

School Law
AASBO LSFM Certificate Program
March 2023



School Law

LSFM Certificate Program

This course will cover the laws and guidelines relating to public education. Topics will include laws related to school finance, public records, the Alabama competitive bid law, employment law, ethics law and copyright issues.

Speakers:

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Whit Colvin, Bishop, Colvin, Johnson and Kent LLC

School Law –School Finance

Laws - School Finance and Operations

- Code of Alabama 1975
- SDE Administrative Code
- Local board policies/procedures
 - Rules and Regulations

School Law

LSFM Certificate Program

- *Code of Alabama 1975*
 - [Title 16](#) EDUCATION
 - [Chapter 13](#) SCHOOL FINANCES GENERALLY.
 - [Chapter 13A](#) SCHOOL FISCAL ACCOUNTABILITY
 - [Chapter 13B](#)- COMPETITIVE BIDDING FOR CERTAIN CONTRACTS OF COUNTY AND CITY BOARDS OF EDUCATION.
 - Alabama State Board Administrative Code
 - [Title 39](#) PUBLIC WORKS

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Code of Alabama 1975

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[Title 16](#) EDUCATION.

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THE ALABAMA

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Chapter 14 ALABAMA PUBLIC SCHOOL CORPORATION. REPEALED.

Chapter 13A SCHOOL FISCAL ACCOUNTABILITY

- [Section 16-13A-1](#) Fiscal management policies.
- [Section 16-13A-2](#) Financial oversight by State Superintendent of Education; appointment and duties of Chief Education Financial Officer; internal audits of schools and school systems.
- [Section 16-13A-3](#) Financial training of local superintendents of education.
- [Section 16-13A-4](#) Appointment; removal of chief school financial officer; qualifications.
- [Section 16-13A-5](#) Supervision, fiduciary responsibility of chief school financial officer; duties.
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Section 16-13A-1

Fiscal management policies

A local board of education, to ensure the sound fiscal management of board finances, upon the recommendation of the local superintendent of education, shall adopt fiscal management policies which comply with generally accepted accounting principles, including, but not limited to, policies related to each of the following:

- (1) Regular reconciliation of bank statements.
- (2) Maintenance of fixed assets inventory.
- (3) Deposit of incoming funds.
- (4) Review of monthly revenues and expenditures.

(Act 2006-196, p. 275, §2.)

Chief School Financial Officer (CSFO)

- ***Chief School Financial Officer*** - The chief financial officer should have overall responsibility for accounting and reporting all funds, including district and student activity funds, to the board. The chief financial officer is also responsible for implementing and enforcing appropriate internal control procedures.

Supervision, fiduciary responsibility of chief school financial officer; duties.

(a) The chief school financial officer shall work under the direct supervision of the local superintendent of education but shall have a fiduciary responsibility to the local board of education.

Chief School Financial Officer

§16-13A-5 (b)

(b) The chief school financial officer shall perform each of the following duties:

- (1) Verify the receipt of all funds to which the local board of education may be entitled by law, or which may come into its possession for public school purposes.
- (2) Verify the payment of such funds, such payments to occur only on written order of the local superintendent of education.
- 3) Keep an accurate record of all receipts and expenditures and provide such information to the local superintendent and the local board.
- 4) Make reports as may be required by law, by the local board of education, or by rules and regulations of the State Board of Education

Chief School Financial Officer

§ 16-13A-5 (b)

5) Personally notify, in writing, each board member and the local superintendent of education of any financial transaction of the local board of education which the chief school financial officer deems to be non-routine, unusual, without legal authorization, or not in compliance with the fiscal management policies of the board. The notification shall be recorded in the minutes of the board by the president of the local board of education.

(6) Be bonded in an amount determined by the State Board of Education.

(Act 2006-196, p. 275, §2.)

