLE FOR SUCH PURPOSE FOR ANY LIMITED ENGLISH  
26 PROFICIENT PARTY, WITNESS OR PARTICIPANT; TO CREATE NEW SECTION  
27 9-21-82, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH COURT TO SUBMIT  
28 AN ANNUAL REPORT CONTAINING SPECIFIED INFORMATION TO THE  
29 ADMINISTRATIVE OFFICE OF COURTS; TO AMEND SECTION 99-17-7,  
30 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE EXPENSES OF AN  
31 INTERPRETER IN A CRIMINAL PROCEEDING TO BE PAID WITH ANY FUNDS  
32 AVAILABLE FOR SUCH PURPOSE FOR ANY LIMITED ENGLISH PROFICIENT  
33 PARTY, WITNESS OR PARTICIPANT; AND FOR RELATED PURPOSES.



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

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

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



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

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

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

79 31-7-13. All agencies and governing authorities shall  
80 purchase their commodities and printing; contract for garbage  
81 collection or disposal; contract for solid waste collection or  
82 disposal; contract for sewage collection or disposal; contract for  
83 public construction; and contract for rentals as herein provided.



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

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

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

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



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



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

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

136 (i) **Publication requirement.**

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

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



158 the purchasing entity to solicit bids with a method other than  
159 reverse auction, then the purchasing entity may designate the  
160 other methods by which the bids will be received, including, but  
161 not limited to, bids sealed in an envelope, bids received  
162 electronically in a secure system, or bids received by any other  
163 method that promotes open competition and has been approved by the  
164 Office of Purchasing and Travel. However, reverse auction shall  
165 not be used for any public contract for design, construction,  
166 improvement, repair or remodeling of any public facilities,  
167 including the purchase of materials, supplies, equipment or goods  
168 for same and including buildings, roads and bridges. The Public  
169 Procurement Review Board must approve any contract entered into by  
170 alternative process. The provisions of this item 2 shall not  
171 apply to the individual state institutions of higher learning.  
172 The provisions of this item 2 requiring reverse auction as the  
173 primary method of receiving bids shall not apply to term contract  
174 purchases as provided in paragraph (n) of this section; however, a  
175 purchasing entity may, in its discretion, utilize reverse auction  
176 for such purchases. The provisions of this item 2 shall not apply  
177 to individual public schools, including public charter schools and  
178 public school districts, only when purchasing copyrighted  
179 educational supplemental materials and software as a service  
180 product. For such purchases, a local school board may authorize a  
181 purchasing entity in its jurisdiction to use a Request for



182 Qualifications which promotes open competition and meets the  
183 requirements of the Office of Purchasing and Travel.

184                   3. The date as published for the bid opening  
185 shall not be less than seven (7) working days after the last  
186 published notice; however, if the purchase involves a construction  
187 project in which the estimated cost is in excess of Seventy-five  
188 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
189 less than fifteen (15) working days after the last notice is  
190 published and the notice for the purchase of such construction  
191 shall be published once each week for two (2) consecutive weeks.  
192 However, all American Recovery and Reinvestment Act projects in  
193 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
194 For any projects in excess of Twenty-five Thousand Dollars  
195 (\$25,000.00) under the American Recovery and Reinvestment Act,  
196 publication shall be made one (1) time and the bid opening for  
197 construction projects shall not be less than ten (10) working days  
198 after the date of the published notice. The notice of intention  
199 to let contracts or purchase equipment shall state the time and  
200 place at which bids shall be received, list the contracts to be  
201 made or types of equipment or supplies to be purchased, and, if  
202 all plans and/or specifications are not published, refer to the  
203 plans and/or specifications on file. If there is no newspaper  
204 published in the county or municipality, then such notice shall be  
205 given by posting same at the courthouse, or for municipalities at  
206 the city hall, and at two (2) other public places in the county or





207 municipality, and also by publication once each week for two (2)  
208 consecutive weeks in some newspaper having a general circulation  
209 in the county or municipality in the above-provided manner. On  
210 the same date that the notice is submitted to the newspaper for  
211 publication, the agency or governing authority involved shall mail  
212 written notice to, or provide electronic notification to the main  
213 office of the Mississippi Procurement Technical Assistance Program  
214 under the Mississippi Development Authority that contains the same  
215 information as that in the published notice. Submissions received  
216 by the Mississippi Procurement Technical Assistance Program for  
217 projects funded by the American Recovery and Reinvestment Act  
218 shall be displayed on a separate and unique Internet web page  
219 accessible to the public and maintained by the Mississippi  
220 Development Authority for the Mississippi Procurement Technical  
221 Assistance Program. Those American Recovery and Reinvestment Act  
222 related submissions shall be publicly posted within twenty-four  
223 (24) hours of receipt by the Mississippi Development Authority and  
224 the bid opening shall not occur until the submission has been  
225 posted for ten (10) consecutive days. The Department of Finance  
226 and Administration shall maintain information regarding contracts  
227 and other expenditures from the American Recovery and Reinvestment  
228 Act, on a unique Internet web page accessible to the public. The  
229 Department of Finance and Administration shall promulgate rules  
230 regarding format, content and deadlines, unless otherwise  
231 specified by law, of the posting of award notices, contract



232 execution and subsequent amendments, links to the contract  
233 documents, expenditures against the awarded contracts and general  
234 expenditures of funds from the American Recovery and Reinvestment  
235 Act. Within one (1) working day of the contract award, the agency  
236 or governing authority shall post to the designated web page  
237 maintained by the Department of Finance and Administration, notice  
238 of the award, including the award recipient, the contract amount,  
239 and a brief summary of the contract in accordance with rules  
240 promulgated by the department. Within one (1) working day of the  
241 contract execution, the agency or governing authority shall post  
242 to the designated web page maintained by the Department of Finance  
243 and Administration a summary of the executed contract and make a  
244 copy of the appropriately redacted contract documents available  
245 for linking to the designated web page in accordance with the  
246 rules promulgated by the department. The information provided by  
247 the agency or governing authority shall be posted to the web page  
248 for the duration of the American Recovery and Reinvestment Act  
249 funding or until the project is completed, whichever is longer.

