

By: Senator(s) Blackwell, Butler, Turner-Ford, Jackson (11th), McLendon, Simmons (13th), Younger, Jordan, Barnett, Chism

To: County Affairs

SENATE BILL NO. 2024  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-105-305, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE COUNTY BOARDS OF SUPERVISORS THE DISCRETION TO  
3 DETERMINE THE INTERVAL OF TIME FOR PROVIDING NOTICE TO FINANCIAL  
4 INSTITUTIONS OF THE OPENING OF THE BIDDING PROCESS FOR SERVING AS  
5 DEPOSITORIES OF COUNTY FUNDS; TO CLARIFY THAT THE SELECTION OF  
6 DEPOSITORIES IS TO BE BASED UPON ALL RELEVANT FACTORS; TO AMEND  
7 SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT REVERSE  
8 AUCTIONS SHALL NOT BE USED FOR CERTAIN TERM CONTRACTS; TO REQUIRE  
9 THE CLERK OF THE BOARD OF SUPERVISORS TO ENTER THE RECOMMENDED  
10 YEAR-END ADJUSTING ACCOUNTING ENTRIES INTO THE COUNTY'S ACCOUNTING  
11 SYSTEM AND TO REQUIRE THE BOARD OF SUPERVISORS TO SPREAD THE  
12 REASON THAT ANY RECOMMENDED ENTRY WAS NOT ENTERED UPON ITS MINUTES  
13 IF THE CLERK OF THE BOARD OF SUPERVISORS DECLINES TO MAKE THE  
14 ENTRY; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 27-105-305, Mississippi Code of 1972, is  
17 amended as follows:

18 27-105-305. The board of supervisors at the regular December  
19 1997 meeting, and annually thereafter or, in the discretion of the  
20 board of supervisors, \* \* \* thereafter at such other interval of  
21 time as determined by the board of supervisors, but no less  
22 frequently than every four (4) years, shall give notice to all  
23 financial institutions in its county whose accounts are insured by  
24 the Federal Deposit Insurance Corporation (or any successor



25 thereto), by publication, that bids will be received from  
26 financial institutions at the following January meeting, or some  
27 subsequent meeting, for the privilege of keeping the county funds,  
28 or any part thereof, which notice shall refer by name to this  
29 article and it shall not be necessary to incorporate in the notice  
30 the provisions of this article; and at the January meeting, or a  
31 subsequent meeting as may be designated in the notice, as the case  
32 may be, the board of supervisors shall receive such bids or  
33 proposals as the financial institutions may make for the privilege  
34 of keeping the county funds, or any part thereof. The bids or  
35 proposals shall designate the kind of security as authorized by  
36 law which the financial institutions propose to give as security  
37 for funds, and the board shall cause the county funds and all  
38 other funds in the hands of the county treasurer to be deposited  
39 in the qualified financial institution or qualified institutions  
40 proposing the best terms, taking into consideration all material  
41 aspects of the proposal, including, but not limited to, net  
42 earnings, account costs, costs of transfer of accounts from  
43 existing depositories, banking services provided and other service  
44 considerations, and meeting the requirements provided in Section  
45 27-105-315, having in view the safety of such funds. However, if  
46 a bank submits a bid or offer to the board of supervisors to act  
47 as a depository for the county and the bid or offer, if accepted,  
48 would result in a contract in which a member of the board of  
49 supervisors would have a direct or indirect interest, the board of



50 supervisors may elect to not open or consider any bids received  
51 and submit the matter to the State Treasurer. Upon receipt of the  
52 bids received from the board of supervisors, the State \* \* \*  
53 Treasurer shall open and consider the bids received, select a  
54 depository or depositories, make all decisions and take any action  
55 within the authority of the board of supervisors under this  
56 section relating to the selection of a depository or depositories,  
57 including:

- 58 (a) The selecting and opening of accounts;
- 59 (b) Approval of securities;
- 60 (c) The transfer and deposit of funds between  
61 depositories; and
- 62 (d) All other related functions.

63 If the board of supervisors elects to open and consider the  
64 bids or offers, it shall not open or consider any bid which, if  
65 accepted, would result in a contract in which a member of the  
66 board of supervisors would have a direct or indirect interest.

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

69 31-7-13. All agencies and governing authorities shall  
70 purchase their commodities and printing; contract for garbage  
71 collection or disposal; contract for solid waste collection or  
72 disposal; contract for sewage collection or disposal; contract for  
73 public construction; and contract for rentals as herein provided.



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

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

82 (b) **Bidding procedure for purchases over \$5,000.00 but**  
83 **not over \$50,000.00.** Purchases which involve an expenditure of  
84 more than Five Thousand Dollars (\$5,000.00) but not more than  
85 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and  
86 shipping charges, may be made from the lowest and best bidder  
87 without publishing or posting advertisement for bids, provided at  
88 least two (2) competitive written bids have been obtained. Any  
89 state agency or community/junior college purchasing commodities or  
90 procuring construction pursuant to this paragraph (b) may  
91 authorize its purchasing agent, or his designee, to accept the  
92 lowest competitive written bid under Fifty Thousand Dollars  
93 (\$50,000.00). Any governing authority purchasing commodities  
94 pursuant to this paragraph (b) may authorize its purchasing agent,  
95 or his designee, with regard to governing authorities other than  
96 counties, or its purchase clerk, or his designee, with regard to  
97 counties, to accept the lowest and best competitive written bid.  
98 Such authorization shall be made in writing by the governing



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



123 signature of the vendor's representative unless required by  
124 agencies or governing authorities.