Rules of the State Board of Education

Rule 290-2-5 – Chief School Finance Officer

- 290-2-5-.01 Standards for Chief School Finance Officers
- 290-2-5-.02 Duties and Responsibilities of Chief School Finance Officers
- 290-2-5-.03 Qualifications for Chief School Finance Officers
- 290-2-5-.04 Certification of Chief School Finance Officers
- 290-2-5-.05 Performance Standards for Chief School Finance Officers
- 290-2-5-.06 Requirements to Continue Certification as a Chief School Finance Officer

<http://www.alabamaadministrativecode.state.al.us/docs/ed/index.html>

Rules of the State Board of Education

Rule 290-2-5 – Chief School Finance Officer

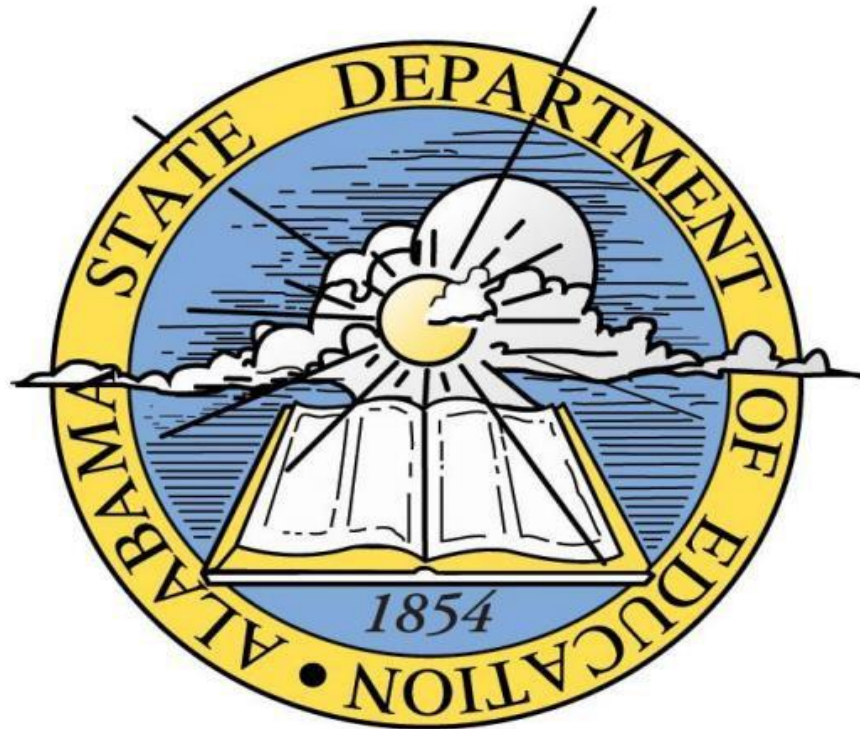
290-2-5-.02 Duties and Responsibilities of Chief School Finance Officers.

The chief school finance officer is responsible for a financial management system that ensures the proper accountability for funds administered by a local board of education and its schools. The financial management system shall reflect the financial condition of the local board of education on a timely and accurate basis. The local board of education shall provide the resources necessary for the chief school finance officer to operate an effective financial management system.

290-2-5-.02 Duties and Responsibilities of Chief School Finance Officers

- (a) An effective financial management system will require the chief school finance officer and other personnel to:
1. Maintain an accounting system in accordance with generally accepted accounting principles and governmental accounting standards.
 2. Maintain a school payroll accounting system in accordance with applicable laws and regulations
 3. Prepare financial reports annually and at other times as requested by the local school superintendent, the local board of education, and other agencies.
 4. Prepare reports as required by other agencies.
 5. Maintain an adequate system of internal controls including property and inventory accounting.
 6. Maintain a sound system of cash management.
 7. **Maintain a sound accounting system in the individual local schools.**
 8. Maintain a system of contracting and purchasing procedures.
 9. Coordinate the preparation of the annual budget and any amendments as appropriate.
 10. Maintain the financial operations of the child nutrition program and other special programs in accordance state and federal requirements.
 11. Carry out assigned responsibilities in accordance with federal, state, and local laws and with applicable rules and regulations.
 12. Perform other duties as may be assigned to the position by law, by the local school superintendent and local board of education, and by rules and regulations of the State Board of Education and the local government.

