

## REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2486: Proposals and requests for qualifications; simplify the receipt and registration process.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

22           **SECTION 1.** Section 31-7-417, Mississippi Code of 1972, is  
23 amended as follows:

24           31-7-417. \* \* \* Submitted proposals or qualifications shall  
25 be opened at the time designated for opening in the request for  
26 proposals or request for qualifications. Proposals or  
27 qualifications and modifications shall be date-stamped or time and  
28 date-stamped upon receipt and held in a secure place until the  
29 established due date. Electronic proposals or qualifications  
30 received will be stored in an electronic lockbox until the time  
31 designated for the opening of the proposal or qualification.

32           \* \* \*

33           **SECTION 2.** Section 25-61-5, Mississippi Code of 1972, as  
34 amended by Senate Bill 2308 of the 2024 Legislative Session, is  
35 amended as follows:



36           25-61-5. (1) (a) Except as otherwise provided by Sections  
37 25-61-9, 25-61-11, 25-61-11.2 and 37-153-7, all public records are  
38 hereby declared to be public property, and any person shall have  
39 the right to inspect, copy or mechanically reproduce or obtain a  
40 reproduction of any public record of a public body in accordance  
41 with reasonable written procedures adopted by the public body  
42 concerning the cost, time, place and method of access, and public  
43 notice of the procedures shall be given by the public body, or, if  
44 a public body has not adopted written procedures, the right to  
45 inspect, copy or mechanically reproduce or obtain a reproduction  
46 of a public record of the public body shall be provided within one  
47 (1) working day after a written request for a public record is  
48 made. No public body shall adopt procedures which will authorize  
49 the public body to produce or deny production of a public record  
50 later than seven (7) working days from the date of the receipt of  
51 the request for the production of the record.

52           (b) If a public body is unable to produce a public  
53 record by the seventh working day after the request is made, the  
54 public body must provide a written explanation to the person  
55 making the request stating that the record requested will be  
56 produced and specifying with particularity why the records cannot  
57 be produced within the seven-day period. Unless there is mutual  
58 agreement of the parties, \* \* \* in no event shall the date for the  
59 public body's production of the requested records be any later



60 than fourteen (14) working days from the receipt by the public  
61 body of the original request. \* \* \*

62 (2) If any public record contains material which is not  
63 exempted under this chapter, the public agency shall redact the  
64 exempted material and make the nonexempted material available for  
65 examination. Such public agency shall be entitled to charge a  
66 reasonable fee for the redaction of any exempted material, not to  
67 exceed the agency's actual cost.

68 (3) Denial by a public body of a request for access to or  
69 copies of public records under this chapter shall be in writing  
70 and shall contain a statement of the specific exemption relied  
71 upon by the public body for the denial. Each public body shall  
72 maintain a file of all denials of requests for public records.  
73 Public bodies shall be required to preserve such denials on file  
74 for not less than three (3) years from the date such denials are  
75 made. This file shall be made available for inspection or  
76 copying, or both, during regular office hours to any person upon  
77 written request.

78 (4) Where any public body is preparing or conducting a  
79 competitive procurement, the time limitations contained in this  
80 section shall be tolled until the public body determines it will  
81 not issue the procurement, cancels the procurement or issues a  
82 notice naming its intended awardee.

83 (5) This section shall stand repealed on July 1, 2028.



84           **SECTION 3.** Section 25-61-9, Mississippi Code of 1972, is  
85 brought forward as follows:

86           25-61-9. (1) (a) Records furnished to public bodies by  
87 third parties which contain trade secrets or confidential  
88 commercial or financial information shall not be subject to  
89 inspection, examination, copying or reproduction under this  
90 chapter until notice to third parties has been given, but the  
91 records shall be released no later than twenty-one (21) days from  
92 the date the third parties are given notice by the public body  
93 unless the third parties have filed in chancery court a petition  
94 seeking a protective order on or before the expiration of the  
95 twenty-one-day time period. Any party seeking the protective  
96 order shall give notice to the party requesting the information in  
97 accordance with the Mississippi Rules of Civil Procedure.

98           (b) If a court determines that a person or entity has  
99 made duplicative requests for public records that are the subject  
100 of a protective order under paragraph (a) of this subsection, the  
101 court shall order the requesting person or entity to reimburse the  
102 third party's costs and attorney's fees for seeking additional  
103 protective orders for the same or substantially similar requests  
104 for public records.

105           (2) If any public record which is held to be exempt from  
106 disclosure pursuant to this chapter contains material which is not  
107 exempt pursuant to this chapter, the public body shall separate



108 the exempt material and make the nonexempt material available for  
109 examination or copying, or both, as provided for in this chapter.

110 (3) Trade secrets and confidential commercial and financial  
111 information of a proprietary nature developed by a college,  
112 university or public hospital under contract with a firm,  
113 business, partnership, association, corporation, individual or  
114 other like entity shall not be subject to inspection, examination,  
115 copying or reproduction under this chapter.

116 (4) Misappropriation of a trade secret shall be governed by  
117 the provisions of the Mississippi Uniform Trade Secrets Act,  
118 Sections 75-26-1 through 75-26-19.

119 (5) A waste minimization plan and any updates developed by  
120 generators and facility operators under the Mississippi  
121 Comprehensive Multimedia Waste Minimization Act of 1990 shall be  
122 retained at the facility and shall not be subject to inspection,  
123 examination, copying or reproduction under this chapter.

124 (6) Data processing software obtained by an agency under a  
125 licensing agreement that prohibits its disclosure and which  
126 software is a trade secret, as defined in Section 75-26-3, and  
127 data processing software produced by a public body which is  
128 sensitive must not be subject to inspection, copying or  
129 reproduction under this chapter.

130 As used in this subsection, "sensitive" means only those  
131 portions of data processing software, including the specifications  
132 and documentation, used to:



133 (a) Collect, process, store, and retrieve information  
134 which is exempt under this chapter.

135 (b) Control and direct access authorizations and  
136 security measures for automated systems.

137 (c) Collect, process, store, and retrieve information,  
138 disclosure of which would require a significant intrusion into the  
139 business of the public body.

140 (7) For all procurement contracts awarded by state agencies,  
141 the provisions of the contract which contain the commodities  
142 purchased or the personal or professional services provided, the  
143 unit prices contained within the procurement contracts, the  
144 overall price to be paid, and the term of the contract shall not  
145 be deemed to be a trade secret or confidential commercial or  
146 financial information under this section, and shall be available  
147 for examination, copying or reproduction as provided for in this  
148 chapter. Any party seeking a protective order for a procurement  
149 contract awarded by state agencies shall give notice to and  
150 provide the reasons for the protective order to the party  
151 requesting the information in accordance with the Mississippi  
152 Rules of Civil Procedure. The notice and reasons for the  
153 protective order must be posted on the Mississippi procurement  
154 portal for a minimum of seven (7) days before filing the petition  
155 seeking the protective order in chancery court. Any party seeking  
156 a protective order in violation of this subsection may be barred  
157 by a state agency from submitting bids, proposals or



158 qualifications for procurement for a period not to exceed five (5)  
159 years.

160 **SECTION 4.** Section 31-7-13, Mississippi Code of 1972, is  
161 amended as follows:

162 31-7-13. All agencies and governing authorities shall  
163 purchase their commodities and printing; contract for garbage  
164 collection or disposal; contract for solid waste collection or  
165 disposal; contract for sewage collection or disposal; contract for  
166 public construction; and contract for rentals as herein provided.

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

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

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

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

176 **not over \$75,000.00.** Purchases which involve an expenditure of  
177 more than Five Thousand Dollars (\$5,000.00) but not more than  
178 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight  
179 and shipping charges, may be made from the lowest and best bidder  
180 without publishing or posting advertisement for bids, provided at  
181 least two (2) competitive written bids have been obtained. Any  
182 state agency or community or junior college purchasing commodities



183 or procuring construction pursuant to this paragraph (b) may  
184 authorize its purchasing agent, or his designee, to accept the  
185 lowest competitive written bid under Seventy-five Thousand Dollars  
186 (\$75,000.00). Any governing authority purchasing commodities  
187 pursuant to this paragraph (b) may authorize its purchasing agent,  
188 or his designee, with regard to governing authorities other than  
189 counties, or its purchase clerk, or his designee, with regard to  
190 counties, to accept the lowest and best competitive written bid.  
191 Such authorization shall be made in writing by the governing  
192 authority and shall be maintained on file in the primary office of  
193 the agency and recorded in the official minutes of the governing  
194 authority, as appropriate. The purchasing agent or the purchase  
195 clerk, or his designee, as the case may be, and not the governing  
196 authority, shall be liable for any penalties and/or damages as may  
197 be imposed by law for any act or omission of the purchasing agent  
198 or purchase clerk, or his designee, constituting a violation of  
199 law in accepting any bid without approval by the governing  
200 authority. The term "competitive written bid" shall mean a bid  
201 submitted on a bid form furnished by the buying agency or  
202 governing authority and signed by authorized personnel  
203 representing the vendor, or a bid submitted on a vendor's  
204 letterhead or identifiable bid form and signed by authorized  
205 personnel representing the vendor. "Competitive" shall mean that  
206 the bids are developed based upon comparable identification of the  
207 needs and are developed independently and without knowledge of





208 other bids or prospective bids. Any bid item for construction in  
209 excess of Five Thousand Dollars (\$5,000.00) shall be broken down  
210 by components to provide detail of component description and  
211 pricing. These details shall be submitted with the written bids  
212 and become part of the bid evaluation criteria. Bids may be  
213 submitted by facsimile, electronic mail or other generally  
214 accepted method of information distribution. Bids submitted by  
215 electronic transmission shall not require the signature of the  
216 vendor's representative unless required by agencies or governing  
217 authorities.