125 (c) **Bidding procedure for purchases over \$50,000.00.**

126 (i) **Publication requirement.**

127 1. Purchases which involve an expenditure of  
128 more than Fifty Thousand Dollars (\$50,000.00), exclusive of  
129 freight and shipping charges, may be made from the lowest and best  
130 bidder after advertising for competitive bids once each week for  
131 two (2) consecutive weeks in a regular newspaper published in the  
132 county or municipality in which such agency or governing authority  
133 is located. However, all American Recovery and Reinvestment Act  
134 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
135 shall be bid. All references to American Recovery and  
136 Reinvestment Act projects in this section shall not apply to  
137 programs identified in Division B of the American Recovery and  
138 Reinvestment Act.

139 2. Reverse auctions shall be the primary  
140 method for receiving bids during the bidding process. If a  
141 purchasing entity determines that a reverse auction is not in the  
142 best interest of the state, then that determination must be  
143 approved by the Public Procurement Review Board. The purchasing  
144 entity shall submit a detailed explanation of why a reverse  
145 auction would not be in the best interest of the state and present  
146 an alternative process to be approved by the Public Procurement  
147 Review Board. If the Public Procurement Review Board authorizes



148 the purchasing entity to solicit bids with a method other than  
149 reverse auction, then the purchasing entity may designate the  
150 other methods by which the bids will be received, including, but  
151 not limited to, bids sealed in an envelope, bids received  
152 electronically in a secure system, or bids received by any other  
153 method that promotes open competition and has been approved by the  
154 Office of Purchasing and Travel. However, reverse auction shall  
155 not be used for any public contract for design or construction of  
156 public facilities, including buildings, roads and bridges and term  
157 contracts as provided in paragraph (n) of this section. The  
158 Public Procurement Review Board must approve any contract entered  
159 into by alternative process. The provisions of this item 2 shall  
160 not apply to the individual state institutions of higher learning.  
161  
162 3. The date as published for the bid opening  
163 shall not be less than seven (7) working days after the last  
164 published notice; however, if the purchase involves a construction  
165 project in which the estimated cost is in excess of Fifty Thousand  
166 Dollars (\$50,000.00), such bids shall not be opened in less than  
167 fifteen (15) working days after the last notice is published and  
168 the notice for the purchase of such construction shall be  
169 published once each week for two (2) consecutive weeks. However,  
170 all American Recovery and Reinvestment Act projects in excess of  
171 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any  
172 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
under the American Recovery and Reinvestment Act, publication



173 shall be made one (1) time and the bid opening for construction  
174 projects shall not be less than ten (10) working days after the  
175 date of the published notice. The notice of intention to let  
176 contracts or purchase equipment shall state the time and place at  
177 which bids shall be received, list the contracts to be made or  
178 types of equipment or supplies to be purchased, and, if all plans  
179 and/or specifications are not published, refer to the plans and/or  
180 specifications on file. If there is no newspaper published in the  
181 county or municipality, then such notice shall be given by posting  
182 same at the courthouse, or for municipalities at the city hall,  
183 and at two (2) other public places in the county or municipality,  
184 and also by publication once each week for two (2) consecutive  
185 weeks in some newspaper having a general circulation in the county  
186 or municipality in the above-provided manner. On the same date  
187 that the notice is submitted to the newspaper for publication, the  
188 agency or governing authority involved shall mail written notice  
189 to, or provide electronic notification to the main office of the  
190 Mississippi Procurement Technical Assistance Program under the  
191 Mississippi Development Authority that contains the same  
192 information as that in the published notice. Submissions received  
193 by the Mississippi Procurement Technical Assistance Program for  
194 projects funded by the American Recovery and Reinvestment Act  
195 shall be displayed on a separate and unique internet web page  
196 accessible to the public and maintained by the Mississippi  
197 Development Authority for the Mississippi Procurement Technical





198 Assistance Program. Those American Recovery and Reinvestment Act  
199 related submissions shall be publicly posted within twenty-four  
200 (24) hours of receipt by the Mississippi Development Authority and  
201 the bid opening shall not occur until the submission has been  
202 posted for ten (10) consecutive days. The Department of Finance  
203 and Administration shall maintain information regarding contracts  
204 and other expenditures from the American Recovery and Reinvestment  
205 Act, on a unique internet web page accessible to the public. The  
206 Department of Finance and Administration shall promulgate rules  
207 regarding format, content and deadlines, unless otherwise  
208 specified by law, of the posting of award notices, contract  
209 execution and subsequent amendments, links to the contract  
210 documents, expenditures against the awarded contracts and general  
211 expenditures of funds from the American Recovery and Reinvestment  
212 Act. Within one (1) working day of the contract award, the agency  
213 or governing authority shall post to the designated web page  
214 maintained by the Department of Finance and Administration, notice  
215 of the award, including the award recipient, the contract amount,  
216 and a brief summary of the contract in accordance with rules  
217 promulgated by the department. Within one (1) working day of the  
218 contract execution, the agency or governing authority shall post  
219 to the designated web page maintained by the Department of Finance  
220 and Administration a summary of the executed contract and make a  
221 copy of the appropriately redacted contract documents available  
222 for linking to the designated web page in accordance with the



223 rules promulgated by the department. The information provided by  
224 the agency or governing authority shall be posted to the web page  
225 for the duration of the American Recovery and Reinvestment Act  
226 funding or until the project is completed, whichever is longer.