FINANCIAL PROCEDURES FOR LOCAL SCHOOLS



ALABAMA DEPARTMENT OF EDUCATION

FINANCIAL PROCEDURES FOR LOCAL SCHOOLS

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Section 16-13A-6

Required Reports

(a) The State Board of Education shall by regulation provide for various financial and other information which local superintendents of education shall have prepared for the local boards of education, including, but not limited to, the following:

- (1) A monthly financial statement showing the financial status of the local board of education accounts with itemized categories specified by the State Board of Education.
- (2) A monthly report showing all receipts and the sources thereof.
- (3) A monthly report showing all expenditures with itemized categories specified by the State Board of Education.
- (4) An annual projected budget.
- (5) Monthly and/or quarterly reports showing expenditures relative to such projected budget.
- (6) A yearly report of the fixed assets inventory of the local board of education with itemized categories specified by the State Board of Education.

Section 16-13A-6

Required Reports

- (c) All local boards of education shall be required to implement a standardized financial accounting program as determined by the State Department of Education to collect the information required by this chapter and to provide for ease of input by local boards of education and ease of monitoring by a local board of education, its chief school financial officer, and the State Department of Education. If a local school system's financial report is found to be in conflict with generally accepted accounting principles, the State Department of Education shall issue a notice to that school system informing it of such and request that proof of correction of conflict be forwarded to the State Department of Education and approved by the State Superintendent of Education within a reasonable time thereafter.
- (d) All financial documents, in whatever source maintained, are public documents, and shall be open to inspection and accessible to the public. An annual budget and monthly financial statements with supporting spread sheets as submitted to the State Department of Education shall be made available to the general public at the local school system Internet site.

Section 16-13A-6

Required Reports

Required monthly reports must be posted to the local internet site no later than 45 days after the end of the reporting period.

- Budget Summary
- Exhibit F-I-A (Balance Sheet)
- Exhibit F-II-A (Financial Summary)
- Exhibit F-III-A (Budget Actual Comparison Part A)
- Exhibit F-III-B (Budget Actual Comparison Part B)
- Exhibit F-III-C (Budget Actual Comparison Part C)
- From Accounting Software
 - Accounts Payable Check Register Report

Annual Budget

§ **16-13-140**

Established for county and city school systems; form of annual budget required; public hearings required

(a) There shall be a budget system for the public schools of each county and city for the purpose of promoting economy and efficiency in the finances of the public schools.

(b) The State Department of Education shall prepare proposed annual budget forms for each local board of education

(c) Each board shall –

- Hold at least two open public hearings
- Hearing held during a scheduled board meeting
- At a time and place convenient for the public
- The board shall publicize the date and time of each hearing in the local media

Public Budget Hearings

- In addition, **notice** of each hearing shall be posted in a conspicuous place at the offices of the local board of education, the county courthouse, the main municipal building, and at each affected school.
- Recommend the proposed budget be available 24 to 48 hours prior to meeting.
- Each board shall seek input from the public concerning the budget and allocation of resources.
- After at least two public hearings, the board will develop a final budget and have copies available to the public.
- On or before October 1 of each year, each local board of education shall prepare and submit to the State Superintendent of Education the final annual budget adopted by the local board of education, which budget shall be prepared and submitted according to the classifications and items specified on forms provided therefor and in accordance with the regulations of the State Board of Education.

Public Budget Hearings

- The proposed budget shall reflect the total amount of resources available to the board from all funding and revenue sources.
- The projected enrollment and the total proposed expenditure by each board and for each school shall be available at the public hearings.
- The proposed budget shall clearly delineate the number of teachers, librarians, counselors, administrators and other support personnel projected to be employed at each school.
- The proposed budget shall clearly list the operating costs by category or function at each school.
- The proposed budget shall delineate by school those operating resources earned, including, but not necessarily limited to, those items contained in the Instructional Support Program of the Foundation Program, designating the amount of funds earned at each school per item based on average daily membership.