250 (ii) **Bidding process amendment procedure.** If all  
251 plans and/or specifications are published in the notification,  
252 then the plans and/or specifications may not be amended. If all  
253 plans and/or specifications are not published in the notification,  
254 then amendments to the plans/specifications, bid opening date, bid  
255 opening time and place may be made, provided that the agency or  
256 governing authority maintains a list of all prospective bidders



257 who are known to have received a copy of the bid documents and all  
258 such prospective bidders are sent copies of all amendments. This  
259 notification of amendments may be made via mail, facsimile,  
260 electronic mail or other generally accepted method of information  
261 distribution. No addendum to bid specifications may be issued  
262 within two (2) working days of the time established for the  
263 receipt of bids unless such addendum also amends the bid opening  
264 to a date not less than five (5) working days after the date of  
265 the addendum.

266 (iii) **Filing requirement.** In all cases involving  
267 governing authorities, before the notice shall be published or  
268 posted, the plans or specifications for the construction or  
269 equipment being sought shall be filed with the clerk of the board  
270 of the governing authority. In addition to these requirements, a  
271 bid file shall be established which shall indicate those vendors  
272 to whom such solicitations and specifications were issued, and  
273 such file shall also contain such information as is pertinent to  
274 the bid.

275 (iv) **Specification restrictions.**

276 1. Specifications pertinent to such bidding  
277 shall be written so as not to exclude comparable equipment of  
278 domestic manufacture. However, if valid justification is  
279 presented, the Department of Finance and Administration or the  
280 board of a governing authority may approve a request for specific  
281 equipment necessary to perform a specific job. Further, such



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

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

300                   (v) **Electronic bids.** Agencies and governing  
301 authorities shall provide a secure electronic interactive system  
302 for the submittal of bids requiring competitive bidding that shall  
303 be an additional bidding option for those bidders who choose to  
304 submit their bids electronically. The Department of Finance and  
305 Administration shall provide, by regulation, the standards that  
306 agencies must follow when receiving electronic bids. Agencies and



307 governing authorities shall make the appropriate provisions  
308 necessary to accept electronic bids from those bidders who choose  
309 to submit their bids electronically for all purchases requiring  
310 competitive bidding under this section. Any special condition or  
311 requirement for the electronic bid submission shall be specified  
312 in the advertisement for bids required by this section. Agencies  
313 or governing authorities that are currently without available high  
314 speed Internet access shall be exempt from the requirement of this  
315 subparagraph (v) until such time that high speed Internet access  
316 becomes available. Any county having a population of less than  
317 twenty thousand (20,000) shall be exempt from the provisions of  
318 this subparagraph (v). Any municipality having a population of  
319 less than ten thousand (10,000) shall be exempt from the  
320 provisions of this subparagraph (v). The provisions of this  
321 subparagraph (v) shall not require any bidder to submit bids  
322 electronically. When construction bids are submitted  
323 electronically, the requirement for including a certificate of  
324 responsibility, or a statement that the bid enclosed does not  
325 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
326 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
327 deemed in compliance with by including same as an attachment with  
328 the electronic bid submittal.

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

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



332 best bid, freight and shipping charges shall be included.  
333 Life-cycle costing, total cost bids, warranties, guaranteed  
334 buy-back provisions and other relevant provisions may be included  
335 in the best bid calculation. All best bid procedures for state  
336 agencies must be in compliance with regulations established by the  
337 Department of Finance and Administration. If any governing  
338 authority accepts a bid other than the lowest bid actually  
339 submitted, it shall place on its minutes detailed calculations and  
340 narrative summary showing that the accepted bid was determined to  
341 be the lowest and best bid, including the dollar amount of the  
342 accepted bid and the dollar amount of the lowest bid. No agency  
343 or governing authority shall accept a bid based on items not  
344 included in the specifications.

345 (ii) **Decision procedure for Certified Purchasing**  
346 **Offices.** In addition to the decision procedure set forth in  
347 subparagraph (i) of this paragraph (d), Certified Purchasing  
348 Offices may also use the following procedure: Purchases may be  
349 made from the bidder offering the best value. In determining the  
350 best value bid, freight and shipping charges shall be included.  
351 Life-cycle costing, total cost bids, warranties, guaranteed  
352 buy-back provisions, documented previous experience, training  
353 costs and other relevant provisions, including, but not limited  
354 to, a bidder having a local office and inventory located within  
355 the jurisdiction of the governing authority, may be included in  
356 the best value calculation. This provision shall authorize



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

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

364 **Landmarks.** In addition to the decision procedure set forth in  
365 subparagraph (i) of this paragraph (d), where purchase involves  
366 renovation, restoration, or both, of the State Capitol Building or  
367 any other historical building designated for at least five (5)  
368 years as a Mississippi Landmark by the Board of Trustees of the  
369 Department of Archives and History under the authority of Sections  
370 39-7-7 and 39-7-11, the agency or governing authority may use the  
371 following procedure: Purchases may be made from the lowest and  
372 best prequalified bidder. Prequalification of bidders shall be  
373 determined not less than fifteen (15) working days before the  
374 first published notice of bid opening. Prequalification criteria  
375 shall be limited to bidder's knowledge and experience in  
376 historical restoration, preservation and renovation. In  
377 determining the lowest and best bid, freight and shipping charges  
378 shall be included. Life-cycle costing, total cost bids,  
379 warranties, guaranteed buy-back provisions and other relevant  
380 provisions may be included in the best bid calculation. All best  
381 bid and prequalification procedures for state agencies must be in



382 compliance with regulations established by the Department of  
383 Finance and Administration. If any governing authority accepts a  
384 bid other than the lowest bid actually submitted, it shall place  
385 on its minutes detailed calculations and narrative summary showing  
386 that the accepted bid was determined to be the lowest and best  
387 bid, including the dollar amount of the accepted bid and the  
388 dollar amount of the lowest bid. No agency or governing authority  
389 shall accept a bid based on items not included in the  
390 specifications.