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

243 (iii) **Filing requirement.** In all cases involving  
244 governing authorities, before the notice shall be published or  
245 posted, the plans or specifications for the construction or  
246 equipment being sought shall be filed with the clerk of the board  
247 of the governing authority. In addition to these requirements, a



248 bid file shall be established which shall indicate those vendors  
249 to whom such solicitations and specifications were issued, and  
250 such file shall also contain such information as is pertinent to  
251 the bid.

252 (iv) **Specification restrictions.**

253 1. Specifications pertinent to such bidding  
254 shall be written so as not to exclude comparable equipment of  
255 domestic manufacture. However, if valid justification is  
256 presented, the Department of Finance and Administration or the  
257 board of a governing authority may approve a request for specific  
258 equipment necessary to perform a specific job. Further, such  
259 justification, when placed on the minutes of the board of a  
260 governing authority, may serve as authority for that governing  
261 authority to write specifications to require a specific item of  
262 equipment needed to perform a specific job. In addition to these  
263 requirements, from and after July 1, 1990, vendors of relocatable  
264 classrooms and the specifications for the purchase of such  
265 relocatable classrooms published by local school boards shall meet  
266 all pertinent regulations of the State Board of Education,  
267 including prior approval of such bid by the State Department of  
268 Education.

269 2. Specifications for construction projects  
270 may include an allowance for commodities, equipment, furniture,  
271 construction materials or systems in which prospective bidders are  
272 instructed to include in their bids specified amounts for such



273 items so long as the allowance items are acquired by the vendor in  
274 a commercially reasonable manner and approved by the  
275 agency/governing authority. Such acquisitions shall not be made  
276 to circumvent the public purchasing laws.

277 (v) **Electronic bids.** Agencies and governing  
278 authorities shall provide a secure electronic interactive system  
279 for the submittal of bids requiring competitive bidding that shall  
280 be an additional bidding option for those bidders who choose to  
281 submit their bids electronically. The Department of Finance and  
282 Administration shall provide, by regulation, the standards that  
283 agencies must follow when receiving electronic bids. Agencies and  
284 governing authorities shall make the appropriate provisions  
285 necessary to accept electronic bids from those bidders who choose  
286 to submit their bids electronically for all purchases requiring  
287 competitive bidding under this section. Any special condition or  
288 requirement for the electronic bid submission shall be specified  
289 in the advertisement for bids required by this section. Agencies  
290 or governing authorities that are currently without available high  
291 speed internet access shall be exempt from the requirement of this  
292 subparagraph (v) until such time that high speed internet access  
293 becomes available. Any county having a population of less than  
294 twenty thousand (20,000) shall be exempt from the provisions of  
295 this subparagraph (v). Any municipality having a population of  
296 less than ten thousand (10,000) shall be exempt from the  
297 provisions of this subparagraph (v). The provisions of this



298 subparagraph (v) shall not require any bidder to submit bids  
299 electronically. When construction bids are submitted  
300 electronically, the requirement for including a certificate of  
301 responsibility, or a statement that the bid enclosed does not  
302 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
303 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
304 deemed in compliance with by including same as an attachment with  
305 the electronic bid submittal.

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

307 (i) **Decision procedure.** Purchases may be made  
308 from the lowest and best bidder. In determining the lowest and  
309 best bid, freight and shipping charges shall be included.  
310 Life-cycle costing, total cost bids, warranties, guaranteed  
311 buy-back provisions and other relevant provisions may be included  
312 in the best bid calculation. All best bid procedures for state  
313 agencies must be in compliance with regulations established by the  
314 Department of Finance and Administration. If any governing  
315 authority accepts a bid other than the lowest bid actually  
316 submitted, it shall place on its minutes detailed calculations and  
317 narrative summary showing that the accepted bid was determined to  
318 be the lowest and best bid, including the dollar amount of the  
319 accepted bid and the dollar amount of the lowest bid. No agency  
320 or governing authority shall accept a bid based on items not  
321 included in the specifications.



322                   (ii) **Decision procedure for Certified Purchasing**  
323 **Offices.** In addition to the decision procedure set forth in  
324 subparagraph (i) of this paragraph (d), Certified Purchasing  
325 Offices may also use the following procedure: Purchases may be  
326 made from the bidder offering the best value. In determining the  
327 best value bid, freight and shipping charges shall be included.  
328 Life-cycle costing, total cost bids, warranties, guaranteed  
329 buy-back provisions, documented previous experience, training  
330 costs and other relevant provisions, including, but not limited  
331 to, a bidder having a local office and inventory located within  
332 the jurisdiction of the governing authority, may be included in  
333 the best value calculation. This provision shall authorize  
334 Certified Purchasing Offices to utilize a Request For Proposals  
335 (RFP) process when purchasing commodities. All best value  
336 procedures for state agencies must be in compliance with  
337 regulations established by the Department of Finance and  
338 Administration. No agency or governing authority shall accept a  
339 bid based on items or criteria not included in the specifications.