SUPPLEMENTAL INFORMATION
FY 2021 BUDGET
As required by Section 16-13-140, Code of Alabama 1975
FY 2021 ETF - ENACTED

NAME OF SCHOOL OR COST CENTER _____

Grade Levels _____

**I. FOUNDATION PROGRAM OPERATING RESOURCES
EARNED BY SCHOOL (STATE AND LOCAL FUNDS)**
(To be completed by SDE)

ADM (Prior year used for allocation purposes)

568.7

Earned Units

Teachers	32.53
Principals	1.00
Assitant Principals	1.00
Counselors	1.50
Librarians	1.00
Career Tech Director	.00
Career Tech Counselors	.00
* Additional Units	.00

Total Units

37.03

Salaries

\$2,053,523

Fringe Benefits

\$789,702

Classroom Instructional Support

Teacher Materials and Supplies	(\$600/unit)	\$22,218
Technology	(\$350/unit)	\$12,961
Library Enhancement	(\$157.72/unit)	5840
Professional Development	(\$100/unit)	\$3,703
Common Purchase	(\$0/unit)	\$0
Textbooks	(\$75/adm)	\$42,653

Total Foundation Program

\$2,930,600

II. PROJECTED ENROLLMENT BY SCHOOL

(To be completed by LEA)

III. PROJECTED EMPLOYEES BY SCHOOL/COST CENTER

(To be completed by LEA)

Type	NUMBER BY			
	Source of Funds			
	STATE EARNED	OTHER STATE	FEDERAL	LOCAL
Teachers				
Librarians				
Counselors				
Administrators				
Certified Support Personnel				
Non. Cert. Supp. Personnel				
Total				

**TOTAL
EMPLOYEES**

LEA Budget System
Combined Budget for Revenues, Expenditures, and Changes in Fund Balances
Governmental and Expendable Trust Funds
Fiscal Year 20__

ABC School District

	GOVERNMENTAL			FIDUCIARY		
	General	Special Revenue	Debt Service	Capital Projects	Expendable Trust	Total
Revenues						
State Sources	\$22,551,405.00	\$333.00	\$323,375.33	\$675,898.67	\$0.00	\$23,551,012.00
Federal Sources	\$1,500.00	\$5,327,670.87	\$0.00	\$0.00	\$0.00	\$5,329,170.87
Local Sources	\$15,209,230.00	\$1,695,317.73	\$0.00	\$4,547,982.00	\$986,719.00	\$22,439,248.73
Other Sources	\$95,044.00	\$137,049.74	\$0.00	\$0.00	\$0.00	\$232,093.74
Total Revenues:	\$37,857,179.00	\$7,160,371.34	\$323,375.33	\$5,223,880.67	\$986,719.00	\$51,551,525.34
Expenditures						
Instructional Services	\$23,104,113.00	\$3,336,025.65	\$0.00	\$1,362,743.00	\$284,663.00	\$28,087,544.65
Instructional Support Services	\$7,233,459.53	\$722,164.31	\$0.00	\$296,729.00	\$483,829.00	\$8,736,181.84
Operation & Maintenance Services	\$4,643,197.00	\$48,537.00	\$0.00	\$400,000.00	\$18,200.00	\$5,109,934.00
Auxiliary Services	\$1,811,149.00	\$3,446,161.19	\$0.00	\$0.00	\$101,931.00	\$5,359,241.19
General Administrative Services	\$1,125,968.00	\$117,852.00	\$0.00	\$45,000.00	\$0.00	\$1,288,820.00
Capital Outlay	\$0.00	\$0.00	\$0.00	\$8,003,000.00	\$0.00	\$8,003,000.00
Debt Service	\$0.00	\$0.00	\$3,315,368.00	\$624,934.00	\$7,132.00	\$3,947,434.00
Other Expenditures	\$458,864.00	\$259,981.70	\$0.00	\$0.00	\$164,753.00	\$883,598.70
Total Expenditures:	\$38,376,750.53	\$7,930,721.85	\$3,315,368.00	\$10,732,406.00	\$1,060,508.00	\$61,415,754.38
Other Fund Sources (Uses)						
Other Fund Sources:	\$395,187.00	\$803,851.00	\$3,057,992.00	\$1,300,000.00	\$10,000.00	\$5,567,030.00
Other Fund Uses:	\$947,643.00	\$0.00	\$0.00	\$3,057,992.00	\$0.00	\$4,005,635.00
Total Other Fund Sources (Uses):	(\$552,456.00)	\$803,851.00	\$3,057,992.00	(\$1,757,992.00)	\$10,000.00	\$1,561,395.00
(Under) Expenditures and Other Fund Uses:	(\$1,072,027.53)	\$33,500.49	\$65,999.33	(\$7,266,517.33)	(\$63,789.00)	(\$8,302,834.04)
Beginning Fund Balance - October 1:	\$7,145,214.03	\$1,159,401.19	\$1,441,271.65	\$10,233,655.61	\$482,606.28	\$20,462,148.76
Ending Fund Balance - September 30:	\$6,073,186.50	\$1,192,901.68	\$1,507,270.98	\$2,967,138.28	\$418,817.28	\$12,159,314.72