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

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

397 (e) **Lease-purchase authorization.** For the purposes of  
398 this section, the term "equipment" shall mean equipment, furniture  
399 and, if applicable, associated software and other applicable  
400 direct costs associated with the acquisition. Any lease-purchase  
401 of equipment which an agency is not required to lease-purchase  
402 under the master lease-purchase program pursuant to Section  
403 31-7-10 and any lease-purchase of equipment which a governing  
404 authority elects to lease-purchase may be acquired by a  
405 lease-purchase agreement under this paragraph (e). Lease-purchase  
406 financing may also be obtained from the vendor or from a





407 third-party source after having solicited and obtained at least  
408 two (2) written competitive bids, as defined in paragraph (b) of  
409 this section, for such financing without advertising for such  
410 bids. Solicitation for the bids for financing may occur before or  
411 after acceptance of bids for the purchase of such equipment or,  
412 where no such bids for purchase are required, at any time before  
413 the purchase thereof. No such lease-purchase agreement shall be  
414 for an annual rate of interest which is greater than the overall  
415 maximum interest rate to maturity on general obligation  
416 indebtedness permitted under Section 75-17-101, and the term of  
417 such lease-purchase agreement shall not exceed the useful life of  
418 equipment covered thereby as determined according to the upper  
419 limit of the asset depreciation range (ADR) guidelines for the  
420 Class Life Asset Depreciation Range System established by the  
421 Internal Revenue Service pursuant to the United States Internal  
422 Revenue Code and regulations thereunder as in effect on December  
423 31, 1980, or comparable depreciation guidelines with respect to  
424 any equipment not covered by ADR guidelines. Any lease-purchase  
425 agreement entered into pursuant to this paragraph (e) may contain  
426 any of the terms and conditions which a master lease-purchase  
427 agreement may contain under the provisions of Section 31-7-10(5),  
428 and shall contain an annual allocation dependency clause  
429 substantially similar to that set forth in Section 31-7-10(8).  
430 Each agency or governing authority entering into a lease-purchase  
431 transaction pursuant to this paragraph (e) shall maintain with



432 respect to each such lease-purchase transaction the same  
433 information as required to be maintained by the Department of  
434 Finance and Administration pursuant to Section 31-7-10(13).  
435 However, nothing contained in this section shall be construed to  
436 permit agencies to acquire items of equipment with a total  
437 acquisition cost in the aggregate of less than Ten Thousand  
438 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
439 equipment, and the purchase thereof by any lessor, acquired by  
440 lease-purchase under this paragraph and all lease-purchase  
441 payments with respect thereto shall be exempt from all Mississippi  
442 sales, use and ad valorem taxes. Interest paid on any  
443 lease-purchase agreement under this section shall be exempt from  
444 State of Mississippi income taxation.

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

454           (g) **Construction contract change authorization.** In the  
455 event a determination is made by an agency or governing authority  
456 after a construction contract is let that changes or modifications



457 to the original contract are necessary or would better serve the  
458 purpose of the agency or the governing authority, such agency or  
459 governing authority may, in its discretion, order such changes  
460 pertaining to the construction that are necessary under the  
461 circumstances without the necessity of further public bids;  
462 provided that such change shall be made in a commercially  
463 reasonable manner and shall not be made to circumvent the public  
464 purchasing statutes. In addition to any other authorized person,  
465 the architect or engineer hired by an agency or governing  
466 authority with respect to any public construction contract shall  
467 have the authority, when granted by an agency or governing  
468 authority, to authorize changes or modifications to the original  
469 contract without the necessity of prior approval of the agency or  
470 governing authority when any such change or modification is less  
471 than one percent (1%) of the total contract amount. The agency or  
472 governing authority may limit the number, manner or frequency of  
473 such emergency changes or modifications.

474 (h) **Petroleum purchase alternative.** In addition to  
475 other methods of purchasing authorized in this chapter, when any  
476 agency or governing authority shall have a need for gas, diesel  
477 fuel, oils and/or other petroleum products in excess of the amount  
478 set forth in paragraph (a) of this section, such agency or  
479 governing authority may purchase the commodity after having  
480 solicited and obtained at least two (2) competitive written bids,  
481 as defined in paragraph (b) of this section. If two (2)



482 competitive written bids are not obtained, the entity shall comply  
483 with the procedures set forth in paragraph (c) of this section.  
484 In the event any agency or governing authority shall have  
485 advertised for bids for the purchase of gas, diesel fuel, oils and  
486 other petroleum products and coal and no acceptable bids can be  
487 obtained, such agency or governing authority is authorized and  
488 directed to enter into any negotiations necessary to secure the  
489 lowest and best contract available for the purchase of such  
490 commodities.

491           (i) **Road construction petroleum products price**  
492 **adjustment clause authorization.** Any agency or governing  
493 authority authorized to enter into contracts for the construction,  
494 maintenance, surfacing or repair of highways, roads or streets,  
495 may include in its bid proposal and contract documents a price  
496 adjustment clause with relation to the cost to the contractor,  
497 including taxes, based upon an industry-wide cost index, of  
498 petroleum products including asphalt used in the performance or  
499 execution of the contract or in the production or manufacture of  
500 materials for use in such performance. Such industry-wide index  
501 shall be established and published monthly by the Mississippi  
502 Department of Transportation with a copy thereof to be mailed,  
503 upon request, to the clerks of the governing authority of each  
504 municipality and the clerks of each board of supervisors  
505 throughout the state. The price adjustment clause shall be based  
506 on the cost of such petroleum products only and shall not include



507 any additional profit or overhead as part of the adjustment. The  
508 bid proposals or document contract shall contain the basis and  
509 methods of adjusting unit prices for the change in the cost of  
510 such petroleum products.

511 (j) **State agency emergency purchase procedure.** If the  
512 governing board or the executive head, or his designees, of any  
513 agency of the state shall determine that an emergency exists in  
514 regard to the purchase of any commodities or repair contracts, so  
515 that the delay incident to giving opportunity for competitive  
516 bidding would be detrimental to the interests of the state, then  
517 the head of such agency, or his designees, shall file with the  
518 Department of Finance and Administration (i) a statement  
519 explaining the conditions and circumstances of the emergency,  
520 which shall include a detailed description of the events leading  
521 up to the situation and the negative impact to the entity if the  
522 purchase is made following the statutory requirements set forth in  
523 paragraph (a), (b) or (c) of this section, and (ii) a certified  
524 copy of the appropriate minutes of the board of such agency  
525 requesting the emergency purchase, if applicable. Upon receipt of  
526 the statement and applicable board certification, the State Fiscal  
527 Officer, or his designees, may, in writing, authorize the purchase  
528 or repair without having to comply with competitive bidding  
529 requirements.

