

SB196 ENROLLED



1 SB196
2 4U9VC3I-2
3 By Senator Livingston
4 RFD: County and Municipal Government
5 First Read: 21-Jan-26



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1 Enrolled, An Act,

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Relating to competitive bidding; to amend Section 39-2-2, Code of Alabama 1975, as last amended by Act 2025-383; to exempt from the public works law the purchase and installation of playground equipment on public property.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 39-2-2, Code of Alabama 1975, as last amended by Act 2025-383, is amended to read as follows:

"§39-2-2

(a) (1) Before entering into any contract for a public works involving an amount in excess of one hundred thousand dollars (\$100,000), the awarding authority shall advertise for sealed bids, except as provided in subsection (k).

(2)a. If the awarding authority is the state, a county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement, or some part thereof, is to be made.

b.1. If the awarding authority is a municipality, or an instrumentality thereof, it shall advertise for sealed bids at least once in a newspaper of general circulation published in the municipality where the awarding authority is located.

2. If no newspaper is published in the municipality, the awarding authority shall advertise by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for the length of time as



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29 may be determined. In addition to bulletin board notice, the
30 awarding authority shall also send the notice by U.S. mail or
31 electronic mail to the Department of Finance for publication
32 of the advertisement on the centralized website maintained by
33 the department as further described in subsection (c).

34 (3) The advertisements shall briefly describe the
35 improvement, state that plans and specifications for the
36 improvement are on file for examination in a designated office
37 of the awarding authority, state the procedure for obtaining
38 plans and specifications, state the time and place in which
39 bids shall be received and opened, and identify whether
40 prequalification is required and where all written
41 prequalification information is available for review.

42 (4) All bids shall be opened publicly at the advertised
43 time and place.

44 (5) No public work involving a sum in excess of one
45 hundred thousand dollars (\$100,000) shall be split into parts
46 involving sums of one hundred thousand dollars (\$100,000) or
47 less for the purpose of evading the requirements of this
48 section.

49 (b) (1) An awarding authority may let contracts for
50 public works involving one hundred thousand dollars (\$100,000)
51 or less with or without advertising or sealed bids.

52 (2) Notwithstanding the advertising requirements of
53 subdivision (a) (2), an awarding authority may enter into a
54 contract for public works if: (i) the awarding authority
55 submitted the advertisement for sealed bids for the contract
56 in accordance with subdivision (a) (2); and (ii) the



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57 advertisement was published for at least three weeks, or if
58 the awarding authority is a municipality or instrumentality
59 thereof for at least seven consecutive calendar days, on a
60 centralized website maintained by the Department of Finance as
61 further described in subsection (c).

62 (3) If the awarding authority under subdivision (2) is
63 the Department of Transportation, the Department of Finance
64 may alternatively satisfy the requirements of subdivision
65 (2)(ii) by publishing the advertisement on its publicly
66 accessible website for at least three weeks.

67 (4) If the awarding authority under subdivision (2) is
68 a county or instrumentality thereof, the county or
69 instrumentality may alternatively satisfy the requirements of
70 subdivision (2)(ii) by publishing the advertisement in
71 accordance with the procedures submitted by the Association of
72 County Engineers of Alabama and approved by the Department of
73 Examiners of Public Accounts as authorized by general law.

74 (c) The Department of Finance shall establish and
75 maintain a centralized website or digital platform to provide
76 publicly accessible notice of advertisements for sealed bids
77 pursuant to this section. The department may further provide
78 for the administration and operations related thereto by the
79 adoption of administrative rules, including, but not limited
80 to, the assessment of fees to awarding authorities for the
81 posting of advertisements to cover the implementation and
82 maintenance cost of the website or digital platform.

83 (d) All contracts for public works entered into in
84 violation of this title shall be void and violative of public



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85 policy. Anyone who willfully violates this chapter concerning
86 public works shall be guilty of a Class C felony.

87 (e) (1) Excluded from the operation of this title shall
88 be contracts with persons who shall perform only
89 architectural, engineering, construction management, program
90 management, or project management services in support of the
91 public works and who shall not engage in actual construction,
92 repair, renovation, or maintenance of the public works with
93 their own forces, by contract, subcontract, purchase order,
94 lease, or otherwise.

95 (2)a. Excluded from operation of the bidding
96 requirements in this title are contracts for the purchase of
97 any heating or air conditioning units or systems by any
98 awarding authority subject to Chapter 13B of Title 16, Article
99 3, commencing with Section 41-16-50 of Chapter 16 of Title 41,
100 or Article 5, commencing with Section 41-4-110 of Chapter 4 of
101 Title 41, provided the contract is entered into with an
102 Alabama vendor who has been granted approved vendor status for
103 the sale of heating or air conditioning units or systems as a
104 part of a purchasing cooperative, and each of the following
105 occur:

106 1. The heating or air conditioning unit or system being
107 purchased is available as a result of a competitive bid
108 process conducted by a governmental entity which has been
109 approved by the Department of Examiners of Public Accounts.

110 2. The purchase of the heating or air conditioning unit
111 or system is not available on the state purchasing program at
112 the time or the purchase under the purchasing cooperative is



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113 available at a price that is equal to or less than that
114 available through the state purchasing program.

115 3. The entity entering into the contract for the
116 purchase of the heating or air conditioning unit or system has
117 been notified by the Department of Examiners of Public
118 Accounts that the competitive bid process utilized by the
119 cooperative program offering the goods complies with this
120 subdivision.

121 4. Upon request, the vendor has provided the purchasing
122 entity with a report of sales made under this subdivision
123 during the previous 12-month period, to include a general
124 description of the heating or air conditioning units and
125 systems sold, the number of units sold per entity, and the
126 purchase price of the units.