340                   (iii) **Decision procedure for Mississippi**  
341 **Landmarks.** In addition to the decision procedure set forth in  
342 subparagraph (i) of this paragraph (d), where purchase involves  
343 renovation, restoration, or both, of the State Capitol Building or  
344 any other historical building designated for at least five (5)  
345 years as a Mississippi Landmark by the Board of Trustees of the  
346 Department of Archives and History under the authority of Sections



347 39-7-7 and 39-7-11, the agency or governing authority may use the  
348 following procedure: Purchases may be made from the lowest and  
349 best prequalified bidder. Prequalification of bidders shall be  
350 determined not less than fifteen (15) working days before the  
351 first published notice of bid opening. Prequalification criteria  
352 shall be limited to bidder's knowledge and experience in  
353 historical restoration, preservation and renovation. In  
354 determining the lowest and best bid, freight and shipping charges  
355 shall be included. Life-cycle costing, total cost bids,  
356 warranties, guaranteed buy-back provisions and other relevant  
357 provisions may be included in the best bid calculation. All best  
358 bid and prequalification procedures for state agencies must be in  
359 compliance with regulations established by the Department of  
360 Finance and Administration. If any governing authority accepts a  
361 bid other than the lowest bid actually submitted, it shall place  
362 on its minutes detailed calculations and narrative summary showing  
363 that the accepted bid was determined to be the lowest and best  
364 bid, including the dollar amount of the accepted bid and the  
365 dollar amount of the lowest bid. No agency or governing authority  
366 shall accept a bid based on items not included in the  
367 specifications.

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

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



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

374 (e) **Lease-purchase authorization.** For the purposes of  
375 this section, the term "equipment" shall mean equipment, furniture  
376 and, if applicable, associated software and other applicable  
377 direct costs associated with the acquisition. Any lease-purchase  
378 of equipment which an agency is not required to lease-purchase  
379 under the master lease-purchase program pursuant to Section  
380 31-7-10 and any lease-purchase of equipment which a governing  
381 authority elects to lease-purchase may be acquired by a  
382 lease-purchase agreement under this paragraph (e). Lease-purchase  
383 financing may also be obtained from the vendor or from a  
384 third-party source after having solicited and obtained at least  
385 two (2) written competitive bids, as defined in paragraph (b) of  
386 this section, for such financing without advertising for such  
387 bids. Solicitation for the bids for financing may occur before or  
388 after acceptance of bids for the purchase of such equipment or,  
389 where no such bids for purchase are required, at any time before  
390 the purchase thereof. No such lease-purchase agreement shall be  
391 for an annual rate of interest which is greater than the overall  
392 maximum interest rate to maturity on general obligation  
393 indebtedness permitted under Section 75-17-101, and the term of  
394 such lease-purchase agreement shall not exceed the useful life of  
395 equipment covered thereby as determined according to the upper  
396 limit of the asset depreciation range (ADR) guidelines for the





397 Class Life Asset Depreciation Range System established by the  
398 Internal Revenue Service pursuant to the United States Internal  
399 Revenue Code and regulations thereunder as in effect on December  
400 31, 1980, or comparable depreciation guidelines with respect to  
401 any equipment not covered by ADR guidelines. Any lease-purchase  
402 agreement entered into pursuant to this paragraph (e) may contain  
403 any of the terms and conditions which a master lease-purchase  
404 agreement may contain under the provisions of Section 31-7-10(5),  
405 and shall contain an annual allocation dependency clause  
406 substantially similar to that set forth in Section 31-7-10(8).  
407 Each agency or governing authority entering into a lease-purchase  
408 transaction pursuant to this paragraph (e) shall maintain with  
409 respect to each such lease-purchase transaction the same  
410 information as required to be maintained by the Department of  
411 Finance and Administration pursuant to Section 31-7-10(13).  
412 However, nothing contained in this section shall be construed to  
413 permit agencies to acquire items of equipment with a total  
414 acquisition cost in the aggregate of less than Ten Thousand  
415 Dollars (\$10,000.00) by a single lease-purchase transaction. All  
416 equipment, and the purchase thereof by any lessor, acquired by  
417 lease-purchase under this paragraph and all lease-purchase  
418 payments with respect thereto shall be exempt from all Mississippi  
419 sales, use and ad valorem taxes. Interest paid on any  
420 lease-purchase agreement under this section shall be exempt from  
421 State of Mississippi income taxation.



422           (f) **Alternate bid authorization.** When necessary to  
423 ensure ready availability of commodities for public works and the  
424 timely completion of public projects, no more than two (2)  
425 alternate bids may be accepted by a governing authority for  
426 commodities. No purchases may be made through use of such  
427 alternate bids procedure unless the lowest and best bidder cannot  
428 deliver the commodities contained in his bid. In that event,  
429 purchases of such commodities may be made from one (1) of the  
430 bidders whose bid was accepted as an alternate.

