

**Requirements For
Alabama School Boards
To Comply With State and Federal
Procurement Requirements**

AASBO Certificate Program

September 2020

Dennis Heard

Alabama Department of Education

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

- Contracts for public works projects of less than \$50,000 are **not** subject to competitive bidding under the Public Works Law.
- Purchases for public works projects using school board employees for routine maintenance and repair jobs 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. (ALJP)
- School boards can also enter into joint purchasing agreements with colleges and universities for information technology.

ALJP

- The ALSDE's *Education Technology Office* oversees the ALJP for the purchase of technology for education institutions from quality vendors holding ISO-9001 certification.
- ALJP contracts also include Covid-19 vendors for technology devices, network connectivity, and temperature scanning.

State 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 time period (generally one year).

State Bid List

- 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.

Purchasing Cooperatives

- Purchases (not leases) 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 Bid Law-Sole Source

- 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.

Sole Source Requirements

Required sole source documentation:

- Goods 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.

Micro-purchase

- Micro-purchase procurement is a single transaction for acquiring supplies or services that does not exceed the *micro-purchase threshold* (currently \$10,000). 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.)**

Small Purchase

- Small purchase procedures apply to the procurement transactions for materials and supplies that exceed the *micro-purchase threshold* (currently \$10,000) but do not exceed the *simplified acquisition threshold* (currently \$250,000).
 - **Price quotes are required, and the state bid law requirements may apply to the purchase. (See Example 3, 4, and 7.)**

Sealed Bids

- Sealed bids are required for purchases of materials, supplies and equipment that exceed the *simplified acquisition threshold* (currently \$250,000).

Competitive Proposals

- Competitive proposals are required for certain transactions that exceed the *simplified acquisition threshold* (currently \$250,000).
 - **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.)**

Sole Source Procurement

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.)

Price Quotes

- 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.

Intergovernmental Agreements

- 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.

Vendor Restrictions

- 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 \$2,800 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 \$14,200 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 threshold requirements would apply. The school board may advertise for sealed bids, use the state bid list, or use one of the allowable purchasing programs. *(Two or more price quotes would need to be obtained to meet the federal requirements if sealed bids are not solicited.)*

Example 5

5. A federal program plans to contract with consultants for a professional development program for teachers (Estimate-\$280,000).
 - a) State bid requirements would not apply. 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 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.*

State Competitive Bid Law

- Advertising for bids is not required.
- Two requirements for bid solicitation:
 - Post notice on bulletin board outside purchasing office.
 - Send notice by mail to all vendors who have filed a written request for that they be notified when particular items are being bid. However the vendor can be removed for failing to respond to the previous three notifications.

Emergencies

- For emergencies, a school board must still follow state bid law requirements except public advertisement. (No bulletin board posting.)
- The school board must make a written public declaration that provides the reasons for determining that an emergency exists that affects the public health, safety, or convenience to not advertise for bids.

State Bid Solicitations

- The school board may provide notice of the bid solicitation for any length of time* and by other additional manners including:
 - School board web site.
 - Other web sites.
 - E-mail notifications to potential bidders.
 - Notification by telephone or mail.

*The response time for bid responses cannot be shortened to inhibit fair competition.

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*”

LEA Fiscal Accountability

- *Mrs. Sonja Peaspanen*
speaspanen@alsde.edu
- *Mr. Dennis Heard*
dheard@alsde.edu