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

219 (i) **Publication requirement.**

220 1. Purchases which involve an expenditure of  
221 more than Seventy-five Thousand Dollars (\$75,000.00), exclusive of  
222 freight and shipping charges, may be made from the lowest and best  
223 bidder after advertising for competitive bids once each week for  
224 two (2) consecutive weeks in a regular newspaper published in the  
225 county or municipality in which such agency or governing authority  
226 is located. However, all American Recovery and Reinvestment Act  
227 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)  
228 shall be bid. All references to American Recovery and  
229 Reinvestment Act projects in this section shall not apply to  
230 programs identified in Division B of the American Recovery and  
231 Reinvestment Act.



232                   2. Reverse auctions shall be the primary  
233 method for receiving bids during the bidding process. If a  
234 purchasing entity determines that a reverse auction is not in the  
235 best interest of the state, then that determination must be  
236 approved by the Public Procurement Review Board. The purchasing  
237 entity shall submit a detailed explanation of why a reverse  
238 auction would not be in the best interest of the state and present  
239 an alternative process to be approved by the Public Procurement  
240 Review Board. If the Public Procurement Review Board authorizes  
241 the purchasing entity to solicit bids with a method other than  
242 reverse auction, then the purchasing entity may designate the  
243 other methods by which the bids will be received, including, but  
244 not limited to, bids sealed in an envelope, bids received  
245 electronically in a secure system, or bids received by any other  
246 method that promotes open competition and has been approved by the  
247 Office of Purchasing and Travel. However, reverse auction shall  
248 not be used for any public contract for design, construction,  
249 improvement, repair or remodeling of any public facilities,  
250 including the purchase of materials, supplies, equipment or goods  
251 for same and including buildings, roads and bridges. The Public  
252 Procurement Review Board must approve any contract entered into by  
253 alternative process. The provisions of this item 2 shall not  
254 apply to the individual state institutions of higher learning.  
255 The provisions of this item 2 requiring reverse auction as the  
256 primary method of receiving bids shall not apply to term contract



257 purchases as provided in paragraph (n) of this section; however, a  
258 purchasing entity may, in its discretion, utilize reverse auction  
259 for such purchases. The provisions of this item 2 shall not apply  
260 to individual public schools, including public charter schools and  
261 public school districts, only when purchasing copyrighted  
262 educational supplemental materials and software as a service  
263 product. For such purchases, a local school board may authorize a  
264 purchasing entity in its jurisdiction to use a Request for  
265 Qualifications which promotes open competition and meets the  
266 requirements of the Office of Purchasing and Travel.

267                   3. The date as published for the bid opening  
268 shall not be less than seven (7) working days after the last  
269 published notice; however, if the purchase involves a construction  
270 project in which the estimated cost is in excess of Seventy-five  
271 Thousand Dollars (\$75,000.00), such bids shall not be opened in  
272 less than fifteen (15) working days after the last notice is  
273 published and the notice for the purchase of such construction  
274 shall be published once each week for two (2) consecutive weeks.  
275 However, all American Recovery and Reinvestment Act projects in  
276 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.  
277 For any projects in excess of Twenty-five Thousand Dollars  
278 (\$25,000.00) under the American Recovery and Reinvestment Act,  
279 publication shall be made one (1) time and the bid opening for  
280 construction projects shall not be less than ten (10) working days  
281 after the date of the published notice. The notice of intention



282 to let contracts or purchase equipment shall state the time and  
283 place at which bids shall be received, list the contracts to be  
284 made or types of equipment or supplies to be purchased, and, if  
285 all plans and/or specifications are not published, refer to the  
286 plans and/or specifications on file. If there is no newspaper  
287 published in the county or municipality, then such notice shall be  
288 given by posting same at the courthouse, or for municipalities at  
289 the city hall, and at two (2) other public places in the county or  
290 municipality, and also by publication once each week for two (2)  
291 consecutive weeks in some newspaper having a general circulation  
292 in the county or municipality in the above-provided manner. On  
293 the same date that the notice is submitted to the newspaper for  
294 publication, the agency or governing authority involved shall mail  
295 written notice to, or provide electronic notification to the main  
296 office of the Mississippi Procurement Technical Assistance Program  
297 under the Mississippi Development Authority that contains the same  
298 information as that in the published notice. Submissions received  
299 by the Mississippi Procurement Technical Assistance Program for  
300 projects funded by the American Recovery and Reinvestment Act  
301 shall be displayed on a separate and unique Internet web page  
302 accessible to the public and maintained by the Mississippi  
303 Development Authority for the Mississippi Procurement Technical  
304 Assistance Program. Those American Recovery and Reinvestment Act  
305 related submissions shall be publicly posted within twenty-four  
306 (24) hours of receipt by the Mississippi Development Authority and



307 the bid opening shall not occur until the submission has been  
308 posted for ten (10) consecutive days. The Department of Finance  
309 and Administration shall maintain information regarding contracts  
310 and other expenditures from the American Recovery and Reinvestment  
311 Act, on a unique Internet web page accessible to the public. The  
312 Department of Finance and Administration shall promulgate rules  
313 regarding format, content and deadlines, unless otherwise  
314 specified by law, of the posting of award notices, contract  
315 execution and subsequent amendments, links to the contract  
316 documents, expenditures against the awarded contracts and general  
317 expenditures of funds from the American Recovery and Reinvestment  
318 Act. Within one (1) working day of the contract award, the agency  
319 or governing authority shall post to the designated web page  
320 maintained by the Department of Finance and Administration, notice  
321 of the award, including the award recipient, the contract amount,  
322 and a brief summary of the contract in accordance with rules  
323 promulgated by the department. Within one (1) working day of the  
324 contract execution, the agency or governing authority shall post  
325 to the designated web page maintained by the Department of Finance  
326 and Administration a summary of the executed contract and make a  
327 copy of the appropriately redacted contract documents available  
328 for linking to the designated web page in accordance with the  
329 rules promulgated by the department. The information provided by  
330 the agency or governing authority shall be posted to the web page



331 for the duration of the American Recovery and Reinvestment Act  
332 funding or until the project is completed, whichever is longer.

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

349 (iii) **Filing requirement.** In all cases involving  
350 governing authorities, before the notice shall be published or  
351 posted, the plans or specifications for the construction or  
352 equipment being sought shall be filed with the clerk of the board  
353 of the governing authority. In addition to these requirements, a  
354 bid file shall be established which shall indicate those vendors  
355 to whom such solicitations and specifications were issued, and



356 such file shall also contain such information as is pertinent to  
357 the bid.

358 (iv) **Specification restrictions.**

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

375 2. Specifications for construction projects  
376 may include an allowance for commodities, equipment, furniture,  
377 construction materials or systems in which prospective bidders are  
378 instructed to include in their bids specified amounts for such  
379 items so long as the allowance items are acquired by the vendor in  
380 a commercially reasonable manner and approved by the



381 agency/governing authority. Such acquisitions shall not be made  
382 to circumvent the public purchasing laws.

383 (v) **Electronic bids.** Agencies and governing  
384 authorities shall provide a secure electronic interactive system  
385 for the submittal of bids requiring competitive bidding that shall  
386 be an additional bidding option for those bidders who choose to  
387 submit their bids electronically. The Department of Finance and  
388 Administration shall provide, by regulation, the standards that  
389 agencies must follow when receiving electronic bids. Agencies and  
390 governing authorities shall make the appropriate provisions  
391 necessary to accept electronic bids from those bidders who choose  
392 to submit their bids electronically for all purchases requiring  
393 competitive bidding under this section. Any special condition or  
394 requirement for the electronic bid submission shall be specified  
395 in the advertisement for bids required by this section. Agencies  
396 or governing authorities that are currently without available high  
397 speed Internet access shall be exempt from the requirement of this  
398 subparagraph (v) until such time that high speed Internet access  
399 becomes available. Any county having a population of less than  
400 twenty thousand (20,000) shall be exempt from the provisions of  
401 this subparagraph (v). Any municipality having a population of  
402 less than ten thousand (10,000) shall be exempt from the  
403 provisions of this subparagraph (v). The provisions of this  
404 subparagraph (v) shall not require any bidder to submit bids  
405 electronically. When construction bids are submitted





406 electronically, the requirement for including a certificate of  
407 responsibility, or a statement that the bid enclosed does not  
408 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the  
409 bid envelope as indicated in Section 31-3-21(1) and (2) shall be  
410 deemed in compliance with by including same as an attachment with  
411 the electronic bid submittal.