431           (g) **Construction contract change authorization.** In the  
432 event a determination is made by an agency or governing authority  
433 after a construction contract is let that changes or modifications  
434 to the original contract are necessary or would better serve the  
435 purpose of the agency or the governing authority, such agency or  
436 governing authority may, in its discretion, order such changes  
437 pertaining to the construction that are necessary under the  
438 circumstances without the necessity of further public bids;  
439 provided that such change shall be made in a commercially  
440 reasonable manner and shall not be made to circumvent the public  
441 purchasing statutes. In addition to any other authorized person,  
442 the architect or engineer hired by an agency or governing  
443 authority with respect to any public construction contract shall  
444 have the authority, when granted by an agency or governing  
445 authority, to authorize changes or modifications to the original  
446 contract without the necessity of prior approval of the agency or



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

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

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



472 may include in its bid proposal and contract documents a price  
473 adjustment clause with relation to the cost to the contractor,  
474 including taxes, based upon an industry-wide cost index, of  
475 petroleum products, including asphalt used in the performance or  
476 execution of the contract or in the production or manufacture of  
477 materials for use in such performance. Such industry-wide index  
478 shall be established and published monthly by the Mississippi  
479 Department of Transportation with a copy thereof to be mailed,  
480 upon request, to the clerks of the governing authority of each  
481 municipality and the clerks of each board of supervisors  
482 throughout the state. The price adjustment clause shall be based  
483 on the cost of such petroleum products only and shall not include  
484 any additional profit or overhead as part of the adjustment. The  
485 bid proposals or document contract shall contain the basis and  
486 methods of adjusting unit prices for the change in the cost of  
487 such petroleum products.

488 (j) **State agency emergency purchase procedure.** If the  
489 governing board or the executive head, or his designees, of any  
490 agency of the state shall determine that an emergency exists in  
491 regard to the purchase of any commodities or repair contracts, so  
492 that the delay incident to giving opportunity for competitive  
493 bidding would be detrimental to the interests of the state, then  
494 the head of such agency, or his designees, shall file with the  
495 Department of Finance and Administration (i) a statement  
496 explaining the conditions and circumstances of the emergency,



497 which shall include a detailed description of the events leading  
498 up to the situation and the negative impact to the entity if the  
499 purchase is made following the statutory requirements set forth in  
500 paragraph (a), (b) or (c) of this section, and (ii) a certified  
501 copy of the appropriate minutes of the board of such agency  
502 requesting the emergency purchase, if applicable. Upon receipt of  
503 the statement and applicable board certification, the State Fiscal  
504 Officer, or his designees, may, in writing, authorize the purchase  
505 or repair without having to comply with competitive bidding  
506 requirements.

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

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



522 purchase, including a description of the commodity purchased, the  
523 purchase price thereof and the nature of the emergency shall be  
524 filed with the Department of Finance and Administration. Any  
525 contract awarded pursuant to this paragraph (j) shall not exceed a  
526 term of one (1) year.

527 Purchases under the grant program established under Section  
528 37-68-7 in response to COVID-19 and the directive that school  
529 districts create a distance learning plan and fulfill technology  
530 needs expeditiously shall be deemed an emergency purchase for  
531 purposes of this paragraph (j).

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

533 If the governing authority, or the governing authority acting  
534 through its designee, shall determine that an emergency exists in  
535 regard to the purchase of any commodities or repair contracts, so  
536 that the delay incident to giving opportunity for competitive  
537 bidding would be detrimental to the interest of the governing  
538 authority, then the provisions herein for competitive bidding  
539 shall not apply and any officer or agent of such governing  
540 authority having general or special authority therefor in making  
541 such purchase or repair shall approve the bill presented therefor,  
542 and he shall certify in writing thereon from whom such purchase  
543 was made, or with whom such a repair contract was made. At the  
544 board meeting next following the emergency purchase or repair  
545 contract, documentation of the purchase or repair contract,  
546 including a description of the commodity purchased, the price



547 thereof and the nature of the emergency shall be presented to the  
548 board and shall be placed on the minutes of the board of such  
549 governing authority. Purchases under the grant program  
550 established under Section 37-68-7 in response to COVID-19 and the  
551 directive that school districts create a distance learning plan  
552 and fulfill technology needs expeditiously shall be deemed an  
553 emergency purchase for purposes of this paragraph (k).

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

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

561                   (ii) In addition to the authority granted in  
562 subparagraph (i) of this paragraph (1), the commissioners or board  
563 of trustees is authorized to enter into contracts for the lease of  
564 equipment or services, or both, which it considers necessary for  
565 the proper care of patients if, in its opinion, it is not  
566 financially feasible to purchase the necessary equipment or  
567 services. Any such contract for the lease of equipment or  
568 services executed by the commissioners or board shall not exceed a  
569 maximum of five (5) years' duration and shall include a  
570 cancellation clause based on unavailability of funds. If such  
571 cancellation clause is exercised, there shall be no further



572 liability on the part of the lessee. Any such contract for the  
573 lease of equipment or services executed on behalf of the  
574 commissioners or board that complies with the provisions of this  
575 subparagraph (ii) shall be excepted from the bid requirements set  
576 forth in this section.