530 If the governing board or the executive head, or his  
531 designees, of any agency determines that an emergency exists in



532 regard to the purchase of any commodities or repair contracts, so  
533 that the delay incident to giving opportunity for competitive  
534 bidding would threaten the health or safety of any person, or the  
535 preservation or protection of property, then the provisions in  
536 this section for competitive bidding shall not apply, and any  
537 officer or agent of the agency having general or specific  
538 authority for making the purchase or repair contract shall approve  
539 the bill presented for payment, and he shall certify in writing  
540 from whom the purchase was made, or with whom the repair contract  
541 was made.

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

550 Purchases under the grant program established under Section  
551 37-68-7 in response to COVID-19 and the directive that school  
552 districts create a distance learning plan and fulfill technology  
553 needs expeditiously shall be deemed an emergency purchase for  
554 purposes of this paragraph (j).

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

556 If the governing authority, or the governing authority acting



557 through its designee, shall determine that an emergency exists in  
558 regard to the purchase of any commodities or repair contracts, so  
559 that the delay incident to giving opportunity for competitive  
560 bidding would be detrimental to the interest of the governing  
561 authority, then the provisions herein for competitive bidding  
562 shall not apply and any officer or agent of such governing  
563 authority having general or special authority therefor in making  
564 such purchase or repair shall approve the bill presented therefor,  
565 and he shall certify in writing thereon from whom such purchase  
566 was made, or with whom such a repair contract was made. At the  
567 board meeting next following the emergency purchase or repair  
568 contract, documentation of the purchase or repair contract,  
569 including a description of the commodity purchased, the price  
570 thereof and the nature of the emergency shall be presented to the  
571 board and shall be placed on the minutes of the board of such  
572 governing authority. Purchases under the grant program  
573 established under Section 37-68-7 in response to COVID-19 and the  
574 directive that school districts create a distance learning plan  
575 and fulfill technology needs expeditiously shall be deemed an  
576 emergency purchase for purposes of this paragraph (k).

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

579                   (i) The commissioners or board of trustees of any  
580 public hospital may contract with such lowest and best bidder for  
581 the purchase or lease-purchase of any commodity under a contract



582 of purchase or lease-purchase agreement whose obligatory payment  
583 terms do not exceed five (5) years.

584 (ii) In addition to the authority granted in  
585 subparagraph (i) of this paragraph (1), the commissioners or board  
586 of trustees is authorized to enter into contracts for the lease of  
587 equipment or services, or both, which it considers necessary for  
588 the proper care of patients if, in its opinion, it is not  
589 financially feasible to purchase the necessary equipment or  
590 services. Any such contract for the lease of equipment or  
591 services executed by the commissioners or board shall not exceed a  
592 maximum of five (5) years' duration and shall include a  
593 cancellation clause based on unavailability of funds. If such  
594 cancellation clause is exercised, there shall be no further  
595 liability on the part of the lessee. Any such contract for the  
596 lease of equipment or services executed on behalf of the  
597 commissioners or board that complies with the provisions of this  
598 subparagraph (ii) shall be excepted from the bid requirements set  
599 forth in this section.

600 (m) **Exceptions from bidding requirements.** Excepted  
601 from bid requirements are:

602 (i) **Purchasing agreements approved by department.**  
603 Purchasing agreements, contracts and maximum price regulations  
604 executed or approved by the Department of Finance and  
605 Administration.





606                   (ii) **Outside equipment repairs.** Repairs to  
607 equipment, when such repairs are made by repair facilities in the  
608 private sector; however, engines, transmissions, rear axles and/or  
609 other such components shall not be included in this exemption when  
610 replaced as a complete unit instead of being repaired and the need  
611 for such total component replacement is known before disassembly  
612 of the component; however, invoices identifying the equipment,  
613 specific repairs made, parts identified by number and name,  
614 supplies used in such repairs, and the number of hours of labor  
615 and costs therefor shall be required for the payment for such  
616 repairs.

617                   (iii) **In-house equipment repairs.** Purchases of  
618 parts for repairs to equipment, when such repairs are made by  
619 personnel of the agency or governing authority; however, entire  
620 assemblies, such as engines or transmissions, shall not be  
621 included in this exemption when the entire assembly is being  
622 replaced instead of being repaired.

623                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
624 of gravel or fill dirt which are to be removed and transported by  
625 the purchaser.

626                   (v) **Governmental equipment auctions.** Motor  
627 vehicles or other equipment purchased from a federal agency or  
628 authority, another governing authority or state agency of the  
629 State of Mississippi, or any governing authority or state agency  
630 of another state at a public auction held for the purpose of



631 disposing of such vehicles or other equipment. Any purchase by a  
632 governing authority under the exemption authorized by this  
633 subparagraph (v) shall require advance authorization spread upon  
634 the minutes of the governing authority to include the listing of  
635 the item or items authorized to be purchased and the maximum bid  
636 authorized to be paid for each item or items.

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

638 Purchases, sales, transfers or trades by governing authorities or  
639 state agencies when such purchases, sales, transfers or trades are  
640 made by a private treaty agreement or through means of  
641 negotiation, from any federal agency or authority, another  
642 governing authority or state agency of the State of Mississippi,  
643 or any state agency or governing authority of another state.  
644 Nothing in this section shall permit such purchases through public  
645 auction except as provided for in subparagraph (v) of this  
646 paragraph (m). It is the intent of this section to allow  
647 governmental entities to dispose of and/or purchase commodities  
648 from other governmental entities at a price that is agreed to by  
649 both parties. This shall allow for purchases and/or sales at  
650 prices which may be determined to be below the market value if the  
651 selling entity determines that the sale at below market value is  
652 in the best interest of the taxpayers of the state. Governing  
653 authorities shall place the terms of the agreement and any  
654 justification on the minutes, and state agencies shall obtain



655 approval from the Department of Finance and Administration, prior  
656 to releasing or taking possession of the commodities.

657 (vii) **Perishable supplies or food.** Perishable  
658 supplies or food purchased for use in connection with hospitals,  
659 the school lunch programs, homemaking programs and for the feeding  
660 of county or municipal prisoners.

