

1 HB187
2 202837-2
3 By Representative Collins
4 RFD: State Government
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to competitive bids for certain contracts
9 with city or county boards of education and other governmental
10 entities; to amend Section 16-13B-2, Code of Alabama 1975,
11 relating to competitive bids on certain contracts by city and
12 county boards of education, and Section 41-16-51, Code of
13 Alabama 1975, relating to competitive bids on certain
14 contracts by state and local governmental agencies; to specify
15 that the exclusion for the purchases or lease of goods and
16 services made through national or regional cooperative
17 purchasing agreements includes leases and lease/purchase
18 agreements.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 16-13B-2 and Section 41-16-51,
21 Code of Alabama 1975, are amended to read as follows:

22 "§16-13B-2.

23 "(a) Competitive bids shall not be required for
24 utility services for county or city boards of education, the
25 rates for which are fixed by law, regulation, or ordinance,
26 and the competitive bidding requirements of this chapter shall
27 not apply to:

1 "(1) The purchase of insurance.

2 "(2) Contracts for securing services of attorneys,
3 physicians, architects, teachers, superintendents of
4 construction, artists, appraisers, engineers, consultants,
5 certified public accountants, public accountants, or other
6 individuals possessing a high degree of professional skill
7 where the personality of the individual plays a decisive part.

8 "(3) Contracts of employment in the regular civil
9 service.

10 "(4) Contracts for fiscal or financial advice or
11 services.

12 "(5) Purchases of products made or manufactured by
13 the blind or visually handicapped under the direction or
14 supervision of the Alabama Institute for Deaf and Blind in
15 accordance with Sections 21-2-1 to 21-2-4, inclusive.

16 "(6) Purchases of maps or photographs from any
17 federal agency.

18 "(7) Purchases of manuscripts, books, maps,
19 pamphlets, or periodicals.

20 "(8) The selection of paying agents and trustees for
21 any security issued by a public body.

22 "(9) Existing contracts up for renewal for
23 sanitation or solid waste collection, recycling, or disposal
24 and those providing the service.

25 "(10) Purchases of computer and word processing
26 hardware when the hardware is the only type that is compatible

1 with hardware already owned by the entity taking bids and
2 custom software.

3 "(11) Contractual services and purchases of
4 commodities for which there is only one vendor or supplier and
5 contractual services and purchases of personal property which
6 by their very nature are impossible to award by competitive
7 bidding.

8 "(12) Contractual services and purchases of products
9 related to, or having an impact upon, security plans,
10 procedures, assessments, measures, or systems, or the security
11 or safety of persons, structures, facilities, or
12 infrastructures.

13 "(13) Purchases, leases, or lease/purchase of goods
14 or services, other than voice or data wireless communication
15 services, made as a part of any purchasing cooperative
16 sponsored by the National Association of Counties, its
17 successor organization, or any other national or regional
18 governmental cooperative purchasing program. ~~Such~~ The
19 purchases, leases, or lease/purchase may only be made if all
20 of the following occur:

21 "a. The goods or services being purchased, including
22 those purchased through a lease/purchase agreement, or leased
23 are available as a result of a competitive bid process
24 approved by the Department of Examiners of Public Accounts for
25 each bid.

26 "b. The goods or services are either not at the time
27 available to local boards of education on the state purchasing

1 program or are available at a price equal to or less than that
2 on the state purchasing program.

3 "c. The purchase, lease, or lease/purchase is made
4 through a participating Alabama vendor holding an Alabama
5 business license if such a vendor exists.

6 "(14) Purchases of unprocessed agricultural products
7 as defined in subsection (b) of Section 16-1-46 and the cost
8 of the food purchased is equal to or less than the federal
9 simplified acquisition threshold set in 2 C.F.R. §200.88.

10 "(15) Purchase of goods or services, other than
11 voice or data wireless communication services, from vendors
12 that have been awarded a current and valid general services
13 administration contract. Prices paid for the goods or services
14 may not exceed the lowest competitively bid price for these
15 goods or services, other than voice or data wireless
16 communication services, and may not exceed the price on an
17 existing state purchasing program.

18 "(b) This chapter shall not apply to:

19 "(1) Any purchases of products where the price of
20 the products is already regulated and established by state
21 law.