577 (m) **Exceptions from bidding requirements.** Excepted  
578 from bid requirements are:

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

580 Purchasing agreements, contracts and maximum price regulations  
581 executed or approved by the Department of Finance and  
582 Administration.

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

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





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

600 (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
601 of gravel or fill dirt which are to be removed and transported by  
602 the purchaser.

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

614 (vi) **Intergovernmental sales and transfers.**  
615 Purchases, sales, transfers or trades by governing authorities or  
616 state agencies when such purchases, sales, transfers or trades are  
617 made by a private treaty agreement or through means of  
618 negotiation, from any federal agency or authority, another  
619 governing authority or state agency of the State of Mississippi,  
620 or any state agency or governing authority of another state.  
621 Nothing in this section shall permit such purchases through public



622 auction except as provided for in subparagraph (v) of this  
623 paragraph (m). It is the intent of this section to allow  
624 governmental entities to dispose of and/or purchase commodities  
625 from other governmental entities at a price that is agreed to by  
626 both parties. This shall allow for purchases and/or sales at  
627 prices which may be determined to be below the market value if the  
628 selling entity determines that the sale at below market value is  
629 in the best interest of the taxpayers of the state. Governing  
630 authorities shall place the terms of the agreement and any  
631 justification on the minutes, and state agencies shall obtain  
632 approval from the Department of Finance and Administration, prior  
633 to releasing or taking possession of the commodities.

634 (vii) **Perishable supplies or food.** Perishable  
635 supplies or food purchased for use in connection with hospitals,  
636 the school lunch programs, homemaking programs and for the feeding  
637 of county or municipal prisoners.

638 (viii) **Single source items.** Noncompetitive items  
639 available from one (1) source only. In connection with the  
640 purchase of noncompetitive items only available from one (1)  
641 source, a certification of the conditions and circumstances  
642 requiring the purchase shall be filed by the agency with the  
643 Department of Finance and Administration and by the governing  
644 authority with the board of the governing authority. Upon receipt  
645 of that certification the Department of Finance and Administration  
646 or the board of the governing authority, as the case may be, may,



647 in writing, authorize the purchase, which authority shall be noted  
648 on the minutes of the body at the next regular meeting thereafter.  
649 In those situations, a governing authority is not required to  
650 obtain the approval of the Department of Finance and  
651 Administration. Following the purchase, the executive head of the  
652 state agency, or his designees, shall file with the Department of  
653 Finance and Administration, documentation of the purchase,  
654 including a description of the commodity purchased, the purchase  
655 price thereof and the source from whom it was purchased.

656 (ix) **Waste disposal facility construction**  
657 **contracts.** Construction of incinerators and other facilities for  
658 disposal of solid wastes in which products either generated  
659 therein, such as steam, or recovered therefrom, such as materials  
660 for recycling, are to be sold or otherwise disposed of; however,  
661 in constructing such facilities, a governing authority or agency  
662 shall publicly issue requests for proposals, advertised for in the  
663 same manner as provided herein for seeking bids for public  
664 construction projects, concerning the design, construction,  
665 ownership, operation and/or maintenance of such facilities,  
666 wherein such requests for proposals when issued shall contain  
667 terms and conditions relating to price, financial responsibility,  
668 technology, environmental compatibility, legal responsibilities  
669 and such other matters as are determined by the governing  
670 authority or agency to be appropriate for inclusion; and after  
671 responses to the request for proposals have been duly received,



672 the governing authority or agency may select the most qualified  
673 proposal or proposals on the basis of price, technology and other  
674 relevant factors and from such proposals, but not limited to the  
675 terms thereof, negotiate and enter contracts with one or more of  
676 the persons or firms submitting proposals.

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

680           (xi) **Information technology products.** Purchases  
681 of information technology products made by governing authorities  
682 under the provisions of purchase schedules, or contracts executed  
683 or approved by the Mississippi Department of Information  
684 Technology Services and designated for use by governing  
685 authorities.

686           (xii) **Energy efficiency services and equipment.**  
687 Energy efficiency services and equipment acquired by school  
688 districts, community and junior colleges, institutions of higher  
689 learning and state agencies or other applicable governmental  
690 entities on a shared-savings, lease or lease-purchase basis  
691 pursuant to Section 31-7-14.

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



696 (xiv) **Library books and other reference materials.**  
697 Purchases by libraries or for libraries of books and periodicals;  
698 processed film, videocassette tapes, filmstrips and slides;  
699 recorded audiotapes, cassettes and diskettes; and any such items  
700 as would be used for teaching, research or other information  
701 distribution; however, equipment such as projectors, recorders,  
702 audio or video equipment, and monitor televisions are not exempt  
703 under this subparagraph.

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

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

710 (xvii) **Multichannel interactive video systems.**  
711 From and after July 1, 1990, contracts by Mississippi Authority  
712 for Educational Television with any private educational  
713 institution or private nonprofit organization whose purposes are  
714 educational in regard to the construction, purchase, lease or  
715 lease-purchase of facilities and equipment and the employment of  
716 personnel for providing multichannel interactive video systems  
717 (ITSF) in the school districts of this state.