661 (viii) **Single-source items.** Noncompetitive items  
662 available from one (1) source only. In connection with the  
663 purchase of noncompetitive items only available from one (1)  
664 source, a certification of the conditions and circumstances  
665 requiring the purchase shall be filed by the agency with the  
666 Department of Finance and Administration and by the governing  
667 authority with the board of the governing authority. Upon receipt  
668 of that certification the Department of Finance and Administration  
669 or the board of the governing authority, as the case may be, may,  
670 in writing, authorize the purchase, which authority shall be noted  
671 on the minutes of the body at the next regular meeting thereafter.  
672 In those situations, a governing authority is not required to  
673 obtain the approval of the Department of Finance and  
674 Administration. Following the purchase, the executive head of the  
675 state agency, or his designees, shall file with the Department of  
676 Finance and Administration, documentation of the purchase,  
677 including a description of the commodity purchased, the purchase  
678 price thereof and the source from whom it was purchased.



679                   (ix)   **Waste disposal facility construction**  
680   **contracts.**   Construction of incinerators and other facilities for  
681 disposal of solid wastes in which products either generated  
682 therein, such as steam, or recovered therefrom, such as materials  
683 for recycling, are to be sold or otherwise disposed of; however,  
684 in constructing such facilities, a governing authority or agency  
685 shall publicly issue requests for proposals, advertised for in the  
686 same manner as provided herein for seeking bids for public  
687 construction projects, concerning the design, construction,  
688 ownership, operation and/or maintenance of such facilities,  
689 wherein such requests for proposals when issued shall contain  
690 terms and conditions relating to price, financial responsibility,  
691 technology, environmental compatibility, legal responsibilities  
692 and such other matters as are determined by the governing  
693 authority or agency to be appropriate for inclusion; and after  
694 responses to the request for proposals have been duly received,  
695 the governing authority or agency may select the most qualified  
696 proposal or proposals on the basis of price, technology and other  
697 relevant factors and from such proposals, but not limited to the  
698 terms thereof, negotiate and enter contracts with one or more of  
699 the persons or firms submitting proposals.

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



703                   (xi)   **Information technology products.** Purchases  
704 of information technology products made by governing authorities  
705 under the provisions of purchase schedules, or contracts executed  
706 or approved by the Mississippi Department of Information  
707 Technology Services and designated for use by governing  
708 authorities. However, the purchase of a web-based application  
709 for Mississippi Youth Court Information Delivery System (MYCIDS)  
710 for a multiyear contract or service agreement that is made by a  
711 court or county board of supervisors shall be governed by Section  
712 1 of this act and shall not be exempt from competitive bidding.

713                   (xii)   **Energy efficiency services and equipment.**  
714 Energy efficiency services and equipment acquired by school  
715 districts, community and junior colleges, institutions of higher  
716 learning and state agencies or other applicable governmental  
717 entities on a shared-savings, lease or lease-purchase basis  
718 pursuant to Section 31-7-14.

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

723                   (xiv)   **Library books and other reference materials.**  
724 Purchases by libraries or for libraries of books and periodicals;  
725 processed film, videocassette tapes, filmstrips and slides;  
726 recorded audiotapes, cassettes and diskettes; and any such items  
727 as would be used for teaching, research or other information



728 distribution; however, equipment such as projectors, recorders,  
729 audio or video equipment, and monitor televisions are not exempt  
730 under this subparagraph.

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

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

737 (xvii) **Multichannel interactive video systems.**  
738 From and after July 1, 1990, contracts by Mississippi Authority  
739 for Educational Television with any private educational  
740 institution or private nonprofit organization whose purposes are  
741 educational in regard to the construction, purchase, lease or  
742 lease-purchase of facilities and equipment and the employment of  
743 personnel for providing multichannel interactive video systems  
744 (ITSF) in the school districts of this state.

745 (xviii) **Purchases of prison industry products by**  
746 **the Department of Corrections, regional correctional facilities or**  
747 **privately owned prisons.** Purchases made by the Mississippi  
748 Department of Corrections, regional correctional facilities or  
749 privately owned prisons involving any item that is manufactured,  
750 processed, grown or produced from the state's prison industries.

751 (xix) **Undercover operations equipment.** Purchases  
752 of surveillance equipment or any other high-tech equipment to be



753 used by law enforcement agents in undercover operations, provided  
754 that any such purchase shall be in compliance with regulations  
755 established by the Department of Finance and Administration.

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

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

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

769 (xxiii) **Municipal water tank maintenance**  
770 **contracts.** Professional maintenance program contracts for the  
771 repair or maintenance of municipal water tanks, which provide  
772 professional services needed to maintain municipal water storage  
773 tanks for a fixed annual fee for a duration of two (2) or more  
774 years.

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



778 processed or produced by, or any services provided by, the  
779 Mississippi Industries for the Blind.

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

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

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

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

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

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

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

788 machinery or equipment used for the installation and

789 implementation of soil and water conservation practices or

790 measures purchased subject to the restrictions provided in

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

792 Soil and Water Conservation Commission under the exemption

793 authorized by this subparagraph shall require advance

794 authorization spread upon the minutes of the commission to include

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

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

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

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

799 compliance with paragraph (1)(ii).

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

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

802 purchasing offices of state agencies or governing authorities





803 under cooperative purchasing agreements previously approved by the  
804 Office of Purchasing and Travel and established by or for any  
805 municipality, county, parish or state government or the federal  
806 government, provided that the notification to potential  
807 contractors includes a clause that sets forth the availability of  
808 the cooperative purchasing agreement to other governmental  
809 entities. Such purchases shall only be made if the use of the  
810 cooperative purchasing agreements is determined to be in the best  
811 interest of the governmental entity.

812 (xxx) **School yearbooks.** Purchases of school  
813 yearbooks by state agencies or governing authorities; however,  
814 state agencies and governing authorities shall use for these  
815 purchases the RFP process as set forth in the Mississippi  
816 Procurement Manual adopted by the Office of Purchasing and Travel.

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

820 (xxxiii) **Toll roads and bridge construction**  
821 **projects.** Contracts entered into under the provisions of Section  
822 65-43-1 or 65-43-3.

823 (xxxiiii) **Certain purchases under Section 57-1-221.**  
824 Contracts entered into pursuant to the provisions of Section  
825 57-1-221.

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



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

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

833 (xxxvi) **Certain purchases by an academic medical**  
834 **center or health sciences school.** Purchases by an academic  
835 medical center or health sciences school, as defined in Section  
836 37-115-50, of commodities that are used for clinical purposes and  
837 1. intended for use in the diagnosis of disease or other  
838 conditions or in the cure, mitigation, treatment or prevention of  
839 disease, and 2. medical devices, biological, drugs and  
840 radiation-emitting devices as defined by the United States Food  
841 and Drug Administration.