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

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

428 (ii) **Decision procedure for Certified Purchasing**  
429 **Offices.** In addition to the decision procedure set forth in  
430 subparagraph (i) of this paragraph (d), Certified Purchasing



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

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

447 **Landmarks.** In addition to the decision procedure set forth in  
448 subparagraph (i) of this paragraph (d), where purchase involves  
449 renovation, restoration, or both, of the State Capitol Building or  
450 any other historical building designated for at least five (5)  
451 years as a Mississippi Landmark by the Board of Trustees of the  
452 Department of Archives and History under the authority of Sections  
453 39-7-7 and 39-7-11, the agency or governing authority may use the  
454 following procedure: Purchases may be made from the lowest and  
455 best prequalified bidder. Prequalification of bidders shall be



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

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

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



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



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

528 (f) **Alternate bid authorization.** When necessary to  
529 ensure ready availability of commodities for public works and the



530 timely completion of public projects, no more than two (2)  
531 alternate bids may be accepted by a governing authority for  
532 commodities. No purchases may be made through use of such  
533 alternate bids procedure unless the lowest and best bidder cannot  
534 deliver the commodities contained in his bid. In that event,  
535 purchases of such commodities may be made from one (1) of the  
536 bidders whose bid was accepted as an alternate.

537           (g) **Construction contract change authorization.** In the  
538 event a determination is made by an agency or governing authority  
539 after a construction contract is let that changes or modifications  
540 to the original contract are necessary or would better serve the  
541 purpose of the agency or the governing authority, such agency or  
542 governing authority may, in its discretion, order such changes  
543 pertaining to the construction that are necessary under the  
544 circumstances without the necessity of further public bids;  
545 provided that such change shall be made in a commercially  
546 reasonable manner and shall not be made to circumvent the public  
547 purchasing statutes. In addition to any other authorized person,  
548 the architect or engineer hired by an agency or governing  
549 authority with respect to any public construction contract shall  
550 have the authority, when granted by an agency or governing  
551 authority, to authorize changes or modifications to the original  
552 contract without the necessity of prior approval of the agency or  
553 governing authority when any such change or modification is less  
554 than one percent (1%) of the total contract amount. The agency or



555 governing authority may limit the number, manner or frequency of  
556 such emergency changes or modifications.

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

574           (i) **Road construction petroleum products price**  
575 **adjustment clause authorization.** Any agency or governing  
576 authority authorized to enter into contracts for the construction,  
577 maintenance, surfacing or repair of highways, roads or streets,  
578 may include in its bid proposal and contract documents a price  
579 adjustment clause with relation to the cost to the contractor,



580 including taxes, based upon an industry-wide cost index, of  
581 petroleum products including asphalt used in the performance or  
582 execution of the contract or in the production or manufacture of  
583 materials for use in such performance. Such industry-wide index  
584 shall be established and published monthly by the Mississippi  
585 Department of Transportation with a copy thereof to be mailed,  
586 upon request, to the clerks of the governing authority of each  
587 municipality and the clerks of each board of supervisors  
588 throughout the state. The price adjustment clause shall be based  
589 on the cost of such petroleum products only and shall not include  
590 any additional profit or overhead as part of the adjustment. The  
591 bid proposals or document contract shall contain the basis and  
592 methods of adjusting unit prices for the change in the cost of  
593 such petroleum products.

594 (j) **State agency emergency purchase procedure.** If the  
595 governing board or the executive head, or his designees, of any  
596 agency of the state shall determine that an emergency exists in  
597 regard to the purchase of any commodities or repair contracts, so  
598 that the delay incident to giving opportunity for competitive  
599 bidding would be detrimental to the interests of the state, then  
600 the head of such agency, or his designees, shall file with the  
601 Department of Finance and Administration (i) a statement  
602 explaining the conditions and circumstances of the emergency,  
603 which shall include a detailed description of the events leading  
604 up to the situation and the negative impact to the entity if the





605 purchase is made following the statutory requirements set forth in  
606 paragraph (a), (b) or (c) of this section, and (ii) a certified  
607 copy of the appropriate minutes of the board of such agency  
608 requesting the emergency purchase, if applicable. Upon receipt of  
609 the statement and applicable board certification, the State Fiscal  
610 Officer, or his designees, may, in writing, authorize the purchase  
611 or repair without having to comply with competitive bidding  
612 requirements.

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

625         Total purchases made under this paragraph (j) shall only be  
626 for the purpose of meeting needs created by the emergency  
627 situation. Following the emergency purchase, documentation of the  
628 purchase, including a description of the commodity purchased, the  
629 purchase price thereof and the nature of the emergency shall be



630 filed with the Department of Finance and Administration. Any  
631 contract awarded pursuant to this paragraph (j) shall not exceed a  
632 term of one (1) year.

633 Purchases under the grant program established under Section  
634 37-68-7 in response to COVID-19 and the directive that school  
635 districts create a distance learning plan and fulfill technology  
636 needs expeditiously shall be deemed an emergency purchase for  
637 purposes of this paragraph (j).

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

639 If the governing authority, or the governing authority acting  
640 through its designee, shall determine that an emergency exists in  
641 regard to the purchase of any commodities or repair contracts, so  
642 that the delay incident to giving opportunity for competitive  
643 bidding would be detrimental to the interest of the governing  
644 authority, then the provisions herein for competitive bidding  
645 shall not apply and any officer or agent of such governing  
646 authority having general or special authority therefor in making  
647 such purchase or repair shall approve the bill presented therefor,  
648 and he shall certify in writing thereon from whom such purchase  
649 was made, or with whom such a repair contract was made. At the  
650 board meeting next following the emergency purchase or repair  
651 contract, documentation of the purchase or repair contract,  
652 including a description of the commodity purchased, the price  
653 thereof and the nature of the emergency shall be presented to the  
654 board and shall be placed on the minutes of the board of such



655 governing authority. Purchases under the grant program  
656 established under Section 37-68-7 in response to COVID-19 and the  
657 directive that school districts create a distance learning plan  
658 and fulfill technology needs expeditiously shall be deemed an  
659 emergency purchase for purposes of this paragraph (k).

660 (1) **Hospital purchase, lease-purchase and lease**  
661 **authorization.**

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

667 (ii) In addition to the authority granted in  
668 subparagraph (i) of this paragraph (1), the commissioners or board  
669 of trustees is authorized to enter into contracts for the lease of  
670 equipment or services, or both, which it considers necessary for  
671 the proper care of patients if, in its opinion, it is not  
672 financially feasible to purchase the necessary equipment or  
673 services. Any such contract for the lease of equipment or  
674 services executed by the commissioners or board shall not exceed a  
675 maximum of five (5) years' duration and shall include a  
676 cancellation clause based on unavailability of funds. If such  
677 cancellation clause is exercised, there shall be no further  
678 liability on the part of the lessee. Any such contract for the  
679 lease of equipment or services executed on behalf of the



680 commissioners or board that complies with the provisions of this  
681 subparagraph (ii) shall be excepted from the bid requirements set  
682 forth in this section.

683 (m) **Exceptions from bidding requirements.** Excepted  
684 from bid requirements are:

685 (i) **Purchasing agreements approved by department.**  
686 Purchasing agreements, contracts and maximum price regulations  
687 executed or approved by the Department of Finance and  
688 Administration.

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

700 (iii) **In-house equipment repairs.** Purchases of  
701 parts for repairs to equipment, when such repairs are made by  
702 personnel of the agency or governing authority; however, entire  
703 assemblies, such as engines or transmissions, shall not be



704 included in this exemption when the entire assembly is being  
705 replaced instead of being repaired.

706                   (iv) **Raw gravel or dirt.** Raw unprocessed deposits  
707 of gravel or fill dirt which are to be removed and transported by  
708 the purchaser.

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

720                   (vi) **Intergovernmental sales and transfers.**  
721 Purchases, sales, transfers or trades by governing authorities or  
722 state agencies when such purchases, sales, transfers or trades are  
723 made by a private treaty agreement or through means of  
724 negotiation, from any federal agency or authority, another  
725 governing authority or state agency of the State of Mississippi,  
726 or any state agency or governing authority of another state.  
727 Nothing in this section shall permit such purchases through public  
728 auction except as provided for in subparagraph (v) of this



729 paragraph (m). It is the intent of this section to allow  
730 governmental entities to dispose of and/or purchase commodities  
731 from other governmental entities at a price that is agreed to by  
732 both parties. This shall allow for purchases and/or sales at  
733 prices which may be determined to be below the market value if the  
734 selling entity determines that the sale at below market value is  
735 in the best interest of the taxpayers of the state. Governing  
736 authorities shall place the terms of the agreement and any  
737 justification on the minutes, and state agencies shall obtain  
738 approval from the Department of Finance and Administration, prior  
739 to releasing or taking possession of the commodities.