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



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

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

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

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

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

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



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

748 (xxiv) **Purchases of Mississippi Industries for the**  
749 **Blind products.** Purchases made by state agencies or governing  
750 authorities involving any item that is manufactured, processed or  
751 produced by the Mississippi Industries for the Blind.

752 (xxv) **Purchases of state-adopted textbooks.**  
753 Purchases of state-adopted textbooks by public school districts.

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

757 (xxvii) **Used heavy or specialized machinery or**  
758 **equipment for installation of soil and water conservation**  
759 **practices purchased at auction.** Used heavy or specialized  
760 machinery or equipment used for the installation and  
761 implementation of soil and water conservation practices or  
762 measures purchased subject to the restrictions provided in  
763 Sections 69-27-331 through 69-27-341. Any purchase by the State  
764 Soil and Water Conservation Commission under the exemption  
765 authorized by this subparagraph shall require advance  
766 authorization spread upon the minutes of the commission to include  
767 the listing of the item or items authorized to be purchased and  
768 the maximum bid authorized to be paid for each item or items.



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

772                   (xxix) **Purchases made pursuant to qualified**  
773 **cooperative purchasing agreements.** Purchases made by certified  
774 purchasing offices of state agencies or governing authorities  
775 under cooperative purchasing agreements previously approved by the  
776 Office of Purchasing and Travel and established by or for any  
777 municipality, county, parish or state government or the federal  
778 government, provided that the notification to potential  
779 contractors includes a clause that sets forth the availability of  
780 the cooperative purchasing agreement to other governmental  
781 entities. Such purchases shall only be made if the use of the  
782 cooperative purchasing agreements is determined to be in the best  
783 interest of the governmental entity.

784                   (xxx) **School yearbooks.** Purchases of school  
785 yearbooks by state agencies or governing authorities; provided,  
786 however, that state agencies and governing authorities shall use  
787 for these purchases the RFP process as set forth in the  
788 Mississippi Procurement Manual adopted by the Office of Purchasing  
789 and Travel.

790                   (xxxi) **Design-build method and dual-phase**  
791 **design-build method of contracting.** Contracts entered into under  
792 the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.





793 (xxxiii) **Toll roads and bridge construction**  
794 **projects.** Contracts entered into under the provisions of Section  
795 65-43-1 or 65-43-3.

796 (xxxiii) **Certain purchases under Section 57-1-221.**  
797 Contracts entered into pursuant to the provisions of Section  
798 57-1-221.

799 (xxxiv) **Certain transfers made pursuant to the**  
800 **provisions of Section 57-105-1(7).** Transfers of public property  
801 or facilities under Section 57-105-1(7) and construction related  
802 to such public property or facilities.

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

806 (xxxvi) **Certain purchases by an academic medical**  
807 **center or health sciences school.** Purchases by an academic  
808 medical center or health sciences school, as defined in Section  
809 37-115-50, of commodities that are used for clinical purposes and  
810 1. intended for use in the diagnosis of disease or other  
811 conditions or in the cure, mitigation, treatment or prevention of  
812 disease, and 2. medical devices, biological, drugs and  
813 radiation-emitting devices as defined by the United States Food  
814 and Drug Administration.

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



817 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
818 Lottery Law.

819 (n) **Term contract authorization.** All contracts for the  
820 purchase of:

821 (i) All contracts for the purchase of commodities,  
822 equipment and public construction (including, but not limited to,  
823 repair and maintenance), may be let for periods of not more than  
824 sixty (60) months in advance, subject to applicable statutory  
825 provisions prohibiting the letting of contracts during specified  
826 periods near the end of terms of office. Term contracts for a  
827 period exceeding twenty-four (24) months shall also be subject to  
828 ratification or cancellation by governing authority boards taking  
829 office subsequent to the governing authority board entering the  
830 contract.

831 (ii) Bid proposals and contracts may include price  
832 adjustment clauses with relation to the cost to the contractor  
833 based upon a nationally published industry-wide or nationally  
834 published and recognized cost index. The cost index used in a  
835 price adjustment clause shall be determined by the Department of  
836 Finance and Administration for the state agencies and by the  
837 governing board for governing authorities. The bid proposal and  
838 contract documents utilizing a price adjustment clause shall  
839 contain the basis and method of adjusting unit prices for the  
840 change in the cost of such commodities, equipment and public  
841 construction.



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

857                   (p)   **Electrical utility petroleum-based equipment**  
858 **purchase procedure.** When in response to a proper advertisement  
859 therefor, no bid firm as to price is submitted to an electric  
860 utility for power transformers, distribution transformers, power  
861 breakers, reclosers or other articles containing a petroleum  
862 product, the electric utility may accept the lowest and best bid  
863 therefor although the price is not firm.