842 (xxxvii) **Certain purchases made under the Alyce G.**  
843 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi  
844 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
845 Lottery Law.

846 (xxxviii) **Certain purchases made by the Department**  
847 **of Health and the Department of Revenue.** Purchases made by the  
848 Department of Health and the Department of Revenue solely for the  
849 purpose of fulfilling their respective responsibilities under the  
850 Mississippi Medical Cannabis Act. This subparagraph shall stand  
851 repealed on June 30, 2026.



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

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

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

875                   (o)   **Purchase law violation prohibition and vendor**  
876 **penalty.** No contract or purchase as herein authorized shall be



877 made for the purpose of circumventing the provisions of this  
878 section requiring competitive bids, nor shall it be lawful for any  
879 person or concern to submit individual invoices for amounts within  
880 those authorized for a contract or purchase where the actual value  
881 of the contract or commodity purchased exceeds the authorized  
882 amount and the invoices therefor are split so as to appear to be  
883 authorized as purchases for which competitive bids are not  
884 required. Submission of such invoices shall constitute a  
885 misdemeanor punishable by a fine of not less than Five Hundred  
886 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),  
887 or by imprisonment for thirty (30) days in the county jail, or  
888 both such fine and imprisonment. In addition, the claim or claims  
889 submitted shall be forfeited.

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

897 (q) **Fuel management system bidding procedure.** Any  
898 governing authority or agency of the state shall, before  
899 contracting for the services and products of a fuel management or  
900 fuel access system, enter into negotiations with not fewer than  
901 two (2) sellers of fuel management or fuel access systems for



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

919 (r) **Solid waste contract proposal procedure.** Before  
920 entering into any contract for garbage collection or disposal,  
921 contract for solid waste collection or disposal or contract for  
922 sewage collection or disposal, which involves an expenditure of  
923 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
924 authority or agency shall issue publicly a request for proposals  
925 concerning the specifications for such services which shall be  
926 advertised for in the same manner as provided in this section for



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



952 of each governing authority involved, for garbage or solid waste  
953 collection or disposal services through contract negotiations.

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

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

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



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

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

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

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

999 (v) **Insurability of bidders for public construction or**  
1000 **other public contracts.** In any solicitation for bids to perform





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

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

1014 (x) **Mississippi Regional Pre-Need Disaster Clean Up**  
1015 **Act.** (i) The Department of Finance and Administration shall  
1016 enter into nine (9) contracts for the pre-need purchase of labor,  
1017 services, work, materials, equipment, supplies or other personal  
1018 property for disaster-related solid waste collection, disposal or  
1019 monitoring. One (1) contract shall be entered into for each of  
1020 the nine (9) Mississippi Emergency Management Association  
1021 districts:

1022 1. Coahoma, DeSoto, Grenada, Panola, Quitman,  
1023 Tallahatchie, Tate, Tunica and Yalobusha Counties;



- 1024                           2.   Alcorn, Benton, Itawamba, Lafayette, Lee,  
1025 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union  
1026 Counties;
- 1027                           3.   Attala, Bolivar, Carroll, Holmes,  
1028 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;
- 1029                           4.   Calhoun, Chickasaw, Choctaw, Clay,  
1030 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;
- 1031                           5.   Claiborne, Covich, Hinds, Issaquena,  
1032 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;
- 1033                           6.   Clarke, Jasper, Kemper, Lauderdale, Leake,  
1034 Neshoba, Newton, Scott, and Smith Counties and the Mississippi  
1035 Band of Choctaw Indians;
- 1036                           7.   Adams, Amite, Franklin, Jefferson,  
1037 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;
- 1038                           8.   Covington, Forrest, Greene, Jefferson  
1039 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and
- 1040                           9.   George, Hancock, Harrison, Jackson, Pearl  
1041 River and Stone Counties.

1042           Any such contract shall set forth the manner of awarding such  
1043 a contract, the method of payment, and any other matter deemed  
1044 necessary to carry out the purposes of the agreement.  Such  
1045 contract may be entered into only for a term of one (1) year, with  
1046 an option for an additional one-year extension after the  
1047 conclusion of the first year of the contract, and only after  
1048 having solicited bids or proposals, as appropriate, which shall be



1049 publicly advertised by posting on a web page maintained by the  
1050 Department of Finance and Administration through submission of  
1051 such advertisement to the Mississippi Procurement Technical  
1052 Assistance Program under the Mississippi Development Authority.  
1053 The bid opening shall not occur until after the submission has  
1054 been posted for at least ten (10) consecutive days. The state's  
1055 share of expenditures for solid waste collection, disposal or  
1056 monitoring under any contract shall be appropriated and paid in  
1057 the manner set forth in the contract and in the same manner as for  
1058 other solid waste collection, disposal, or monitoring expenses of  
1059 the state. Any contract entered into under this paragraph shall  
1060 not be subject to the provisions of Section 17-13-11.

1061 (ii) Any board of supervisors of any county or any  
1062 governing authority of any municipality may opt in to the benefits  
1063 and services provided under the appropriate and relevant contract  
1064 established in subparagraph (i) of this paragraph at the time of a  
1065 disaster event in that county or municipality. At the time of opt  
1066 in, the county or municipality shall assume responsibility for  
1067 payment in full to the contractor for the disaster-related solid  
1068 waste collection, disposal or monitoring services provided.  
1069 Nothing in this subparagraph (ii) shall be construed as requiring  
1070 a county or municipality to opt in to any such contract  
1071 established in subparagraph (i) of this paragraph.

1072 **SECTION 3.** Section 9-21-71, Mississippi Code of 1972, is  
1073 amended as follows:



1074 9-21-71. The following words and phrases have the meanings  
1075 ascribed in this section unless the context clearly requires  
1076 otherwise:

1077 (a) "Limited English Proficient (LEP) individual" means  
1078 any party \* \* \*, witness or participant who cannot readily  
1079 understand or communicate in spoken English or who does not speak  
1080 English as his or her primary language and who consequently has a  
1081 limited ability to read, speak, write or understand English and  
1082 cannot equally participate in or benefit from the proceedings  
1083 unless an interpreter is available to assist the individual. The  
1084 fact that an individual is a person for whom English is a second  
1085 language \* \* \* does not prohibit that individual from being  
1086 allowed to have an interpreter.