740 (vii) **Perishable supplies or food.** Perishable  
741 supplies or food purchased for use in connection with hospitals,  
742 the school lunch programs, homemaking programs and for the feeding  
743 of county or municipal prisoners.

744 (viii) **Single-source items.** Noncompetitive items  
745 available from one (1) source only. In connection with the  
746 purchase of noncompetitive items only available from one (1)  
747 source, a certification of the conditions and circumstances  
748 requiring the purchase shall be filed by the agency with the  
749 Department of Finance and Administration and by the governing  
750 authority with the board of the governing authority. Upon receipt  
751 of that certification the Department of Finance and Administration  
752 or the board of the governing authority, as the case may be, may,  
753 in writing, authorize the purchase, which authority shall be noted



754 on the minutes of the body at the next regular meeting thereafter.  
755 In those situations, a governing authority is not required to  
756 obtain the approval of the Department of Finance and  
757 Administration. Following the purchase, the executive head of the  
758 state agency, or his designees, shall file with the Department of  
759 Finance and Administration, documentation of the purchase,  
760 including a description of the commodity purchased, the purchase  
761 price thereof and the source from whom it was purchased.

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

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



779 proposal or proposals on the basis of price, technology and other  
780 relevant factors and from such proposals, but not limited to the  
781 terms thereof, negotiate and enter contracts with one or more of  
782 the persons or firms submitting proposals.

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

786                   (xi) **Information technology products.** Purchases  
787 of information technology products made by governing authorities  
788 under the provisions of purchase schedules, or contracts executed  
789 or approved by the Mississippi Department of Information  
790 Technology Services and designated for use by governing  
791 authorities.

792                   (xii) **Energy efficiency services and equipment.**  
793 Energy efficiency services and equipment acquired by school  
794 districts, community and junior colleges, institutions of higher  
795 learning and state agencies or other applicable governmental  
796 entities on a shared-savings, lease or lease-purchase basis  
797 pursuant to Section 31-7-14.

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

802                   (xiv) **Library books and other reference materials.**  
803 Purchases by libraries or for libraries of books and periodicals;





804 processed film, videocassette tapes, filmstrips and slides;  
805 recorded audiotapes, cassettes and diskettes; and any such items  
806 as would be used for teaching, research or other information  
807 distribution; however, equipment such as projectors, recorders,  
808 audio or video equipment, and monitor televisions are not exempt  
809 under this subparagraph.

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

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

816 (xvii) **Multichannel interactive video systems.**  
817 From and after July 1, 1990, contracts by Mississippi Authority  
818 for Educational Television with any private educational  
819 institution or private nonprofit organization whose purposes are  
820 educational in regard to the construction, purchase, lease or  
821 lease-purchase of facilities and equipment and the employment of  
822 personnel for providing multichannel interactive video systems  
823 (ITSF) in the school districts of this state.

824 (xviii) **Purchases of prison industry products by**  
825 **the Department of Corrections, regional correctional facilities or**  
826 **privately owned prisons.** Purchases made by the Mississippi  
827 Department of Corrections, regional correctional facilities or



828 privately owned prisons involving any item that is manufactured,  
829 processed, grown or produced from the state's prison industries.

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

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

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

844 (xxii) **Garbage, solid waste and sewage contracts.**  
845 Contracts for garbage collection or disposal, contracts for solid  
846 waste collection or disposal and contracts for sewage collection  
847 or disposal.

848 (xxiii) **Municipal water tank maintenance**  
849 **contracts.** Professional maintenance program contracts for the  
850 repair or maintenance of municipal water tanks, which provide  
851 professional services needed to maintain municipal water storage



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

854                   (xxiv) **Purchases of Mississippi Industries for the**  
855 **Blind products or services.** Purchases made by state agencies or  
856 governing authorities involving any item that is manufactured,  
857 processed or produced by, or any services provided by, the  
858 Mississippi Industries for the Blind.

859                   (xxv) **Purchases of state-adopted textbooks.**  
860 Purchases of state-adopted textbooks by public school districts.

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

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



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

879 (xxix) **Purchases made pursuant to qualified**  
880 **cooperative purchasing agreements.** Purchases made by certified  
881 purchasing offices of state agencies or governing authorities  
882 under cooperative purchasing agreements previously approved by the  
883 Office of Purchasing and Travel and established by or for any  
884 municipality, county, parish or state government or the federal  
885 government, provided that the notification to potential  
886 contractors includes a clause that sets forth the availability of  
887 the cooperative purchasing agreement to other governmental  
888 entities. Such purchases shall only be made if the use of the  
889 cooperative purchasing agreements is determined to be in the best  
890 interest of the governmental entity.

891 (xxx) **School yearbooks.** Purchases of school  
892 yearbooks by state agencies or governing authorities; however,  
893 state agencies and governing authorities shall use for these  
894 purchases the RFP process as set forth in the Mississippi  
895 Procurement Manual adopted by the Office of Purchasing and Travel.

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



899 (xxxiii) **Toll roads and bridge construction**  
900 **projects.** Contracts entered into under the provisions of Section  
901 65-43-1 or 65-43-3.

902 (xxxiii) **Certain purchases under Section 57-1-221.**  
903 Contracts entered into pursuant to the provisions of Section  
904 57-1-221.

905 (xxxiv) **Certain transfers made pursuant to the**  
906 **provisions of Section 57-105-1(7).** Transfers of public property  
907 or facilities under Section 57-105-1(7) and construction related  
908 to such public property or facilities.

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

912 (xxxvi) **Certain purchases by an academic medical**  
913 **center or health sciences school.** Purchases by an academic  
914 medical center or health sciences school, as defined in Section  
915 37-115-50, of commodities that are used for clinical purposes and  
916 1. intended for use in the diagnosis of disease or other  
917 conditions or in the cure, mitigation, treatment or prevention of  
918 disease, and 2. medical devices, biological, drugs and  
919 radiation-emitting devices as defined by the United States Food  
920 and Drug Administration.

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



923 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi  
924 Lottery Law.

925 (xxxviii) **Certain purchases made by the Department**  
926 **of Health and the Department of Revenue.** Purchases made by the  
927 Department of Health and the Department of Revenue solely for the  
928 purpose of fulfilling their respective responsibilities under the  
929 Mississippi Medical Cannabis Act. This subparagraph shall stand  
930 repealed on June 30, 2026.

931 (xxxix) **Purchases made by state agencies related**  
932 **to museum exhibits.** Purchases made by an agency related to the  
933 fabrication, construction, installation or refurbishing of museum  
934 exhibits. An agency making a purchase under this exemption in  
935 excess of the bid threshold set forth in 31-7-13(c) shall publicly  
936 advertise a Request for Qualifications or Request for Proposals in  
937 which price as an evaluation factor is at least twenty percent  
938 (20%) out of the one hundred percent (100%) total weight, but  
939 shall be otherwise exempt. Any contract arising from a purchase  
940 using this exemption must be approved by the Public Procurement  
941 Review Board prior to execution by the agency. The agency shall  
942 submit a written report on December 1 of each year to the Chairs  
943 of the Senate and House Appropriations Committees, the Chairs of  
944 the Senate and House Accountability, Efficiency and Transparency  
945 Committees and the Chair of the Public Procurement Review Board,  
946 identifying all purchases made by the agency using this exemption  
947 in which the cost of the option selected by the agency was more



948 than twenty-five percent (25%) higher than the lowest cost option  
949 available.

950 (n) **Term contract authorization.** All contracts for the  
951 purchase of:

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

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



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

988                   (p)   **Electrical utility petroleum-based equipment**  
989 **purchase procedure.** When in response to a proper advertisement  
990 therefor, no bid firm as to price is submitted to an electric  
991 utility for power transformers, distribution transformers, power  
992 breakers, reclosers or other articles containing a petroleum  
993 product, the electric utility may accept the lowest and best bid  
994 therefor although the price is not firm.

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





998 fuel access system, enter into negotiations with not fewer than  
999 two (2) sellers of fuel management or fuel access systems for  
1000 competitive written bids to provide the services and products for  
1001 the systems. In the event that the governing authority or agency  
1002 cannot locate two (2) sellers of such systems or cannot obtain  
1003 bids from two (2) sellers of such systems, it shall show proof  
1004 that it made a diligent, good-faith effort to locate and negotiate  
1005 with two (2) sellers of such systems. Such proof shall include,  
1006 but not be limited to, publications of a request for proposals and  
1007 letters soliciting negotiations and bids. For purposes of this  
1008 paragraph (q), a fuel management or fuel access system is an  
1009 automated system of acquiring fuel for vehicles as well as  
1010 management reports detailing fuel use by vehicles and drivers, and  
1011 the term "competitive written bid" shall have the meaning as  
1012 defined in paragraph (b) of this section. Governing authorities  
1013 and agencies shall be exempt from this process when contracting  
1014 for the services and products of fuel management or fuel access  
1015 systems under the terms of a state contract established by the  
1016 Office of Purchasing and Travel.

