

1 HB43
2 188742-1
3 By Representative Hollis
4 RFD: State Government
5 First Read: 09-JAN-18
6 PFD: 12/13/2017

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8 SYNOPSIS: Under existing law, certain expenditures of
9 funds by governmental and educational institutions
10 are subject to the competitive bid law.

11 This bill would define the terms
12 minority-owned business and minority group as those
13 terms relate to the competitive bid law.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 To amend Section 41-16-50, Code of Alabama 1975,
20 relating to public contracts; to define minority-owned
21 business and minority group as those terms relate to the
22 competitive bid law.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 41-16-50, Code of Alabama 1975,
25 is amended to read as follows:

26 "§41-16-50.

1 "(a) With the exception of contracts for public
2 works whose competitive bidding requirements are governed
3 exclusively by Title 39, all expenditure of funds of whatever
4 nature for labor, services, work, or for the purchase of
5 materials, equipment, supplies, or other personal property
6 involving fifteen thousand dollars (\$15,000) or more, and the
7 lease of materials, equipment, supplies, or other personal
8 property where the lessee is, or becomes legally and
9 contractually, bound under the terms of the lease, to pay a
10 total amount of fifteen thousand dollars (\$15,000) or more,
11 made by or on behalf of any state trade school, state junior
12 college, state college, or university under the supervision
13 and control of the Alabama Community College System, the
14 district boards of education of independent school districts,
15 the county commissions, the governing bodies of the
16 municipalities of the state, and the governing boards of
17 instrumentalities of counties and municipalities, including
18 waterworks boards, sewer boards, gas boards, and other like
19 utility boards and commissions, except as hereinafter
20 provided, shall be made under contractual agreement entered
21 into by free and open competitive bidding, on sealed bids, to
22 the lowest responsible bidder. Prior to advertising for bids
23 for an item of personal property or services, where a county,
24 a municipality, or an instrumentality thereof is the awarding
25 authority, the awarding authority may establish a local
26 preference zone consisting of either the legal boundaries or
27 jurisdiction of the awarding authority, or the boundaries of

1 the county in which the awarding authority is located, or the
2 boundaries of the Core Based Statistical Area in which the
3 awarding authority is located. If no such action is taken by
4 the awarding authority, the boundaries of the local preference
5 zone shall be deemed to be the same as the legal boundaries or
6 jurisdiction of the awarding authority. In the event a bid is
7 received for an item of personal property or services to be
8 purchased or contracted for from a person, firm, or
9 corporation deemed to be a responsible bidder, having a place
10 of business within the local preference zone where the county,
11 a municipality, or an instrumentality thereof is the awarding
12 authority, and the bid is no more than five percent greater
13 than the bid of the lowest responsible bidder, the awarding
14 authority may award the contract to the resident responsible
15 bidder. In the event only one bidder responds to the
16 invitation to bid, the awarding authority may reject the bid
17 and negotiate the purchase or contract, providing the
18 negotiated price is lower than the bid price.

19 "(b) The governing bodies of two or more contracting
20 agencies, as enumerated in subsection (a), or the governing
21 bodies of two or more counties, or the governing bodies of two
22 or more city or county boards of education, may provide, by
23 joint agreement, for the purchase of labor, services, or work,
24 or for the purchase or lease of materials, equipment,
25 supplies, or other personal property for use by their
26 respective agencies. The agreement shall be entered into by
27 similar ordinances, in the case of municipalities, or

1 resolutions, in the case of other contracting agencies,
2 adopted by each of the participating governing bodies, which
3 shall set forth the categories of labor, services, or work, or
4 for the purchase or lease of materials, equipment, supplies,
5 or other personal property to be purchased, the manner of
6 advertising for bids and the awarding of contracts, the method
7 of payment by each participating contracting agency, and other
8 matters deemed necessary to carry out the purposes of the
9 agreement. Each contracting agency's share of expenditures for
10 purchases under any agreement shall be appropriated and paid
11 in the manner set forth in the agreement and in the same
12 manner as for other expenses of the contracting agency. The
13 contracting agencies entering into a joint agreement, as
14 herein permitted, may designate a joint purchasing or bidding
15 agent, and the agent shall comply with this article.
16 Purchases, contracts, or agreements made pursuant to a joint
17 purchasing or bidding agreement shall be subject to all terms
18 and conditions of this article.

19 "In the event that utility services are no longer
20 exempt from competitive bidding under this article,
21 non-adjointing counties may not purchase utility services by
22 joint agreement under authority granted by this subsection.

23 "(c) The awarding authority may require bidders to
24 furnish a bid bond for a particular bid solicitation if the
25 bonding requirement applies to all bidders, is included in the
26 written bid specifications, and if bonding is available for
27 the services, equipment, or materials.

1 "(d) (1) Notwithstanding subsection (a), in the event
2 the lowest bid for an item of personal property or services to
3 be purchased or contracted for is received from a foreign
4 entity, where the county, a municipality, or an
5 instrumentality thereof is the awarding authority, the
6 awarding authority may award the contract to responsible
7 bidder whose bid is no more than 10 percent greater than the
8 foreign entity if the bidder has a place of business within
9 the local preference zone or is a responsible bidder from a
10 business within the state that is a woman-owned enterprise, an
11 enterprise of small business, as defined in Section 25-10-3, a
12 minority-owned business enterprise, a veteran-owned business
13 enterprise, or a disadvantaged-owned business enterprise.

14 "(2) For the purposes of this subsection, ~~foreign~~
15 ~~entity means a business entity that does not have a place of~~
16 ~~business within the state.~~ the following terms shall have the
17 following meanings:

18 "a. FOREIGN ENTITY. A business entity that does not
19 have a place of business within the state.

20 "b. MINORITY-OWNED BUSINESS ENTERPRISE. A business
21 entity at least 51 percent of which is owned by members of a
22 minority group or, in the case of a corporation, at least 51
23 percent of the shares of the corporation are owned by members
24 of a minority group, and is managed and controlled by members
25 of a minority group in its daily operations.

26 "c. MINORITY GROUP. Individuals of African American,
27 Native American, Asian, or Hispanic descent."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.