1087 (b) "Court interpreter" means any person authorized by  
1088 a court who is competent to translate or interpret oral or written  
1089 communication in a foreign language during court proceedings. A  
1090 court interpreter may be one (1) of the following:

1091 (i) "Certified court interpreter," which means an  
1092 interpreter who successfully has met all requirements promulgated  
1093 by the Administrative Office of Courts to be designated a  
1094 registered court interpreter and has scored at least seventy  
1095 percent (70%) on each of the three (3) sections of an approved  
1096 criterion-referenced oral performance examination.

1097 (ii) "Registered court interpreter," which means  
1098 an interpreter who has:



- 1099                   1. Attended an approved two-day,  
1100 fourteen-hour ethics and skill building workshop;
- 1101                   2. Passed an approved criterion-referenced  
1102 written examination with a minimum overall score of eighty percent  
1103 (80%);
- 1104                   3. Submitted to a criminal background check;
- 1105                   4. Provided verification of legal right to  
1106 work in the United States;
- 1107                   5. Executed the Interpreter Oath; and
- 1108                   6. Satisfied any additional requirements that  
1109 the Administrative Office of Courts may establish \* \* \* to be  
1110 listed as a registered court interpreter on the Roster.

1111                   (iii) "Noncredentialed interpreter," which means  
1112 an interpreter who has not met the requirements promulgated by the  
1113 Administrative Office of Courts to be classified as a registered  
1114 or certified court interpreter and therefore, is not listed on the  
1115 Roster.

1116                   (c) "Court proceedings" means a proceeding before any  
1117 court of this state or a grand jury hearing, including all civil  
1118 and criminal hearings and trials.

1119                   (d) "Interpretation" means the accurate and complete  
1120 unrehearsed transmission of an oral message from one (1) language  
1121 to an oral message in another language. Interpretation may be one  
1122 (1) of the following:



1123 (i) "Consecutive interpretation," which means  
1124 providing the target-language message after the speaker has  
1125 finished speaking.

1126 (ii) "Sight translation," which means oral  
1127 translation of a written document.

1128 (iii) "Simultaneous interpretation," which means  
1129 providing the target-language message at approximately the same  
1130 time the source-language message is being produced.

1131 (e) "Source language" means the input language  
1132 requiring interpretation.

1133 (f) "Target language" means the output language into  
1134 which the utterance is being interpreted.

1135 (g) "Translation" means the process of translating text  
1136 from one (1) language to another to maintain the original message  
1137 and communication.

1138 **SECTION 4.** Section 9-21-73, Mississippi Code of 1972, is  
1139 amended as follows:

1140 9-21-73. (1) The Administrative Office of Courts shall  
1141 establish a program for language access and to facilitate the use  
1142 of interpreters in all courts of the State of Mississippi.

1143 (2) (a) The Administrative Office of Courts shall prescribe  
1144 the qualifications of and qualify persons who may serve as  
1145 credentialed court interpreters in all courts of the State of  
1146 Mississippi. The Administrative Office of Courts may set and  
1147 charge a reasonable fee for credentialing.



1148 (b) The Administrative Office of Courts shall maintain  
1149 a current master list of all credentialed court interpreters (the  
1150 "Roster").

1151 (3) In all bilingual proceedings, the presiding judicial  
1152 officer, with the assistance of the Administrative Office of  
1153 Courts, shall utilize the services of an interpreter to  
1154 communicate all spoken or written words \* \* \*.

1155 (4) A Limited English Proficient (LEP) individual is  
1156 entitled to use an interpreter in any instance arising out of or  
1157 pertaining to the individual's involvement in litigation.

1158 (5) All courts shall maintain on file in the office of the  
1159 clerk of the court a list of all persons who have been  
1160 credentialed as court interpreters in accordance with the  
1161 Administrative Office of Court's Credentialing Program established  
1162 pursuant to this section.

1163 **SECTION 5.** Section 9-21-77, Mississippi Code of 1972, is  
1164 amended as follows:

1165 9-21-77. (1) Prior to providing any service to a Limited  
1166 English Proficient (LEP) individual, the interpreter shall  
1167 subscribe to an oath that he or she shall interpret all  
1168 communications in an accurate manner to the best of his or her  
1169 skill and knowledge.

1170 (2) The oath shall conform substantially to the following  
1171 form:

1172 INTERPRETER'S OATH



1173 "Do you solemnly swear or affirm that you will faithfully  
1174 interpret from (state the language) into English and from English  
1175 into (state the language) \* \* \* accurately, completely and  
1176 impartially, using your best \* \* \* skill and \* \* \* judgment in  
1177 accordance with prescribed law, the Mississippi Rules on Standards  
1178 for Court Interpreters, and the Mississippi Code of Ethics for  
1179 Court Interpreters, and that you will discharge all the solemn  
1180 duties and obligations of legal interpretation and translation?"

1181 (3) Interpreters shall not voluntarily disclose any  
1182 admission or communication that is declared to be confidential or  
1183 privileged under state law. Out-of-court disclosures made by a  
1184 Limited English Proficient (LEP) individual communicating through  
1185 an interpreter shall be treated by the interpreter as confidential  
1186 or privileged or both unless the court orders the interpreter to  
1187 disclose such communications or the Limited English Proficient  
1188 (LEP) individual waives such confidentiality or privilege.

1189 (4) Interpreters shall not publicly discuss, report or offer  
1190 an opinion concerning a matter in which they are engaged, even  
1191 when that information is not privileged or required by law to be  
1192 confidential.

1193 (5) The presence of an interpreter shall not affect the  
1194 privileged nature of any discussion.

1195 **SECTION 6.** Section 9-21-79, Mississippi Code of 1972, is  
1196 amended as follows:





1197 9-21-79. (1) An interpreter is needed and a court  
1198 interpreter shall be appointed when the judge determines \* \* \*  
1199 that: (a) \* \* \* a party, witness or participant cannot understand  
1200 and speak English well enough to participate fully in the  
1201 proceedings and to assist counsel; or (b) the witness cannot speak  
1202 English so as to be understood directly by counsel, court and  
1203 jury.

1204 (2) The court should examine a party or witness on the  
1205 record to determine whether an interpreter is needed if:

1206 (a) A party or counsel requests such an examination; or

1207 (b) It appears to the court that the party or witness  
1208 may not understand and speak English well enough to participate  
1209 fully in the proceedings \* \* \*.