1017 (r) **Solid waste contract proposal procedure.** Before  
1018 entering into any contract for garbage collection or disposal,  
1019 contract for solid waste collection or disposal or contract for  
1020 sewage collection or disposal, which involves an expenditure of  
1021 more than Seventy-five Thousand Dollars (\$75,000.00), a governing  
1022 authority or agency shall issue publicly a request for proposals



1023 concerning the specifications for such services which shall be  
1024 advertised for in the same manner as provided in this section for  
1025 seeking bids for purchases which involve an expenditure of more  
1026 than the amount provided in paragraph (c) of this section. Any  
1027 request for proposals when issued shall contain terms and  
1028 conditions relating to price, financial responsibility,  
1029 technology, legal responsibilities and other relevant factors as  
1030 are determined by the governing authority or agency to be  
1031 appropriate for inclusion; all factors determined relevant by the  
1032 governing authority or agency or required by this paragraph (r)  
1033 shall be duly included in the advertisement to elicit proposals.  
1034 After responses to the request for proposals have been duly  
1035 received, the governing authority or agency shall select the most  
1036 qualified proposal or proposals on the basis of price, technology  
1037 and other relevant factors and from such proposals, but not  
1038 limited to the terms thereof, negotiate and enter into contracts  
1039 with one or more of the persons or firms submitting proposals. If  
1040 the governing authority or agency deems none of the proposals to  
1041 be qualified or otherwise acceptable, the request for proposals  
1042 process may be reinitiated. Notwithstanding any other provisions  
1043 of this paragraph, where a county with at least thirty-five  
1044 thousand (35,000) nor more than forty thousand (40,000)  
1045 population, according to the 1990 federal decennial census, owns  
1046 or operates a solid waste landfill, the governing authorities of  
1047 any other county or municipality may contract with the governing



1048 authorities of the county owning or operating the landfill,  
1049 pursuant to a resolution duly adopted and spread upon the minutes  
1050 of each governing authority involved, for garbage or solid waste  
1051 collection or disposal services through contract negotiations.

1052           (s) **Minority set-aside authorization.** Notwithstanding  
1053 any provision of this section to the contrary, any agency or  
1054 governing authority, by order placed on its minutes, may, in its  
1055 discretion, set aside not more than twenty percent (20%) of its  
1056 anticipated annual expenditures for the purchase of commodities  
1057 from minority businesses; however, all such set-aside purchases  
1058 shall comply with all purchasing regulations promulgated by the  
1059 Department of Finance and Administration and shall be subject to  
1060 bid requirements under this section. Set-aside purchases for  
1061 which competitive bids are required shall be made from the lowest  
1062 and best minority business bidder. For the purposes of this  
1063 paragraph, the term "minority business" means a business which is  
1064 owned by a majority of persons who are United States citizens or  
1065 permanent resident aliens (as defined by the Immigration and  
1066 Naturalization Service) of the United States, and who are Asian,  
1067 Black, Hispanic or Native American, according to the following  
1068 definitions:

1069           (i) "Asian" means persons having origins in any of  
1070 the original people of the Far East, Southeast Asia, the Indian  
1071 subcontinent, or the Pacific Islands.



1072 (ii) "Black" means persons having origins in any  
1073 black racial group of Africa.

1074 (iii) "Hispanic" means persons of Spanish or  
1075 Portuguese culture with origins in Mexico, South or Central  
1076 America, or the Caribbean Islands, regardless of race.

1077 (iv) "Native American" means persons having  
1078 origins in any of the original people of North America, including  
1079 American Indians, Eskimos and Aleuts.

1080 (t) **Construction punch list restriction.** The  
1081 architect, engineer or other representative designated by the  
1082 agency or governing authority that is contracting for public  
1083 construction or renovation may prepare and submit to the  
1084 contractor only one (1) preliminary punch list of items that do  
1085 not meet the contract requirements at the time of substantial  
1086 completion and one (1) final list immediately before final  
1087 completion and final payment.

1088 (u) **Procurement of construction services by state**  
1089 **institutions of higher learning.** Contracts for privately financed  
1090 construction of auxiliary facilities on the campus of a state  
1091 institution of higher learning may be awarded by the Board of  
1092 Trustees of State Institutions of Higher Learning to the lowest  
1093 and best bidder, where sealed bids are solicited, or to the  
1094 offeror whose proposal is determined to represent the best value  
1095 to the citizens of the State of Mississippi, where requests for  
1096 proposals are solicited.



1097                   (v)   **Insurability of bidders for public construction or**  
1098 **other public contracts.** In any solicitation for bids to perform  
1099 public construction or other public contracts to which this  
1100 section applies, including, but not limited to, contracts for  
1101 repair and maintenance, for which the contract will require  
1102 insurance coverage in an amount of not less than One Million  
1103 Dollars (\$1,000,000.00), bidders shall be permitted to either  
1104 submit proof of current insurance coverage in the specified amount  
1105 or demonstrate ability to obtain the required coverage amount of  
1106 insurance if the contract is awarded to the bidder. Proof of  
1107 insurance coverage shall be submitted within five (5) business  
1108 days from bid acceptance.

1109                   (w)   **Purchase authorization clarification.** Nothing in  
1110 this section shall be construed as authorizing any purchase not  
1111 authorized by law.

1112                   (x)   **Mississippi Regional Pre-Need Disaster Clean Up**  
1113 **Act.** (i) The Department of Finance and Administration shall  
1114 enter into nine (9) contracts for the pre-need purchase of labor,  
1115 services, work, materials, equipment, supplies or other personal  
1116 property for disaster-related solid waste collection, disposal or  
1117 monitoring. One (1) contract shall be entered into for each of  
1118 the nine (9) Mississippi Emergency Management Association  
1119 districts:

1120   1. Coahoma, DeSoto, Grenada, Panola, Quitman,  
1121 Tallahatchie, Tate, Tunica and Yalobusha Counties;



1122                           2.   Alcorn, Benton, Itawamba, Lafayette, Lee,  
1123 Marshall, Pontotoc, Prentiss, Tippah, Tishomingo and Union  
1124 Counties;

1125                           3.   Attala, Bolivar, Carroll, Holmes,  
1126 Humphreys, Leflore, Montgomery, Sunflower and Washington Counties;

1127                           4.   Calhoun, Chickasaw, Choctaw, Clay,  
1128 Lowndes, Monroe, Noxubee, Oktibbeha, Webster and Winston Counties;

1129                           5.   Claiborne, Covich, Hinds, Issaquena,  
1130 Madison, Rankin, Sharkey, Simpson, Warren and Yazoo Counties;

1131                           6.   Clarke, Jasper, Kemper, Lauderdale, Leake,  
1132 Neshoba, Newton, Scott, and Smith Counties and the Mississippi  
1133 Band of Choctaw Indians;

1134                           7.   Adams, Amite, Franklin, Jefferson,  
1135 Lawrence, Lincoln, Pike, Walthall and Wilkinson Counties;

1136                           8.   Covington, Forrest, Greene, Jefferson  
1137 Davis, Jones, Lamar, Marion, Perry and Wayne Counties; and

1138                           9.   George, Hancock, Harrison, Jackson, Pearl  
1139 River and Stone Counties.

1140           Any such contract shall set forth the manner of awarding such  
1141 a contract, the method of payment, and any other matter deemed  
1142 necessary to carry out the purposes of the agreement.  Such  
1143 contract may be entered into only for a term of one (1) year, with  
1144 an option for an additional one-year extension after the  
1145 conclusion of the first year of the contract, and only after  
1146 having solicited bids or proposals, as appropriate, which shall be



1147 publicly advertised by posting on a web page maintained by the  
1148 Department of Finance and Administration through submission of  
1149 such advertisement to the Mississippi Procurement Technical  
1150 Assistance Program under the Mississippi Development Authority.  
1151 The bid opening shall not occur until after the submission has  
1152 been posted for at least ten (10) consecutive days. The state's  
1153 share of expenditures for solid waste collection, disposal or  
1154 monitoring under any contract shall be appropriated and paid in  
1155 the manner set forth in the contract and in the same manner as for  
1156 other solid waste collection, disposal, or monitoring expenses of  
1157 the state. Any contract entered into under this paragraph shall  
1158 not be subject to the provisions of Section 17-13-11.

1159 (ii) Any board of supervisors of any county or any  
1160 governing authority of any municipality may opt in to the benefits  
1161 and services provided under the appropriate and relevant contract  
1162 established in subparagraph (i) of this paragraph at the time of a  
1163 disaster event in that county or municipality. At the time of opt  
1164 in, the county or municipality shall assume responsibility for  
1165 payment in full to the contractor for the disaster-related solid  
1166 waste collection, disposal or monitoring services provided.  
1167 Nothing in this subparagraph (ii) shall be construed as requiring  
1168 a county or municipality to opt in to any such contract  
1169 established in subparagraph (i) of this paragraph.