22 "(2) Purchases made by individual schools of the
23 county or municipal public school systems from moneys other
24 than those raised by taxation or received through
25 appropriations from state or county sources.

26 "(c) The city and county boards of education shall
27 establish and maintain such purchasing facilities and

1 procedures as may be necessary to carry out the intent and
2 purpose of this chapter by complying with the requirements for
3 competitive bidding in the operation and management of each
4 city and county board of education.

5 "(d) Contracts entered into in violation of this
6 chapter shall be void, and anyone who violates this chapter
7 shall be guilty of a Class C felony.

8 "§41-16-51.

9 "(a) Competitive bids for entities subject to this
10 article shall not be required for utility services, the rates
11 for which are fixed by law, regulation, or ordinance, and the
12 competitive bidding requirements of this article shall not
13 apply to:

14 "(1) The purchase of insurance.

15 "(2) The purchase of ballots and supplies for
16 conducting any primary, general, special, or municipal
17 election.

18 "(3) Contracts for securing services of attorneys,
19 physicians, architects, teachers, superintendents of
20 construction, artists, appraisers, engineers, consultants,
21 certified public accountants, public accountants, or other
22 individuals possessing a high degree of professional skill
23 where the personality of the individual plays a decisive part.

24 "(4) Contracts of employment in the regular civil
25 service.

26 "(5) Contracts for fiscal or financial advice or
27 services.

1 "(6) Purchases of products made or manufactured by
2 the blind or visually handicapped under the direction or
3 supervision of the Alabama Institute for Deaf and Blind in
4 accordance with Sections 21-2-1 to 21-2-4, inclusive.

5 "(7) Purchases of maps or photographs from any
6 federal agency.

7 "(8) Purchases of manuscripts, books, maps,
8 pamphlets, periodicals, and library/research electronic data
9 bases of manuscripts, books, maps, pamphlets, or periodicals.

10 "(9) The selection of paying agents and trustees for
11 any security issued by a public body.

12 "(10) Existing contracts up for renewal for
13 sanitation or solid waste collection, recycling, and disposal
14 between municipalities or counties, or both, and those
15 providing the service.

16 "(11) Purchases of computer and word processing
17 hardware when the hardware is the only type that is compatible
18 with hardware already owned by the entity taking bids and
19 custom software.

20 "(12) Professional services contracts for
21 codification and publication of the laws and ordinances of
22 municipalities and counties.

23 "(13) Contractual services and purchases of
24 commodities for which there is only one vendor or supplier and
25 contractual services and purchases of personal property which
26 by their very nature are impossible to award by competitive
27 bidding.

1 "(14) Purchases of dirt, sand, or gravel by a county
2 governing body from in-county property owners in order to
3 supply a county road or bridge project in which the materials
4 will be used. The material shall be delivered to the project
5 site by county employees and equipment used only on projects
6 conducted exclusively by county employees.

7 "(15) Contractual services and purchases of products
8 related to, or having an impact upon, security plans,
9 procedures, assessments, measures, or systems, or the security
10 or safety of persons, structures, facilities, or
11 infrastructures.

12 "(16) Subject to the limitations in this
13 subdivision, purchases, leases, or lease/purchases of goods or
14 services, other than voice or data wireless communication
15 services, made as a part of the purchasing cooperative
16 sponsored by the National Association of Counties, its
17 successor organization, or any other national or regional
18 governmental cooperative purchasing program. ~~Such~~ The
19 purchases, leases, or lease/purchases may only be made if all
20 of the following occur:

21 "a. The goods or services being purchased, including
22 those purchased through a lease/purchase agreement, or leased
23 are available as a result of a competitive bid process
24 conducted by a governmental entity and approved by the Alabama
25 Department of Examiners of Public Accounts for each bid.

26 "b. The goods or services are either not at the time
27 available to counties on the state purchasing program or are

1 available at a price equal to or less than that on the state
2 purchasing program.

3 "c. The purchase, lease, or lease/purchase is made
4 through a participating Alabama vendor holding an Alabama
5 business license if such a vendor exists.

6 "d. The entity purchasing, leasing, or
7 lease/purchasing goods or services under this subdivision has
8 been notified by the Department of Examiners of Public
9 Accounts that the competitive bid process utilized by the
10 cooperative program offering the goods complies with this
11 subdivision.