Regulation of Procurement for School Districts

Federal Procurements Requirements

- US Office of Management and Budget (OMB)

State Laws

- Competitive Bid Law
- Public Works Law

Local/District Requirements

Regulation of Procurement for School Districts

- The laws of most states regulate government procurement to some extent. Laws usually require the procuring authority to issue public bids if the value of the procurement exceeds a certain threshold.

Regulation of Procurement for School Districts

- Alabama state law mandates very specific competitive purchasing procedures for expenditures over \$15,000 and public work projects over \$50,000 for school districts.

Alabama Competitive Bid Law

Legal Authority- **§ 16-13B Ala. Code 1975**

- Applies to County and City Boards of Education
- Applies to the expenditure of funds for labor, services and work involving \$15,000 or more
- Applies to the purchase or lease of materials, equipment, supplies or other personal property involving \$15,000 or more
- Shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder.

Public Works Law

- PUBLIC WORKS- Applies to any construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, 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 part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.

§ 39-2-1(6), Ala. Code 1975

Expenditure Threshold:

§ 39-2-2(a), *Ala. Code* 1975.

- Before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids...
- No public work...involving a sum in excess of \$50,000 shall be split into parts involving sums of \$50,000 or less for the purposes of evading the requirements of this section.”

§ 39-2-2(b), *Ala. Code* 1975

- An awarding authority may let contracts for public works involving fifty thousand dollars (\$50,000) or less with or without advertising or sealed bids.”

Alabama Competitive Bid Law

Legal Authority

§ 16-13B-1, et seq. *Ala. Code* 1975

- Applies to County and City Boards of Education
- Applies to all expenditures of funds of whatever nature for labor, services, and work involving \$15,000 or more
- Applies to all expenditures of funds for the purchase or lease of materials, equipment, supplies, or other personal property involving \$15,000 or more

Splitting of Contracts

- No purchase or contract in excess of \$15,000 shall be divided into parts involving amounts of \$15,000 or less for the purpose of avoiding the requirements of the competitive bid law

Section 16-13B-4(e)

Legal Requirement



Requires a contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder.

Length of Contract Terms

- Purchase or Service Contracts - limited to 5 years
- Lease-Purchase Contracts for capital improvements, repairs to real property and other lease-purchase contracts - limited to 10 years

Section 16-13B-7 (f)

Advertising Requirements

- Post notice on bulletin board outside purchasing department
- Can do more...but not required!
- **Section 16-13B-4 (a)**

Sealed Bids and Documentation

- Must be sealed when received
- Opened in public at the hour stated in the notice
- All original bids and documents pertaining to the award of the contract shall be retained for a period of seven years from the date the bids are opened and shall be open to public inspection.

Items to be considered when determining the lowest RESPONSIBLE bidder...

- Qualities of the goods proposed to be supplied
- Conformity with specifications
- Terms of delivery
- Transportation charges
- Dates of delivery

Section 16-13B-7 (a)

Documentation of Results



TO WHOM BID WAS
AWARDED



REASONS FOR NOT
AWARDING TO THE
LOWEST BIDDER



BID FILE SHALL BE
OPEN FOR PUBLIC
INSPECTION

Emergencies

- Must affect public health, safety, or convenience, be declared in writing by the awarding authority, and such action and reasons should be immediately made public by the awarding authority.
- No advertising required
- Must still follow other bid law requirements

Section 16-13B-3

Joint Purchasing

- Governing bodies of two or more boards (or county commission/municipality) may purchase jointly.
- Each governing body must approve joint purchasing agreement and details by resolution.
- A Joint Purchasing Agent may be designated.
- **Section 16-13B-1-(c)**

Bid Exemptions:

§ 16-13B-2, *Ala. Code* 1975.