1170 **SECTION 5.** Section 27-104-7, Mississippi Code of 1972, is  
1171 amended as follows:



1172 27-104-7. (1) (a) There is created the Public Procurement  
1173 Review Board, which shall be reconstituted on January 1, 2018, and  
1174 shall be composed of the following members:

1175 (i) Three (3) individuals appointed by the  
1176 Governor with the advice and consent of the Senate;

1177 (ii) Two (2) individuals appointed by the  
1178 Lieutenant Governor with the advice and consent of the Senate; and

1179 (iii) The Executive Director of the Department of  
1180 Finance and Administration, serving as an ex officio and nonvoting  
1181 member.

1182 (b) The initial terms of each appointee shall be as  
1183 follows:

1184 (i) One (1) member appointed by the Governor to  
1185 serve for a term ending on June 30, 2019;

1186 (ii) One (1) member appointed by the Governor to  
1187 serve for a term ending on June 30, 2020;

1188 (iii) One (1) member appointed by the Governor to  
1189 serve for a term ending on June 30, 2021;

1190 (iv) One (1) member appointed by the Lieutenant  
1191 Governor to serve for a term ending on June 30, 2019; and

1192 (v) One (1) member appointed by the Lieutenant  
1193 Governor to serve for a term ending on June 30, 2020.

1194 After the expiration of the initial terms, all appointed  
1195 members' terms shall be for a period of four (4) years from the





1196 expiration date of the previous term, and until such time as the  
1197 member's successor is duly appointed and qualified.

1198 (c) When appointing members to the Public Procurement  
1199 Review Board, the Governor and Lieutenant Governor shall take into  
1200 consideration persons who possess at least five (5) years of  
1201 management experience in general business, health care or finance  
1202 for an organization, corporation or other public or private  
1203 entity. Any person, or any employee or owner of a company, who  
1204 receives any grants, procurements or contracts that are subject to  
1205 approval under this section shall not be appointed to the Public  
1206 Procurement Review Board. Any person, or any employee or owner of  
1207 a company, who is a principal of the source providing a personal  
1208 or professional service shall not be appointed to the Public  
1209 Procurement Review Board if the principal owns or controls a  
1210 greater than five percent (5%) interest or has an ownership value  
1211 of One Million Dollars (\$1,000,000.00) in the source's business,  
1212 whichever is smaller. No member shall be an officer or employee  
1213 of the State of Mississippi while serving as a voting member on  
1214 the Public Procurement Review Board.

1215 (d) Members of the Public Procurement Review Board  
1216 shall be entitled to per diem as authorized by Section 25-3-69 and  
1217 travel reimbursement as authorized by Section 25-3-41.

1218 (e) The members of the Public Procurement Review Board  
1219 shall elect a chair from among the membership, and he or she shall  
1220 preside over the meetings of the board. The board shall annually



1221 elect a vice chair, who shall serve in the absence of the chair.  
1222 No business shall be transacted, including adoption of rules of  
1223 procedure, without the presence of a quorum of the board. Three  
1224 (3) members shall be a quorum. No action shall be valid unless  
1225 approved by a majority of the members present and voting, entered  
1226 upon the minutes of the board and signed by the chair. Necessary  
1227 clerical and administrative support for the board shall be  
1228 provided by the Department of Finance and Administration. Minutes  
1229 shall be kept of the proceedings of each meeting, copies of which  
1230 shall be filed on a monthly basis with the chairs of the  
1231 Accountability, Efficiency and Transparency Committees of the  
1232 Senate and House of Representatives and the chairs of the  
1233 Appropriations Committees of the Senate and House of  
1234 Representatives.

1235 (2) The Public Procurement Review Board shall have the  
1236 following powers and responsibilities:

1237 (a) Approve all purchasing regulations governing the  
1238 purchase or lease by any agency, as defined in Section 31-7-1, of  
1239 commodities and equipment, except computer equipment acquired  
1240 pursuant to Sections 25-53-1 through 25-53-29;

1241 (b) Adopt regulations governing the approval of  
1242 contracts let for the construction and maintenance of state  
1243 buildings and other state facilities as well as related contracts  
1244 for architectural and engineering services.



1245           The provisions of this paragraph (b) shall not apply to such  
1246 contracts involving buildings and other facilities of state  
1247 institutions of higher learning which are self-administered as  
1248 provided under this paragraph (b) or Section 37-101-15(m);

1249           (c) Adopt regulations governing any lease or rental  
1250 agreement by any state agency or department, including any state  
1251 agency financed entirely by federal funds, for space outside the  
1252 buildings under the jurisdiction of the Department of Finance and  
1253 Administration. These regulations shall require each agency  
1254 requesting to lease such space to provide the following  
1255 information that shall be published by the Department of Finance  
1256 and Administration on its website: the agency to lease the space;  
1257 the terms of the lease; the approximate square feet to be leased;  
1258 the use for the space; a description of a suitable space; the  
1259 general location desired for the leased space; the contact  
1260 information for a person from the agency; the deadline date for  
1261 the agency to have received a lease proposal; any other specific  
1262 terms or conditions of the agency; and any other information  
1263 deemed appropriate by the Division of Real Property Management of  
1264 the Department of Finance and Administration or the Public  
1265 Procurement Review Board. The information shall be provided  
1266 sufficiently in advance of the time the space is needed to allow  
1267 the Division of Real Property Management of the Department of  
1268 Finance and Administration to review and preapprove the lease  
1269 before the time for advertisement begins;



1270 (d) Adopt, in its discretion, regulations to set aside  
1271 at least five percent (5%) of anticipated annual expenditures for  
1272 the purchase of commodities from minority businesses; however, all  
1273 such set-aside purchases shall comply with all purchasing  
1274 regulations promulgated by the department and shall be subject to  
1275 all bid requirements. Set-aside purchases for which competitive  
1276 bids are required shall be made from the lowest and best minority  
1277 business bidder; however, if no minority bid is available or if  
1278 the minority bid is more than two percent (2%) higher than the  
1279 lowest bid, then bids shall be accepted and awarded to the lowest  
1280 and best bidder. However, the provisions in this paragraph shall  
1281 not be construed to prohibit the rejection of a bid when only one  
1282 (1) bid is received. Such rejection shall be placed in the  
1283 minutes. For the purposes of this paragraph, the term "minority  
1284 business" means a business which is owned by a person who is a  
1285 citizen or lawful permanent resident of the United States and who  
1286 is:

1287 (i) Black: having origins in any of the black  
1288 racial groups of Africa;

1289 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
1290 Central or South American, or other Spanish or Portuguese culture  
1291 or origin regardless of race;

1292 (iii) Asian-American: having origins in any of  
1293 the original people of the Far East, Southeast Asia, the Indian  
1294 subcontinent, or the Pacific Islands;



1295 (iv) American Indian or Alaskan Native: having  
1296 origins in any of the original people of North America; or

1297 (v) Female;

1298 (e) In consultation with and approval by the Chairs of  
1299 the Senate and House Public Property Committees, approve leases,  
1300 for a term not to exceed eighteen (18) months, entered into by  
1301 state agencies for the purpose of providing parking arrangements  
1302 for state employees who work in the Woolfolk Building, the Carroll  
1303 Gartin Justice Building or the Walter Sillers Office Building;

1304 (f) (i) Except as otherwise provided in subparagraph  
1305 (ii) of this paragraph, promulgate rules and regulations governing  
1306 the solicitation and selection of contractual services personnel,  
1307 including personal and professional services contracts for any  
1308 form of consulting, policy analysis, public relations, marketing,  
1309 public affairs, legislative advocacy services or any other  
1310 contract that the board deems appropriate for oversight, with the  
1311 exception of:

1312 1. Any personal service contracts entered  
1313 into by any agency that employs only nonstate service employees as  
1314 defined in Section 25-9-107(c);

1315 2. Any personal service contracts entered  
1316 into for computer or information technology-related services  
1317 governed by the Mississippi Department of Information Technology  
1318 Services;



1319                   3. Any personal service contracts entered  
1320 into by the individual state institutions of higher learning;

1321                   4. Any personal service contracts entered  
1322 into by the Mississippi Department of Transportation;

1323                   5. Any personal service contracts entered  
1324 into by the Department of Human Services through June 30, 2019,  
1325 which the Executive Director of the Department of Human Services  
1326 determines would be useful in establishing and operating the  
1327 Department of Child Protection Services;

1328                   6. Any personal service contracts entered  
1329 into by the Department of Child Protection Services through June  
1330 30, 2019;

1331                   7. Any contracts for entertainers and/or  
1332 performers at the Mississippi State Fairgrounds entered into by  
1333 the Mississippi Fair Commission;

1334                   8. Any contracts entered into by the  
1335 Department of Finance and Administration when procuring aircraft  
1336 maintenance, parts, equipment and/or services;