127 b. The exemption from the requirement to use sealed
128 bids for the purchase of heating or air conditioning units or
129 systems authorized by this section shall not serve to exempt
130 any public works project from the remaining provisions of this
131 chapter, including, but not limited to, design, installation,
132 and review requirements, compliance with all applicable codes,
133 laws, specifications, and standards, and the compensation of
134 engineers, architects, or others as mandated by state law or
135 rule.

136 (3)a. Excluded from the operation of this title are
137 contracts for the purchase, design, and installation of
138 playground equipment. Such contracts shall be procured as
139 otherwise required for the procurement of goods and services,
140 including, but not limited to, Chapter 13B of Title 16;



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141 Article 3 of Chapter 16 of Title 41; and Article 5 of Chapter
142 4 of Title 41.

143 b. For purposes of this subdivision, "playground
144 equipment" means any structure or apparatus intended for
145 children's recreational use and play in a public area,
146 including a public park, public school, or other public
147 property. The term includes slides, swings, climbing
148 equipment, seesaws, and splash pads. The term also includes
149 purchases ancillary to the use of a playground, including
150 safety surfacing, fencing, signage, and shade structures.

151 (f) (1) In case of an emergency for which a delay in
152 remedying would cause immediate harm to a person or public
153 property, contracts may be let to the extent necessary to meet
154 the emergency without public advertisement or bidding.

155 (2) In case of an emergency affecting public health,
156 safety, or convenience, as declared in writing by the awarding
157 authority, setting forth the nature of the danger to the
158 public health, safety, or convenience which would result from
159 delay, contracts may be let to the extent necessary to meet
160 the emergency without public advertisement.

161 (3) Any action taken under subdivision (1) or (2), and
162 the reasons for the action taken, shall immediately be made
163 public by the awarding authority and published in writing.

164 (g) No awarding authority may specify in the plans and
165 specifications for the improvement the use of materials,
166 products, systems, or services by a sole source unless all of
167 the following requirements are met:

168 (1) Except for contracts involving the construction,



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169 reconstruction, renovation, or replacement of public roads,
170 bridges, and water and sewer facilities, the awarding
171 authority can document to the satisfaction of the Division of
172 Real Property Management of the Department of Finance, or in
173 the case of an educational institution or state educational
174 institution as provided pursuant to Sections 41-4-353 and
175 41-4-400, to the satisfaction of its governing board, that the
176 sole source product, material, system, or service is of an
177 indispensable nature for the improvement, that there are no
178 other viable alternatives, and that only this particular
179 product, material, system, or service fulfills the function
180 for which it is needed.

181 (2) The sole source specification has been recommended
182 by the architect or engineer of record as an indispensable
183 item for which there is no other viable alternative.

184 (3) All information substantiating the use of a sole
185 source specification, including the recommendation of the
186 architect or engineer of record, shall be documented and made
187 available for examination in the office of the awarding
188 authority at the time of advertisement for sealed bids.

189 (h) If a proposed public works project is acknowledged
190 in writing by the Alabama Homeland Security Department as: (i)
191 having a direct impact on the security or safety of persons or
192 facilities; and (ii) requiring confidential handling for the
193 protection of such persons or facilities, contracts may be let
194 without public advertisement but with the taking of informal
195 bids otherwise consistent with the requirements of this title
196 and the requirements of maintaining confidentiality. Records



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197 of bidding and award shall not be disclosed to the public and
198 shall remain confidential.

199 (i) If a pre-bid meeting is held, the pre-bid meeting
200 shall be held at least seven days prior to the bid opening
201 except when the project has been declared an emergency in
202 accordance with subsection (f).

203 (j) The awarding authority may not offer a contract for
204 bidding unless confirmation of any applicable grant has been
205 received and any required matching funds have been secured by
206 or are available to the awarding authority.

207 (k) Notwithstanding subsection (a), the Department of
208 Transportation may enter into contracts for road construction
209 or road maintenance projects that do not involve more than two
210 hundred fifty thousand dollars (\$250,000) without advertising
211 for sealed bids, provided the project is listed on the
212 publicly accessible website of the department for at least
213 seven calendar days before entering into the contract. The
214 total cost of all projects not subject to advertising and
215 sealed bids pursuant to this subsection may not exceed one
216 million dollars (\$1,000,000) in the aggregate per year.

217 (l) For the purposes of this chapter, sealed bids may
218 also be solicited and submitted through electronic means
219 including, but not limited to, electrical, digital, magnetic,
220 optical, electromagnetic, or any other similar technology,
221 provided that the awarding authority adopts rules and policies
222 to ensure that all electronic submissions are transmitted
223 securely and bids ~~remained~~remain sealed until bid opening.

224 (m) (1) Notwithstanding any other provision of law, any



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225 entity subject to this chapter that is an awarding authority
226 of a contract for public works, by resolution or board action,
227 may purchase materials or equipment pursuant to Section
228 41-16-51(a)(14), (16), (17), (18), or (19), even when those
229 materials or equipment are otherwise part of the contract for
230 public works subject to the requirements of this title.

231 (2) Except for those materials or equipment described
232 in subdivision (1), the remaining portion of the public works
233 project shall be subject to the requirements of this title,
234 even if the remaining portion would involve an amount less
235 than one hundred thousand dollars (\$100,000) as a result of
236 the exclusion of the purchase of the materials or equipment as
237 described in subdivision (1)."

238 Section 2. This act shall become effective on June 1,
239 2026.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB196
Senate 12-Feb-26
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 05-Mar-26

By: Senator Livingston