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



867 fuel access system, enter into negotiations with not fewer than  
868 two (2) sellers of fuel management or fuel access systems for  
869 competitive written bids to provide the services and products for  
870 the systems. In the event that the governing authority or agency  
871 cannot locate two (2) sellers of such systems or cannot obtain  
872 bids from two (2) sellers of such systems, it shall show proof  
873 that it made a diligent, good-faith effort to locate and negotiate  
874 with two (2) sellers of such systems. Such proof shall include,  
875 but not be limited to, publications of a request for proposals and  
876 letters soliciting negotiations and bids. For purposes of this  
877 paragraph (q), a fuel management or fuel access system is an  
878 automated system of acquiring fuel for vehicles as well as  
879 management reports detailing fuel use by vehicles and drivers, and  
880 the term "competitive written bid" shall have the meaning as  
881 defined in paragraph (b) of this section. Governing authorities  
882 and agencies shall be exempt from this process when contracting  
883 for the services and products of fuel management or fuel access  
884 systems under the terms of a state contract established by the  
885 Office of Purchasing and Travel.

886 (r) **Solid waste contract proposal procedure.** Before  
887 entering into any contract for garbage collection or disposal,  
888 contract for solid waste collection or disposal or contract for  
889 sewage collection or disposal, which involves an expenditure of  
890 more than Fifty Thousand Dollars (\$50,000.00), a governing  
891 authority or agency shall issue publicly a request for proposals



892 concerning the specifications for such services which shall be  
893 advertised for in the same manner as provided in this section for  
894 seeking bids for purchases which involve an expenditure of more  
895 than the amount provided in paragraph (c) of this section. Any  
896 request for proposals when issued shall contain terms and  
897 conditions relating to price, financial responsibility,  
898 technology, legal responsibilities and other relevant factors as  
899 are determined by the governing authority or agency to be  
900 appropriate for inclusion; all factors determined relevant by the  
901 governing authority or agency or required by this paragraph (r)  
902 shall be duly included in the advertisement to elicit proposals.  
903 After responses to the request for proposals have been duly  
904 received, the governing authority or agency shall select the most  
905 qualified proposal or proposals on the basis of price, technology  
906 and other relevant factors and from such proposals, but not  
907 limited to the terms thereof, negotiate and enter into contracts  
908 with one or more of the persons or firms submitting proposals. If  
909 the governing authority or agency deems none of the proposals to  
910 be qualified or otherwise acceptable, the request for proposals  
911 process may be reinitiated. Notwithstanding any other provisions  
912 of this paragraph, where a county with at least thirty-five  
913 thousand (35,000) nor more than forty thousand (40,000)  
914 population, according to the 1990 federal decennial census, owns  
915 or operates a solid waste landfill, the governing authorities of  
916 any other county or municipality may contract with the governing



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

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

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



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

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

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

949 (t) **Construction punch list restriction.** The  
950 architect, engineer or other representative designated by the  
951 agency or governing authority that is contracting for public  
952 construction or renovation may prepare and submit to the  
953 contractor only one (1) preliminary punch list of items that do  
954 not meet the contract requirements at the time of substantial  
955 completion and one (1) final list immediately before final  
956 completion and final payment.

957 (u) **Procurement of construction services by state**  
958 **institutions of higher learning.** Contracts for privately financed  
959 construction of auxiliary facilities on the campus of a state  
960 institution of higher learning may be awarded by the Board of  
961 Trustees of State Institutions of Higher Learning to the lowest  
962 and best bidder, where sealed bids are solicited, or to the  
963 offeror whose proposal is determined to represent the best value  
964 to the citizens of the State of Mississippi, where requests for  
965 proposals are solicited.



966 (v) **Insurability of bidders for public construction or**  
967 **other public contracts.** In any solicitation for bids to perform  
968 public construction or other public contracts to which this  
969 section applies, including, but not limited to, contracts for  
970 repair and maintenance, for which the contract will require  
971 insurance coverage in an amount of not less than One Million  
972 Dollars (\$1,000,000.00), bidders shall be permitted to either  
973 submit proof of current insurance coverage in the specified amount  
974 or demonstrate ability to obtain the required coverage amount of  
975 insurance if the contract is awarded to the bidder. Proof of  
976 insurance coverage shall be submitted within five (5) business  
977 days from bid acceptance.

978 (w) **Purchase authorization clarification.** Nothing in  
979 this section shall be construed as authorizing any purchase not  
980 authorized by law.

981 **SECTION 3.** In order for the county's financial records to  
982 fairly represent the financial condition of the county as of the  
983 date of the external audit, the clerk of the board of supervisors  
984 or, where applicable, the county administrator shall record into  
985 the county's accounting system the year-end adjusting accounting  
986 entries recommended by the county's external independent financial  
987 auditors selected by the Office of the State Auditor. If the  
988 clerk of the board of supervisors or, where applicable, the county  
989 administrator declines to make any year-end adjusting accounting  
990 entries recommended by the external financial auditors, the board





991 of supervisors shall spread upon the board's minutes the reasons  
992 why the recommended year-end accounting entries were not entered  
993 into the county's accounting system and the impact that not  
994 including the recommended year-end accounting entries in the  
995 county's financial records will have regarding the fair  
996 representation of the financial condition of the county.

997         **SECTION 4.** This act shall take effect and be in force from  
998 and after July 1, 2021.