1337                   9. Any contract entered into by the  
1338 Department of Public Safety for service on specialized equipment  
1339 and/or software required for the operation of such specialized  
1340 equipment for use by the Office of Forensics Laboratories;

1341                   10. Any personal or professional service  
1342 contract entered into by the Mississippi Department of Health or  
1343 the Department of Revenue solely in connection with their



1344 respective responsibilities under the Mississippi Medical Cannabis  
1345 Act from February 2, 2022, through June 30, 2026;

1346 11. Any contract for attorney, accountant,  
1347 actuary auditor, architect, engineer, anatomical pathologist, or  
1348 utility rate expert services;

1349 12. Any personal service contracts approved  
1350 by the Executive Director of the Department of Finance and  
1351 Administration and entered into by the Coordinator of Mental  
1352 Health Accessibility through June 30, 2022;

1353 13. Any personal or professional services  
1354 contract entered into by the State Department of Health in  
1355 carrying out its responsibilities under the ARPA Rural Water  
1356 Associations Infrastructure Grant Program through June 30,  
1357 2026; \* \* \*

1358 14. And any personal or professional services  
1359 contract entered into by the Mississippi Department of  
1360 Environmental Quality in carrying out its responsibilities under  
1361 the Mississippi Municipality and County Water Infrastructure Grant  
1362 Program Act of 2022, through June 30, 2026 \* \* \*; and

1363 15. Any personal or professional services  
1364 contract entered into by an agency for the design, operation or  
1365 maintenance of museum exhibits. An agency making a purchase under  
1366 this exemption shall publicly advertise a Request for  
1367 Qualifications but shall be otherwise exempt. Any contracts



1368 arising from the use of this exemption must be approved by the  
1369 Public Procurement Review Board prior to execution by the agency.

1370 Any such rules and regulations shall provide for maintaining  
1371 continuous internal audit covering the activities of such agency  
1372 affecting its revenue and expenditures as required under Section  
1373 7-7-3(6) (d). Any rules and regulation changes related to personal  
1374 and professional services contracts that the Public Procurement  
1375 Review Board may propose shall be submitted to the Chairs of the  
1376 Accountability, Efficiency and Transparency Committees of the  
1377 Senate and House of Representatives and the Chairs of the  
1378 Appropriation Committees of the Senate and House of  
1379 Representatives at least fifteen (15) days before the board votes  
1380 on the proposed changes, and those rules and regulation changes,  
1381 if adopted, shall be promulgated in accordance with the  
1382 Mississippi Administrative Procedures Act.

1383 (ii) From and after July 1, 2024, the Public  
1384 Procurement Review Board shall promulgate rules and regulations  
1385 that require the Department of Finance and Administration to  
1386 conduct personal and professional services solicitations as  
1387 provided in subparagraph (i) of this paragraph for those services  
1388 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the  
1389 Department of Marine Resources, the Department of Wildlife,  
1390 Fisheries and Parks, the Mississippi Emergency Management Agency  
1391 and the Mississippi Development Authority, with assistance to be  
1392 provided from these entities. Any powers that have been conferred





1393 upon agencies in order to comply with the provisions of this  
1394 section for personal and professional services solicitations shall  
1395 be conferred upon the Department of Finance and Administration to  
1396 conduct personal and professional services solicitations for the  
1397 Department of Marine Resources, the Department of Wildlife,  
1398 Fisheries and Parks, the Mississippi Emergency Management Agency  
1399 and the Mississippi Development Authority for those services in  
1400 excess of Seventy-five Thousand Dollars (\$75,000.00). The  
1401 Department of Finance and Administration shall make any  
1402 submissions that are required to be made by other agencies to the  
1403 Public Procurement Review Board for the Department of Marine  
1404 Resources, the Department of Wildlife, Fisheries and Parks, the  
1405 Mississippi Emergency Management Agency and the Mississippi  
1406 Development Authority.

1407 The provisions of this subparagraph (ii) shall stand repealed  
1408 on June 30, 2027;

1409 (g) Approve all personal and professional services  
1410 contracts involving the expenditures of funds in excess of  
1411 Seventy-five Thousand Dollars (\$75,000.00), except as provided in  
1412 paragraph (f) of this subsection (2) and in subsection (8);

1413 (h) Develop mandatory standards with respect to  
1414 contractual services personnel that require invitations for public  
1415 bid, requests for proposals, record keeping and financial  
1416 responsibility of contractors. The Public Procurement Review  
1417 Board shall, unless exempted under this paragraph (h) or under



1418 paragraph (i) or (o) of this subsection (2), require the agency  
1419 involved to submit the procurement to a competitive procurement  
1420 process, and may reserve the right to reject any or all resulting  
1421 procurements;

1422 (i) Prescribe certain circumstances by which agency  
1423 heads may enter into contracts for personal and professional  
1424 services without receiving prior approval from the Public  
1425 Procurement Review Board. The Public Procurement Review Board may  
1426 establish a preapproved list of providers of various personal and  
1427 professional services for set prices with which state agencies may  
1428 contract without bidding or prior approval from the board;

1429 (i) Agency requirements may be fulfilled by  
1430 procuring services performed incident to the state's own programs.  
1431 The agency head shall determine in writing whether the price  
1432 represents a fair market value for the services. When the  
1433 procurements are made from other governmental entities, the  
1434 private sector need not be solicited; however, these contracts  
1435 shall still be submitted for approval to the Public Procurement  
1436 Review Board.

1437 (ii) Contracts between two (2) state agencies,  
1438 both under Public Procurement Review Board purview, shall not  
1439 require Public Procurement Review Board approval. However, the  
1440 contracts shall still be entered into the enterprise resource  
1441 planning system;



1442 (j) Provide standards for the issuance of requests for  
1443 proposals, the evaluation of proposals received, consideration of  
1444 costs and quality of services proposed, contract negotiations, the  
1445 administrative monitoring of contract performance by the agency  
1446 and successful steps in terminating a contract;

1447 (k) Present recommendations for governmental  
1448 privatization and to evaluate privatization proposals submitted by  
1449 any state agency;

1450 (l) Authorize personal and professional service  
1451 contracts to be effective for more than one (1) year provided a  
1452 funding condition is included in any such multiple year contract,  
1453 except the State Board of Education, which shall have the  
1454 authority to enter into contractual agreements for student  
1455 assessment for a period up to ten (10) years. The State Board of  
1456 Education shall procure these services in accordance with the  
1457 Public Procurement Review Board procurement regulations;

1458 (m) Request the State Auditor to conduct a performance  
1459 audit on any personal or professional service contract;

1460 (n) Prepare an annual report to the Legislature  
1461 concerning the issuance of personal and professional services  
1462 contracts during the previous year, collecting any necessary  
1463 information from state agencies in making such report;

1464 (o) Develop and implement the following standards and  
1465 procedures for the approval of any sole source contract for



1466 personal and professional services regardless of the value of the  
1467 procurement:

1468 (i) For the purposes of this paragraph (o), the  
1469 term "sole source" means only one (1) source is available that can  
1470 provide the required personal or professional service.

1471 (ii) An agency that has been issued a binding,  
1472 valid court order mandating that a particular source or provider  
1473 must be used for the required service must include a copy of the  
1474 applicable court order in all future sole source contract reviews  
1475 for the particular personal or professional service referenced in  
1476 the court order.

1477 (iii) Any agency alleging to have a sole source  
1478 for any personal or professional service, other than those  
1479 exempted under paragraph (f) of this subsection (2) and subsection  
1480 (8), shall publish on the procurement portal website established  
1481 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)  
1482 days, the terms of the proposed contract for those services. In  
1483 addition, the publication shall include, but is not limited to,  
1484 the following information:

1485 1. The personal or professional service  
1486 offered in the contract;

1487 2. An explanation of why the personal or  
1488 professional service is the only one that can meet the needs of  
1489 the agency;



1490                   3. An explanation of why the source is the  
1491 only person or entity that can provide the required personal or  
1492 professional service;

1493                   4. An explanation of why the amount to be  
1494 expended for the personal or professional service is reasonable;  
1495 and

1496                   5. The efforts that the agency went through  
1497 to obtain the best possible price for the personal or professional  
1498 service.

1499                   (iv) If any person or entity objects and proposes  
1500 that the personal or professional service published under  
1501 subparagraph (iii) of this paragraph (o) is not a sole source  
1502 service and can be provided by another person or entity, then the  
1503 objecting person or entity shall notify the Public Procurement  
1504 Review Board and the agency that published the proposed sole  
1505 source contract with a detailed explanation of why the personal or  
1506 professional service is not a sole source service.

1507                   (v) 1. If the agency determines after review that  
1508 the personal or professional service in the proposed sole source  
1509 contract can be provided by another person or entity, then the  
1510 agency must withdraw the sole source contract publication from the  
1511 procurement portal website and submit the procurement of the  
1512 personal or professional service to an advertised competitive bid  
1513 or selection process.