- Utility Services (rates fixed by law, regulation, or ordinance)
- Purchase of Insurance
- Professional Services -Contracts for securing services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants, or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part.

Exemptions

- Regular Civil Service employment contracts
- Fiscal or Financial Advice or Services
- Products made by Alabama Inst. For Deaf and Blind
- Maps/Photographs from any federal agency
- Manuscripts, Books, Maps, Pamphlets, or Periodicals
- Paying Agents/Trustees for any security issued by a public body
- Existing contracts for renewal of sanitation or solid waste
- Computer hardware which is only type compatible with hardware already owned/Custom software

Exemptions

- Contractual services and purchases of commodities for which there is only one vendor or supplier and contractual services and purchases of personal property which by their very nature are impossible to award by competitive bidding.
- Services or purchases of personal property which by their very nature are impossible to award by competitive bidding
- Contractual services and purchases of products related to, or having an impact upon, security plans, procedures, assessments, measures, or systems, or the security or safety of persons, structures, facilities, or infrastructures.
- Purchase of goods or services, other than voice or data wireless communication services, from vendors that have been awarded a current and valid general services administration contract
- Purchases of unprocessed agricultural products as defined in subsection (b) of Section 16-1-46 and the cost of the food purchased is equal to or less than the federal simplified acquisition threshold set in 2 C.F.R. §200.88.

Bid Exemptions

- **Section 16-13B**-(b) This chapter shall not apply to:
 - (1) Any purchases of products where the price of the products is already regulated and established by state law.
 - (2) Purchases made by individual schools of the county or municipal public-school systems from moneys other than those raised by taxation or received through appropriations from state or county sources.
 - Note- Local board policy may apply

Exemptions

- Purchases of goods or services, other than voice or data wireless communication services, made as part of the purchasing cooperative sponsored by the National Association of Counties or any other national or regional governmental purchasing program. Such purchases may only be made if all of the following occur:
 - Competitive bid process of the cooperative must be approved by the Examiners of Public Accounts; has been approved.
 - Goods or services are either not available on State contract or are available at a price equal to or less than the price on the State contract
 - Purchase must be made through an Alabama vendor, holding an AL business license, if such a vendor exists.

§ 16-13B-2(a)(13), Ala. Code 1975.

Section 16-13B-2

Exceptions to competitive bidding requirements.

Act 2021-485 - Provides an exemption from the competitive bid law for city and county school systems that participate in national or regional cooperative purchasing agreements for the lease and lease/purchase of goods and services.

(13) Purchases, leases, or lease/purchase of goods services, made as a part of any purchasing cooperative sponsored by the National Association of Counties, its successor organization, or any other national or regional governmental cooperative purchasing program. Such purchases, leases, or lease/purchase may only be made if all of the following occur:

- "a . The goods or services being purchased, including those purchased through a lease/purchase agreement, or leased are available as a result of a competitive bid process approved by the Department of Examiners of Public Accounts for each bid.
- "b. The goods or services are either not at the time available to local boards of education on the state purchasing program or are available at a price equal to or less than that on the state purchasing program.
- "c. The purchase, lease, or lease/purchase is made through a participating Alabama vendor holding an Alabama business license if such a vendor exists

Legislative Monies

- Competitive Bid Law does apply
- Are considered PUBLIC funds

Alabama Competitive Bid Law

- When faced with questions- Seek advice
 - Legal Counsel
 - Examiners of Public Accounts
 - Alabama Department of Education

Public Works Law

Title 39 Code of Alabama 1975

Applies to any governmental board, commission, agency, body, authority, instrumentality, department, or subdivision of the state, its counties and municipalities.

