

**Bidding Requirements for
Alabama School Boards
Using Federal and CNP Funds**

Alabama Department of Education
LEA Fiscal Accountability

Bid Requirements in State Laws

- Alabama Competitive Bid Law
§16-13B-1, et.al.
- Information Technology Joint Purchasing
Agreements §16-61E-1. et.al.
- Public Works Law §39-1-1, et.al.

Public Works Definition

- *“The construction, installation, **repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, curbs, gutters, side walls, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, repaired, renovated, or maintained on public property** and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.”*

Public Works

- Contracts for public works projects of less than \$50,000 are **not** subject to competitive bidding **if** :
 - The project cost includes contract labor.
- Purchases for public works projects using school board employees for the work are subject to the Competitive Bid Law if the purchases exceed \$15,000.

Joint Purchasing of Information Technology

- Each school system’s technology coordinator has access to the SDE’s web site that contains joint purchasing contracts for Alabama school boards.
- School boards can also enter into joint purchasing agreements with colleges and universities.

State Competitive Bid Law

- For the procurement of goods and services of \$15,000 or more state law requires school boards to select a vendor by a sealed bid process.
- The \$15,000 threshold is not limited to a single purchase but applies to the aggregate purchase of \$15,000 or more of like items over a period of time, generally one year.

State Competitive Bid Law

- Competitive bids are not required for purchases from governmental agencies.
and
- There are numerous other exceptions to the state competitive bid law but only a few apply to federal and CNP procurement.

State Competitive Bid Law

- Purchases can be made from the state bid list without bidding by the school board.
- **NOTE :**
A law passed in 2004 that allows the purchase from a local vendor without bidding if the price is less than the state bid price does **not** apply to school boards.

State Competitive Bid Law

- Purchases can be made from specified national purchasing cooperatives without the school board requesting sealed bids.
- The national purchasing cooperatives that are allowable for school boards to use are specifically approved by the State Examiners of Public Accounts.

State Competitive Bid Law

- For contracts subject to the Competitive Bid Law, the length of contracts are restricted to:
 - No more than 5 years for the purchase of personal property or contractual services.
 - No more than 10 years for lease-purchase contracts.

State Competitive Bid Law

- Purchasing from a vendor without competitive bidding is allowable if a school board specifies that the vendor is a sole source of the goods or services and the documentation required by the competitive bid law is maintained.

State Competitive Bid Law

- Required sole source documentation:
- Good or services are of an indispensable nature.
 - All other viable alternatives have been explored.
 - Only these will fulfill the purpose. (Not frivolous.)
 - No other vendor can provide substantially equivalent goods or services that will accomplish the purpose for which the goods or services are required.
 - All sole source documentation of sole source determination is maintained.

Federal Procurement Regulations

1. Procurement by micro-purchases.
2. Procurement by small purchase procedures.
3. Procurement by sealed bids.
4. Procurement by competitive proposals.
5. Procurement by sole source procedures.

Federal Procurement Regulations

- Micro-purchase procurement is a single transaction for acquiring supplies or services that does not exceed the *micro-purchase threshold* (currently \$3500). To the extent practical, the school board must distribute purchases equitably among qualified suppliers.
 - **No quotes or competitive bids unless required by state bid laws. (See Examples 1 and 2.)**

Federal Procurement Regulations

- Small purchase procedures apply to the procurement transactions for materials and supplies that exceed the *micro-purchase threshold* (currently \$3500) but does not exceed the *simplified acquisition threshold* (currently \$150,000).
 - **Price quotes but no sealed bids required except for purchases by Alabama school boards over state bid threshold of \$15,000. (See Example 3 and 4.)**

Federal Procurement Regulations

- Sealed bids are required for purchases of materials, supplies and equipment that exceed the *simplified acquisition threshold* (currently \$150,000), however:
 - **Alabama school boards must follow the sealed bid procedures contained in the State Competitive Bid Laws for most purchases over \$15,000.**

Federal Procurement Regulations

- Competitive proposals are required for certain transactions that exceed the *simplified acquisition threshold* (currently \$150,000).
 - **Alabama school boards would use their own written competitive proposal procedures for those professional service contracts that are exempt from the State Competitive Bid Law requirements. (See Example 5.)**

Federal Procurement Regulations

Sole source procurement:

- After solicitation from a number of sources competition is determined inadequate, or
- Federal agency or pass-through entity approves written request for sole source, or
- Competition process would delay emergency need, or
- Item is only available from a single source. (See Example 6.)

Federal Procurement Regulations

- The U.S. Department of Education provided guidance on price quotes for small purchase procedures:
 - School boards can decide the “adequate” number (more than one) of documented quotes from qualified sources, as well as the method of obtaining quotes (e.g., it can be in writing, orally, vendor price list on website, or generated online search engine.) No cost or price analysis is required.

Federal Procurement Regulations

- School boards are encouraged to use intergovernmental agreements for procurement.
- In addition to using state and regional bid programs, school boards may use specified national purchasing cooperatives if the vendor contracts comply with the federal procurement requirements.

Federal Procurement Regulations

- Vendors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals are excluded from competing for such procurements.
- Competition cannot be restricted by specifying only a “brand name” product instead of allowing “an equal” product.

Example 1

- 1. A federal program issues a purchase order for \$2800 in copier paper.
 - a) State bid law would apply if school board funds (including the federal funds) will purchase \$15,000 or more in copier paper during the year. The school board could issue requests for sealed bids, purchase from the state bid list approved vendor, utilize a vendor through membership in a regional purchasing cooperative, or use a vendor contract on an approved national purchasing cooperative.

Example 2

- 2. A federal program issues a purchase order for \$1800 to purchase VHS players.
 - a) If no school board funds will be used to purchase additional VHS players (or like items) during the year then no quotes or bid requirements would apply.

Example 3

- 3. A federal program issues a purchase order for \$4200 to purchase VHS players.
 - a) If no school board funds will be used to purchase additional VHS players (or like items) during the year then no state bid requirements would apply. Two or more price quotes would be obtained to meet the federal requirements.

Example 4

- 4. A federal program issues a purchase order for \$18,600 to purchase VHS players.
 - a) State bid requirements would apply. The school board may advertise for sealed bids, use the state bid list, or use one of the allowable purchasing programs.

Example 5

- 5. A federal program plans to contract with consultants for a professional development program for teachers (Estimate-\$200,000).
 - a) State bid requirements would not apply due to state bid law exceptions. The school board will request proposals for the professional service contract that will be awarded under a technical evaluation process in accordance with federal regulations and written board policies.

Example 6

- 6. A federal program plans to purchase a 3-D printer for \$21,500 that, according to the vendor, is only available from that vendor.
 - a) If required, the school board must obtain prior approval from the awarding agency. Requirements for sole source purchases in the state bid law would apply.

Example 7

- 7. A federal program approved budget application allows for contracting for the repair of an air conditioning unit that will cost \$32,500.
- a) The state competitive bid law would not apply because the contract is covered by the Public Works Law. Two or more price quotes would be obtained to meet the federal requirements.

**LEA Fiscal Accountability
On the SDE Website**

- www.alsde.edu
- Select *Department Offices* tab on the left-hand side near the top of the screen.
- Under Office of Supporting Programs select “*LEA Fiscal Accountability*”
- Select “*Bid Law and Purchasing*”

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