1514                   2. If the agency determines after review that  
1515 there is only one (1) source for the required personal or  
1516 professional service, then the agency may appeal to the Public  
1517 Procurement Review Board. The agency has the burden of proving  
1518 that the personal or professional service is only provided by one  
1519 (1) source.

1520                   3. If the Public Procurement Review Board has  
1521 any reasonable doubt as to whether the personal or professional  
1522 service can only be provided by one (1) source, then the agency  
1523 must submit the procurement of the personal or professional  
1524 service to an advertised competitive bid or selection process. No  
1525 action taken by the Public Procurement Review Board in this appeal  
1526 process shall be valid unless approved by a majority of the  
1527 members of the Public Procurement Review Board present and voting.

1528                   (vi) The Public Procurement Review Board shall  
1529 prepare and submit a quarterly report to the House of  
1530 Representatives and Senate Accountability, Efficiency and  
1531 Transparency Committees that details the sole source contracts  
1532 presented to the Public Procurement Review Board and the reasons  
1533 that the Public Procurement Review Board approved or rejected each  
1534 contract. These quarterly reports shall also include the  
1535 documentation and memoranda required in subsection (4) of this  
1536 section. An agency that submitted a sole source contract shall be  
1537 prepared to explain the sole source contract to each committee by  
1538 December 15 of each year upon request by the committee;



1539           (p) Assess any fines and administrative penalties  
1540 provided for in Sections 31-7-401 through 31-7-423.

1541           (3) All submissions shall be made sufficiently in advance of  
1542 each monthly meeting of the Public Procurement Review Board as  
1543 prescribed by the Public Procurement Review Board. If the Public  
1544 Procurement Review Board rejects any contract submitted for review  
1545 or approval, the Public Procurement Review Board shall clearly set  
1546 out the reasons for its action, including, but not limited to, the  
1547 policy that the agency has violated in its submitted contract and  
1548 any corrective actions that the agency may take to amend the  
1549 contract to comply with the rules and regulations of the Public  
1550 Procurement Review Board.

1551           (4) All sole source contracts for personal and professional  
1552 services awarded by state agencies, other than those exempted  
1553 under Section 27-104-7(2) (f) and (8), whether approved by an  
1554 agency head or the Public Procurement Review Board, shall contain  
1555 in the procurement file a written determination for the approval,  
1556 using a request form furnished by the Public Procurement Review  
1557 Board. The written determination shall document the basis for the  
1558 determination, including any market analysis conducted in order to  
1559 ensure that the service required was practicably available from  
1560 only one (1) source. A memorandum shall accompany the request  
1561 form and address the following four (4) points:

1562           (a) Explanation of why this service is the only service  
1563 that can meet the needs of the purchasing agency;



1564 (b) Explanation of why this vendor is the only  
1565 practicably available source from which to obtain this service;

1566 (c) Explanation of why the price is considered  
1567 reasonable; and

1568 (d) Description of the efforts that were made to  
1569 conduct a noncompetitive negotiation to get the best possible  
1570 price for the taxpayers.

1571 (5) In conjunction with the State Personnel Board, the  
1572 Public Procurement Review Board shall develop and promulgate rules  
1573 and regulations to define the allowable legal relationship between  
1574 contract employees and the contracting departments, agencies and  
1575 institutions of state government under the jurisdiction of the  
1576 State Personnel Board, in compliance with the applicable rules and  
1577 regulations of the federal Internal Revenue Service (IRS) for  
1578 federal employment tax purposes. Under these regulations, the  
1579 usual common law rules are applicable to determine and require  
1580 that such worker is an independent contractor and not an employee,  
1581 requiring evidence of lawful behavioral control, lawful financial  
1582 control and lawful relationship of the parties. Any state  
1583 department, agency or institution shall only be authorized to  
1584 contract for personnel services in compliance with those  
1585 regulations.

1586 (6) No member of the Public Procurement Review Board shall  
1587 use his or her official authority or influence to coerce, by  
1588 threat of discharge from employment, or otherwise, the purchase of





1589 commodities, the contracting for personal or professional  
1590 services, or the contracting for public construction under this  
1591 chapter.

1592 (7) Notwithstanding any other laws or rules to the contrary,  
1593 the provisions of subsection (2) of this section shall not be  
1594 applicable to the Mississippi State Port Authority at Gulfport.

1595 (8) Nothing in this section shall impair or limit the  
1596 authority of the Board of Trustees of the Public Employees'  
1597 Retirement System to enter into any personal or professional  
1598 services contracts directly related to their constitutional  
1599 obligation to manage the trust funds, including, but not limited  
1600 to, actuarial, custodial banks, cash management, investment  
1601 consultant and investment management contracts. Nothing in this  
1602 section shall impair or limit the authority of the State Treasurer  
1603 to enter into any personal or professional services contracts  
1604 involving the management of trust funds, including, but not  
1605 limited to, actuarial, custodial banks, cash management,  
1606 investment consultant and investment management contracts.

1607 (9) Through December 31, 2024, the provisions of this  
1608 section related to rental agreements or leasing of real property  
1609 for the purpose of conducting agency business shall not apply to  
1610 the Office of Workforce Development created in Section 37-153-7.

1611 **SECTION 6.** Section 31-7-401, Mississippi Code of 1972, is  
1612 amended as follows:



1613 31-7-401. Except as otherwise provided by law, the  
1614 provisions of Sections 31-7-401 through 31-7-423 shall apply to  
1615 every procurement of commodities, supplies, equipment,  
1616 construction, technology, personal and professional services other  
1617 than those in Section 27-104-7(2)(f) and (8), state agency  
1618 employee benefits, supplemental insurance and cafeteria plans,  
1619 that are solicited by any state agency by a request for proposals  
1620 or request for qualifications, except any personal or professional  
1621 services contract entered into by an agency for the design,  
1622 operation or maintenance of museum exhibits, purchases made by an  
1623 agency related to the fabrication, construction, installation or  
1624 refurbishing of museum exhibits. The following provisions are  
1625 intended to ensure that the best practices for soliciting requests  
1626 for proposals or requests for qualifications are implemented. Any  
1627 agency that is required to receive approval by the Public  
1628 Procurement Review Board before entering into a personal or  
1629 professional services contract as provided in subsection (2)(g) of  
1630 Section 27-104-7 shall implement the best practices specified in  
1631 Sections 31-7-401 through 31-7-423. The Public Procurement Review  
1632 Board shall promulgate any necessary rules and regulations to  
1633 administer the provisions of Sections 31-7-401 through 31-7-423.

1634 **SECTION 7.** This act shall take effect and be in force from  
1635 and after July 1, 2024.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**



1 AN ACT TO AMEND SECTION 31-7-417, MISSISSIPPI CODE OF 1972,  
2 TO SIMPLIFY THE RECEIPT AND REGISTRATION PROCESS FOR PROPOSALS AND  
3 REQUESTS FOR QUALIFICATIONS; TO AMEND SECTION 25-61-5, MISSISSIPPI  
4 CODE OF 1972, AS AMENDED BY SENATE BILL 2308 OF THE 2024  
5 LEGISLATIVE SESSION, TO PROVIDE THAT WHERE ANY PUBLIC BODY IS  
6 PREPARING OR CONDUCTING A COMPETITIVE PROCUREMENT, THE TIME  
7 LIMITATIONS FOR PRODUCTION SHALL BE TOLLED UNTIL THE PUBLIC BODY  
8 DETERMINES IT WILL NOT ISSUE THE PROCUREMENT, CANCELS THE  
9 PROCUREMENT OR ISSUES A NOTICE NAMING ITS INTENDED AWARDEE; TO  
10 BRING FORWARD SECTION 25-61-9, MISSISSIPPI CODE OF 1972, FOR THE  
11 PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTION 31-7-13,  
12 MISSISSIPPI CODE OF 1972, TO ALLOW PURCHASES MADE BY STATE  
13 AGENCIES RELATED TO MUSEUM EXHIBITS TO QUALIFY FOR A FABRICATION  
14 OF EXHIBITS EXEMPTION WHEN CERTAIN LISTED PROCEDURES ARE FOLLOWED;  
15 TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO ALLOW ANY  
16 PERSON OR PROFESSIONAL SERVICE CONTRACTS ENTERED INTO BY AN AGENCY  
17 FOR THE DESIGN, OPERATION OR MAINTENANCE OF MUSEUM EXHIBITS TO  
18 QUALIFY FOR AN EXHIBIT DESIGN EXEMPTION WHEN CERTAIN LISTED  
19 PROCEDURES ARE FOLLOWED; TO AMEND 31-7-401, MISSISSIPPI CODE OF  
20 1972, TO CONFORM; AND FOR RELATED PURPOSES.

X (SIGNED)  
Johnson

X (SIGNED)  
Ford (54th)

X (SIGNED)  
Sparks

X (SIGNED)  
Porter

X (SIGNED)  
Blount

X (SIGNED)  
Mansell