LEGISLATURE

Code of Alabama 1975

[Title 30](#) MARITAL AND DOMESTIC RELATIONS.[Title 31](#) MILITARY AFFAIRS AND CIVIL DEFENSE.[Title 32](#) MOTOR VEHICLES AND TRAFFIC.[Title 33](#) NAVIGATION AND WATERCOURSES.[Title 34](#) PROFESSIONS AND BUSINESSES.[Title 35](#) PROPERTY.[Title 36](#) PUBLIC OFFICERS AND EMPLOYEES.[Title 37](#) PUBLIC UTILITIES AND PUBLIC
TRANSPORTATION.[Title 38](#) PUBLIC WELFARE.[Title 39](#) PUBLIC WORKS.[Title 40](#) REVENUE AND TAXATION.[Title 41](#) STATE GOVERNMENT.[Title 42](#) UNITED STATES.[Chapter 1](#) GENERAL PROVISIONS.[Chapter 2](#) LETTING, EXECUTION, AND ADMINISTRATION OF PUBLIC IMPROVEMENTS CONTRACTS BY STATE AGENCIES GENERAL.[Chapter 3](#) USE OF DOMESTIC PRODUCTS AND RESIDENT WORKMEN FOR PUBLIC WORKS, IMPROVEMENTS, ETC.[Chapter 5](#) ACTIONS OR PROCEEDINGS UPON PUBLIC WORKS OR IMPROVEMENTS CONTRACTS IMPROPERLY LET OR EXECUTED.[Chapter 6](#) CONSTRUCTION OF PUBLIC BUILDINGS WITH RADIOACTIVE FALLOUT PROTECTION.[Chapter 7](#) IMPROVEMENT AUTHORITIES.[Chapter 8](#) FAIR AND OPEN COMPETITION IN GOVERNMENTAL CONSTRUCTION ACT.

Public Works Law

Title 39 Code of Alabama

- Applies to any construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, 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 part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.

Public Works

- ❑ **§ 39-2-2(a), Ala. Code 1975.**

- ❑ “Before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids...”
 - ❑ No public work as defined in this chapter involving a sum in excess of fifty thousand dollars (\$50,000) shall be split into parts involving sums of fifty thousand dollars (\$50,000) or less for the purpose of evading the requirements of this section

Advertising Requirements

§ 39-2-2(a)

- ☐ Advertise in a newspaper of general circulation in the county – once each week for three consecutive weeks.
- ☐ Additional requirement for contracts over \$500,000 – once in 3 (additional) newspapers of general circulation throughout the state.



Advertising Requirements

§ 39-2-2(a)

- The advertisements shall briefly describe the improvement, state that plans and specifications for the improvement are on file for examination in a designated office of the awarding authority, state the procedure for obtaining plans and specifications, state the time and place in which bids shall be received and opened, and identify whether prequalification is required and where all written prequalification information is available for review. All bids shall be opened publicly at the advertised time and place.

Award of Contract

☐ § 39-2-6, *Ala. Code* 1975

- ☐ The contract is awarded to the lowest responsible and responsive bidder meeting bid specifications unless the awarding authority finds that all bids are unreasonable or that it is not in their interest to accept any of the bids.
- ☐ “Responsible Bidder” is defined as, “one who, among other qualities determined necessary for performance, is competent, experienced, and financially able to perform the contract.”
- ☐ “Responsive Bidder” is defined as, “one who submits a bid that complies with the terms and conditions of the invitation for bids.”

School Construction Projects

- ☐ Board Approval
- ☐ The Awarding Authority of a public construction or improvement project that is to be supervised and administered by the Division of Construction Management shall employ the services of registered architects and engineers in accordance with Title 34, Chapter 2
- ☐ Plan design approval
- ☐ Inspections

Self Work Projects

- ☐ An organization cannot build a structure on Board property without Board approval
- ☐ Self-Performed
 - District Employees
 - Parent Support Organization
- ☐ Organization provides funding for project
 - In whole or partial

Self Work Projects

❑ Procedures for capital projects

- Any building, building/land improvement on a school district campus should be approved by the board of education.
- Board employee should be in charge of project.
- Must follow federal, state and local laws, codes, procedures and guidelines.
- Should follow same process on all projects regardless of funding



Contracts

Personnel/Employment
General Operations
Bid Contracts/Agreements
Construction
Professional Services
Statement of Work
Others

Contracts



By law, the Board has the authority to contract



Should have a contract review process in place for district and local school

Contracts and Public Works

- When faced with questions- Seek advice
 - Legal Counsel
 - Examiners of Public Accounts
 - Alabama Department of Education

Credits

Discussion of the Alabama Competitive Bid Law and Public Works Law

Presented by: Jason Paulk

Examiners of Public Accounts

May 2021

September 2020

School Law
AASBO LSFM Certificate Program
March 2023