12 In addition, upon request, a vendor shall provide
13 the entity purchasing, leasing, or lease/purchasing items
14 which exceed fifteen thousand dollars (\$15,000) made under
15 this exception during the previous 12 months a report of the
16 sales, leases, and lease/purchases to include a general
17 description of the goods or services; the number of units
18 sold, leased, and leased/purchased per entity; and the price
19 of units purchased, leased, or leased/purchased.

20 "(17) Purchase of goods or services, other than
21 wireless communication services, whether voice or data, from
22 vendors that have been awarded a current and valid Government
23 Services Administration contract. Any purchase made pursuant
24 to this subdivision shall be under the same terms and
25 conditions as provided in the Government Services
26 Administration contract. Prices paid for such goods and
27 services, other than wireless communication services, whether

1 voice or data, may not exceed the amount provided in the
2 Government Services Administration contract.

3 "(b) This article shall not apply to:

4 "(1) Any purchases of products where the price of
5 the products is already regulated and established by state
6 law.

7 "(2) Purchases made by individual schools of the
8 county or municipal public school systems from moneys other
9 than those raised by taxation or received through
10 appropriations from state or county sources.

11 "(3) The purchase, lease, sale, construction,
12 installation, acquisition, improvement, enlargement, or
13 expansion of any building or structure or other facility
14 designed or intended for lease or sale by a medical clinic
15 board organized under Sections 11-58-1 to 11-58-14, inclusive.

16 "(4) The purchase, lease, or other acquisition of
17 machinery, equipment, supplies, and other personal property or
18 services by a medical clinic board organized under Sections
19 11-58-1 to 11-58-14, inclusive.

20 "(5) Purchases for public hospitals and nursing
21 homes operated by the governing boards of instrumentalities of
22 the state, counties, and municipalities.

23 "(6) Contracts for the purchase, lease, sale,
24 construction, installation, acquisition, improvement,
25 enlargement, or extension of any plant, building, structure,
26 or other facility or any machinery, equipment, furniture, or
27 furnishings therefor designed or intended for lease or sale

1 for industrial development, other than public utilities, under
2 Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20
3 to 11-54-28, inclusive, or any other statute or amendment to
4 the Constitution of Alabama authorizing the construction of
5 plants or other facilities for industrial development or for
6 the construction and equipment of buildings for public
7 building authorities under Sections 11-56-1 to 11-56-22,
8 inclusive.

9 "(7) The purchase of equipment, supplies, or
10 materials needed, used, and consumed in the normal and routine
11 operation of any waterworks system, sanitary sewer system, gas
12 system, or electric system, or any two or more thereof, that
13 are owned by municipalities, counties, or public corporations,
14 boards, or authorities that are agencies, departments, or
15 instrumentalities of municipalities or counties and no part of
16 the operating expenses of which system or systems have, during
17 the then current fiscal year, been paid from revenues derived
18 from taxes or from appropriations of the state, a county, or a
19 municipality.

20 "(8) Purchases made by local housing authorities,
21 organized and existing under Chapter 1 of Title 24, from
22 moneys other than those raised by state, county, or city
23 taxation or received through appropriations from state,
24 county, or city sources.

25 "(c) The state trade schools, state junior colleges,
26 state colleges, and universities under the supervision and
27 control of the State Board of Education, the district boards

1 of education of independent school districts, the county
2 commissions, and the governing bodies of the municipalities of
3 the state shall establish and maintain such purchasing
4 facilities and procedures as may be necessary to carry out the
5 intent and purpose of this article by complying with the
6 requirements for competitive bidding in the operation and
7 management of each state trade school, state junior college,
8 state college, or university under the supervision and control
9 of the State Board of Education, the district boards of
10 education of independent school districts, the county
11 commissions, and the governing bodies of the municipalities of
12 the state and the governing boards of instrumentalities of
13 counties and municipalities, including waterworks boards,
14 sewer boards, gas boards, and other like utility boards and
15 commissions.

16 "(d) Contracts entered into in violation of this
17 article shall be void and anyone who violates the provisions
18 of this article shall be guilty of a Class C felony."

19 Section 2. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on State Government
..... 02-FEB-21

Read for the second time and placed
on the calendar 1 amendment 03-FEB-21

Read for the third time and passed
as amended..... 23-FEB-21

Yeas 102, Nays 0, Abstains 0

Jeff Woodard
Clerk