1210 \* \* \*

1211 (3) After the examination, the court should state its  
1212 conclusion on the record, and the file in the case shall be  
1213 clearly marked and data entered electronically when appropriate by  
1214 court personnel to ensure that an interpreter will be present when  
1215 needed in any subsequent hearing or instance arising out of the  
1216 litigation.

1217 (4) \* \* \* The court shall determine whether the interpreter  
1218 provided is able to communicate accurately with and translate  
1219 information to and from the Limited English Proficient (LEP)  
1220 individual. If it is determined that the interpreter cannot



1221 perform these functions, the court shall provide the Limited  
1222 English Proficient (LEP) individual with another interpreter.

1223 (5) Recognition of the need for a court interpreter may  
1224 arise from a request by a party or counsel, the court's own voir  
1225 dire of a party or witness, or disclosures made to the court by a  
1226 party, counsel, court employee, or other person familiar with the  
1227 ability or inability of the person to understand and communicate  
1228 in English.

1229 (6) A Limited English Proficient (LEP) individual, at any  
1230 point in a proceeding, may waive the services of a court  
1231 interpreter. The waiver of the interpreter's services must be in  
1232 writing in the person's native language. In addition, the waiver  
1233 must be knowing and voluntary and with the approval of the court.  
1234 Any deliberations made on matters of waiver or the retraction of a  
1235 waiver must be made on the record. Granting a waiver under this  
1236 subsection is a matter of judicial discretion. The waiver may be  
1237 approved only after:

1238 (a) The court explains in open court to the LEP  
1239 individual, through an interpreter, the nature and effect of the  
1240 waiver;

1241 (b) The court determines in open court that the waiver  
1242 has been made knowingly, intelligently and voluntarily; and

1243 (c) In a criminal matter, the court determines that the  
1244 defendant has been afforded the opportunity to consult with the  
1245 defendant's attorney regarding the waiver.



1246           (7) At any point in the proceeding, the LEP individual may  
1247 retract the waiver and request an interpreter.

1248           **SECTION 7.** Section 9-21-80, Mississippi Code of 1972, is  
1249 amended as follows:

1250           9-21-80. (1) The court shall appoint an interpreter in the  
1251 following order of preference:

1252                   (a) Certified court interpreter.

1253                   (b) Registered court interpreter.

1254                   (c) Noncredentialed interpreter.

1255           (2) A noncredentialed interpreter may be appointed if:

1256                   (a) Neither a certified nor registered court  
1257 interpreter reasonably is available; and

1258                   (b) The court has evaluated the totality of the  
1259 circumstances, including the gravity of the judicial proceeding  
1260 and the potential penalty or consequence involved.

1261           (3) If the court appoints \* \* \* an interpreter who is not  
1262 certified, the court must make the following findings on the  
1263 record:

1264                   (a) The proposed interpreter appears to have: (i)  
1265 adequate language skills, knowledge of interpreting techniques,  
1266 and familiarity with interpreting in a court setting; and (ii)  
1267 read and understand, and agrees to abide by, the Mississippi Code  
1268 of Ethics for Court Interpreters and the Mississippi Rules on  
1269 Standards for Court Interpreters.



1270 (4) A summary of the efforts made to obtain a  
1271 certified \* \* \* court interpreter, as well as a summary of the  
1272 efforts to determine the capabilities of the proposed \* \* \*  
1273 interpreter, must be made in open court and placed on the record.

1274 (5) Each interpreter providing court interpreting services  
1275 is subject to the ethical requirements set forth in the  
1276 Mississippi Court Interpreter Credentialing Program without regard  
1277 to whether or not the interpreter is listed on the Roster.

1278 **SECTION 8.** Section 9-21-81, Mississippi Code of 1972, is  
1279 amended as follows:

1280 9-21-81. (1) Any volunteer interpreter providing services  
1281 under Sections 9-21-71 through 9-21-81 shall be paid reasonable  
1282 expenses by the court.

1283 (2) The expenses of providing an interpreter in any court  
1284 proceeding or instance arising out of litigation must be payable  
1285 out of the county or municipal treasury or any other source of  
1286 funds available for this purpose at no cost to the litigant or the  
1287 Limited English Proficient (LEP) party, witness or participant.

1288 **SECTION 9.** The following shall be codified as Section  
1289 9-21-82, Mississippi Code of 1972:

1290 9-21-82. Each court in the State of Mississippi shall  
1291 prepare and submit a report annually to the Administrative Office  
1292 of Courts with information and plans concerning implementation of  
1293 language access. The report must include, but is not limited to,  
1294 the following:



1295           (a) The number of bilingual staff who are available to  
1296 facilitate language access and the languages they facilitate;  
1297           (b) A plan to address any insufficiency in its ability  
1298 to provide language access;  
1299           (c) A list of vital documents that the court has had  
1300 translated and the language of the translation;  
1301           (d) The number of times a court interpreter was  
1302 utilized, what language was needed, and the total cost of  
1303 utilizing court interpreters; and  
1304           (e) A staff training plan related to language access,  
1305 which plan must contain specific information regarding  
1306 implementation, including the specific types of language services  
1307 available and how the court will do all of the following:  
1308           (i) Obtain language services internally or from  
1309 vendors;  
1310           (ii) Respond to callers with limited English  
1311 proficiency;  
1312           (iii) Respond to written communications from  
1313 individuals with limited English proficiency;  
1314           (iv) Respond to individuals with limited English  
1315 proficiency who have in-person contact with staff;  
1316           (v) Collect language data for all public  
1317 encounters; and  
1318           (vi) Indicate limited English proficiency status  
1319 in data and information systems.



1320           **SECTION 10.** Section 99-17-7, Mississippi Code of 1972, is  
1321 amended as follows:

1322           99-17-7. In all criminal cases wherein \* \* \* a defendant,  
1323 witness or participant is a Limited English Proficient (LEP)  
1324 individual, the court shall appoint a qualified interpreter as  
1325 provided in Section 9-21-80, sworn truly to interpret, and allow  
1326 him a reasonable compensation, as set by the court, payable out of  
1327 the county or municipal treasury or any other source of funds  
1328 available for this purpose at no cost to the \* \* \* Limited English  
1329 Proficient (LEP) party, witness or participant.

1330           **SECTION 11.** This act shall take effect and be in force from  
1331 an after July 1, 2024, and shall stand repealed on June 30, 2024.

