

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

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2 ENROLLED, An Act,

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

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§16-13B-2.

18 "(a) Competitive bids shall not be required for
19 utility services for county or city boards of education, the
20 rates for which are fixed by law, regulation, or ordinance,
21 and the competitive bidding requirements of this chapter shall
22 not apply to:

23 "(1) The purchase of insurance.

24 "(2) Contracts for securing services of attorneys,
25 physicians, architects, teachers, superintendents of

1 construction, artists, appraisers, engineers, consultants,
2 certified public accountants, public accountants, or other
3 individuals possessing a high degree of professional skill
4 where the personality of the individual plays a decisive part.

5 "(3) Contracts of employment in the regular civil
6 service.

7 "(4) Contracts for fiscal or financial advice or
8 services.

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

13 "(6) Purchases of maps or photographs from any
14 federal agency.

15 "(7) Purchases of manuscripts, books, maps,
16 pamphlets, or periodicals.

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

19 "(9) Existing contracts up for renewal for
20 sanitation or solid waste collection, recycling, or disposal
21 and those providing the service.

22 "(10) Purchases of computer and word processing
23 hardware when the hardware is the only type that is compatible
24 with hardware already owned by the entity taking bids and
25 custom software.

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

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

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

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

24 "b. The goods or services are either not at the time
 25 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.

1 "(c) The city and county boards of education shall
2 establish and maintain such purchasing facilities and
3 procedures as may be necessary to carry out the intent and
4 purpose of this chapter by complying with the requirements for
5 competitive bidding in the operation and management of each
6 city and county board of education.

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

10 "§41-16-51.

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

16 "(1) The purchase of insurance.

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

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

1 "(4) Contracts of employment in the regular civil
2 service.

3 "(5) Contracts for fiscal or financial advice or
4 services.

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

9 "(7) Purchases of maps or photographs from any
10 federal agency.

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

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

16 "(10) Existing contracts up for renewal for
17 sanitation or solid waste collection, recycling, and disposal
18 between municipalities or counties, or both, and those
19 providing the service.

20 "(11) Purchases of computer and word processing
21 hardware when the hardware is the only type that is compatible
22 with hardware already owned by the entity taking bids and
23 custom software.

1 "(12) Professional services contracts for
2 codification and publication of the laws and ordinances of
3 municipalities and counties.

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

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

15 "(15) Contractual services and purchases of products
16 related to, or having an impact upon, security plans,
17 procedures, assessments, measures, or systems, or the security
18 or safety of persons, structures, facilities, or
19 infrastructures.

20 "(16) Subject to the limitations in this
21 subdivision, purchases, leases, or lease/purchases of goods or
22 services, other than voice or data wireless communication
23 services, made as a part of the purchasing cooperative
24 sponsored by the National Association of Counties, its
25 successor organization, or any other national or regional

1 governmental cooperative purchasing program. ~~Such~~ The
2 purchases, leases, or lease/purchases may only be made if all
3 of the following occur:

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

9 "b. The goods or services are either not at the time
10 available to counties on the state purchasing program or are
11 available at a price equal to or less than that on the state
12 purchasing program.

13 "c. The purchase, lease, or lease/purchase is made
14 through a participating Alabama vendor holding an Alabama
15 business license if such a vendor exists.

16 "d. The entity purchasing, leasing, or
17 lease/purchasing goods or services under this subdivision has
18 been notified by the Department of Examiners of Public
19 Accounts that the competitive bid process utilized by the
20 cooperative program offering the goods complies with this
21 subdivision. In addition, upon request, a vender shall provide
22 the entity purchasing, leasing, or lease/purchasing items
23 which exceed fifteen thousand dollars (\$15,000) made under
24 this exception during the previous 12 months a report of the
25 sales, leases, and lease/purchases to include a general

1 description of the goods or services; the number of units
 2 sold, leased, and leased/purchased per entity; and the price
 3 of units purchased, leased, or leased/purchased.

4 "(17) Purchase of goods or services, other than
 5 wireless communication services, whether voice or data, from
 6 vendors that have been awarded a current and valid Government
 7 Services Administration contract. Any purchase made pursuant
 8 to this subdivision shall be under the same terms and
 9 conditions as provided in the Government Services
 10 Administration contract. Prices paid for such goods and
 11 services, other than wireless communication services, whether
 12 voice or data, may not exceed the amount provided in the
 13 Government Services Administration contract.

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

15 "(1) Any purchases of products where the price of
 16 the products is already regulated and established by state
 17 law.

18 "(2) Purchases made by individual schools of the
 19 county or municipal public school systems from moneys other
 20 than those raised by taxation or received through
 21 appropriations from state or county sources.

22 "(3) The purchase, lease, sale, construction,
 23 installation, acquisition, improvement, enlargement, or
 24 expansion of any building or structure or other facility

1 designed or intended for lease or sale by a medical clinic
 2 board organized under Sections 11-58-1 to 11-58-14, inclusive.

3 "(4) The purchase, lease, or other acquisition of
 4 machinery, equipment, supplies, and other personal property or
 5 services by a medical clinic board organized under Sections
 6 11-58-1 to 11-58-14, inclusive.

7 "(5) Purchases for public hospitals and nursing
 8 homes operated by the governing boards of instrumentalities of
 9 the state, counties, and municipalities.

10 "(6) Contracts for the purchase, lease, sale,
 11 construction, installation, acquisition, improvement,
 12 enlargement, or extension of any plant, building, structure,
 13 or other facility or any machinery, equipment, furniture, or
 14 furnishings therefor designed or intended for lease or sale
 15 for industrial development, other than public utilities, under
 16 Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20
 17 to 11-54-28, inclusive, or any other statute or amendment to
 18 the Constitution of Alabama authorizing the construction of
 19 plants or other facilities for industrial development or for
 20 the construction and equipment of buildings for public
 21 building authorities under Sections 11-56-1 to 11-56-22,
 22 inclusive.

23 "(7) The purchase of equipment, supplies, or
 24 materials needed, used, and consumed in the normal and routine
 25 operation of any waterworks system, sanitary sewer system, gas

1 system, or electric system, or any two or more thereof, that
2 are owned by municipalities, counties, or public corporations,
3 boards, or authorities that are agencies, departments, or
4 instrumentalities of municipalities or counties and no part of
5 the operating expenses of which system or systems have, during
6 the then current fiscal year, been paid from revenues derived
7 from taxes or from appropriations of the state, a county, or a
8 municipality.

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

14 "(c) The state trade schools, state junior colleges,
15 state colleges, and universities under the supervision and
16 control of the State Board of Education, the district boards
17 of education of independent school districts, the county
18 commissions, and the governing bodies of the municipalities of
19 the state shall establish and maintain such purchasing
20 facilities and procedures as may be necessary to carry out the
21 intent and purpose of this article by complying with the
22 requirements for competitive bidding in the operation and
23 management of each state trade school, state junior college,
24 state college, or university under the supervision and control
25 of the State Board of Education, the district boards of

1 education of independent school districts, the county
2 commissions, and the governing bodies of the municipalities of
3 the state and the governing boards of instrumentalities of
4 counties and municipalities, including waterworks boards,
5 sewer boards, gas boards, and other like utility boards and
6 commissions.

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

10 Section 2. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 23-FEB-21, as amended.

Jeff Woodard
Clerk

Senate

17-MAY-21

Passed