

Current Issues in Purchasing

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

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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.

State Law – 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 time period (generally one year).

State Law – 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.

State Bid Law - Purchasing Cooperatives

- 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 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.

State Bid Law

– 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.

State Bid Law – Advertising

- Paid 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.

State Bid Law – 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 Law – 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.

State Law – 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.

State Law – 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 Law – Public Works

First – Determine if the project is Public Works

Second – Determine if sealed bids are required

- 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.

Part 200 – Uniform Guidance for Federal Programs

- Memo to City and County Superintendents
 - July 18,2016
- Provided examples of written policies to assist in developing policies for individual school systems.
- A school board using the national purchasing cooperatives authorized under state law for federal programs and child nutrition program purchases should obtain documentation that shows the Part 200 competitive bid requirements were met.

Part 200 – Required Written Policies

- Cash Management
- Determination of Allowability of Costs
- Travel Reimbursement
- Conflicts of interest
- Procurement transactions
 - Including Method of conducting technical evaluations of competitive proposals and selection (not conducted by sealed bids).

Part 200 – Management

- **§ Title 2 – Part 200.305(b) Payment**
- Procedures to minimize the time elapsing between pass-through entity (or the U.S. Treasury) and the disbursement by the local education agency.
- Advance payments must be limited to minimum amounts needed and be timed to be in accordance with the actual, immediate cash required.
- Example
 - Board procedures to minimize the cash balances in federal program funds are expected to prevent the aggregate cash balances of federal program funds from earning \$500 or more for the fiscal year if maintained in interest-bearing accounts. The federal program funds, with the exception of Child Nutrition Program funds, will not be maintained in an interest-bearing bank account if the Chief School Financial Officer determines that banking requirements for minimum or average balances are so high that an interest-bearing account would not be feasible. Federal program funds will be maintained in insured checking accounts that are subject to the state requirements for public deposits under the SAFE program.

Part 200 – Allowability of Costs

- **§ Title 2 – Part 200.403 Factors affecting allowability of costs**
- Actions to determine allowable costs will assure that:
 - The proposed expenditure is included in the federal program budget
 - The proposed expenditure is reasonable and necessary for the federal program
 - The proposed expenditures is consistent with procedures for financial transactions of the board , including:
 - P.O. approval procedures
 - Contract review and approval procedures
 - Applicable competitive purchasing procedures
 - Documentation supporting allowability of transaction

Part 200 – Travel Reimbursement

- **§ Title 2 – Part 200.474 Travel costs**
- Transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business
 - May be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two. The method used is applied to an entire trip
 - Charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies
- Lodging and subsistence
 - Must be considered reasonable and otherwise allowable
 - Do not exceed charges normally allowed in regular operations as the result of the written travel policy.
 - If these costs are charged directly to the Federal award documentation must justify that:
 - (1) Participation of the individual is necessary to the Federal award; and
 - (2) The costs are reasonable and consistent with non-Federal entity's established travel policy.

Part 200 – Conflict of Interest

- **§ Title 2 – Part 200.112 Conflict of Interest**
- **§ Title 2 – Part 200.318 (c)(1) General procurement standards**
- Any potential conflict of interest must be disclosed in writing.
- Standards of conduct covering conflicts of interest and governing the performance of employees engaged in the selection, award, and administration of the contracts.

Part 200 – Procurement

- **§ Title 2 – Part 200.318 General Procurement Standards**
- All purchases must comply with the following:
 - The non-Federal entity's documented procedures
 - Considered necessary
 - Awarded through Open competition (to the extent required by each method)
 - Conflict of interest policy
 - Proper documentation for the purchases.

Part 200 – Procurement

- **§ Title 2 – Part 200.320 Methods of Procurement to be Followed**
- Five methods of procurements
 - (1) micro-purchase (less than to \$10,000)
 - (2) small purchase (less than \$250,000)
 - (3) sealed bids purchases (more than \$250,000)
 - (4) competitive proposal purchases(more than \$250,000)
 - (5) Noncompetitive purchases (special circumstances which are applicable for all purchase levels)

Federal Procurement Regulations

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)**

Example 1

- A federal program issues a purchase order for \$2,800 in copier paper.
 - State bid law would apply if school board funds (including the federal funds) will purchase between \$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

- A federal program issues a purchase order for \$1,800 to purchase VHS players.
 - 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.

Federal Procurement Regulations

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 5)**

Example 3

- A federal program issues a purchase order for \$14,200 to purchase VHS players.
 - 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

- A federal program issues a purchase order for \$18,600 to purchase VHS players.
 - 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

- A federal program approved budget application allows for contracting for the repair of an air conditioning unit that will cost \$32,500.
 - 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.***

Federal Procurement Regulations

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.

Federal Procurement Regulations

Sealed Bids

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

- 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 6)**
 - Example - The board will utilize a team of three or more qualified individuals to conduct a technical evaluation of proposals received and for selecting recipients. As a part of the evaluation, the individuals on the evaluation team will sign an assurance that each of the individuals is in compliance with the board's conflict of interest policy.

Example 6

- A federal program plans to contract with consultants for a professional development program for teachers (Estimate-\$280,000).
 - 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.

Federal Procurement Regulations

Sole Source

- 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 7)

Example 6

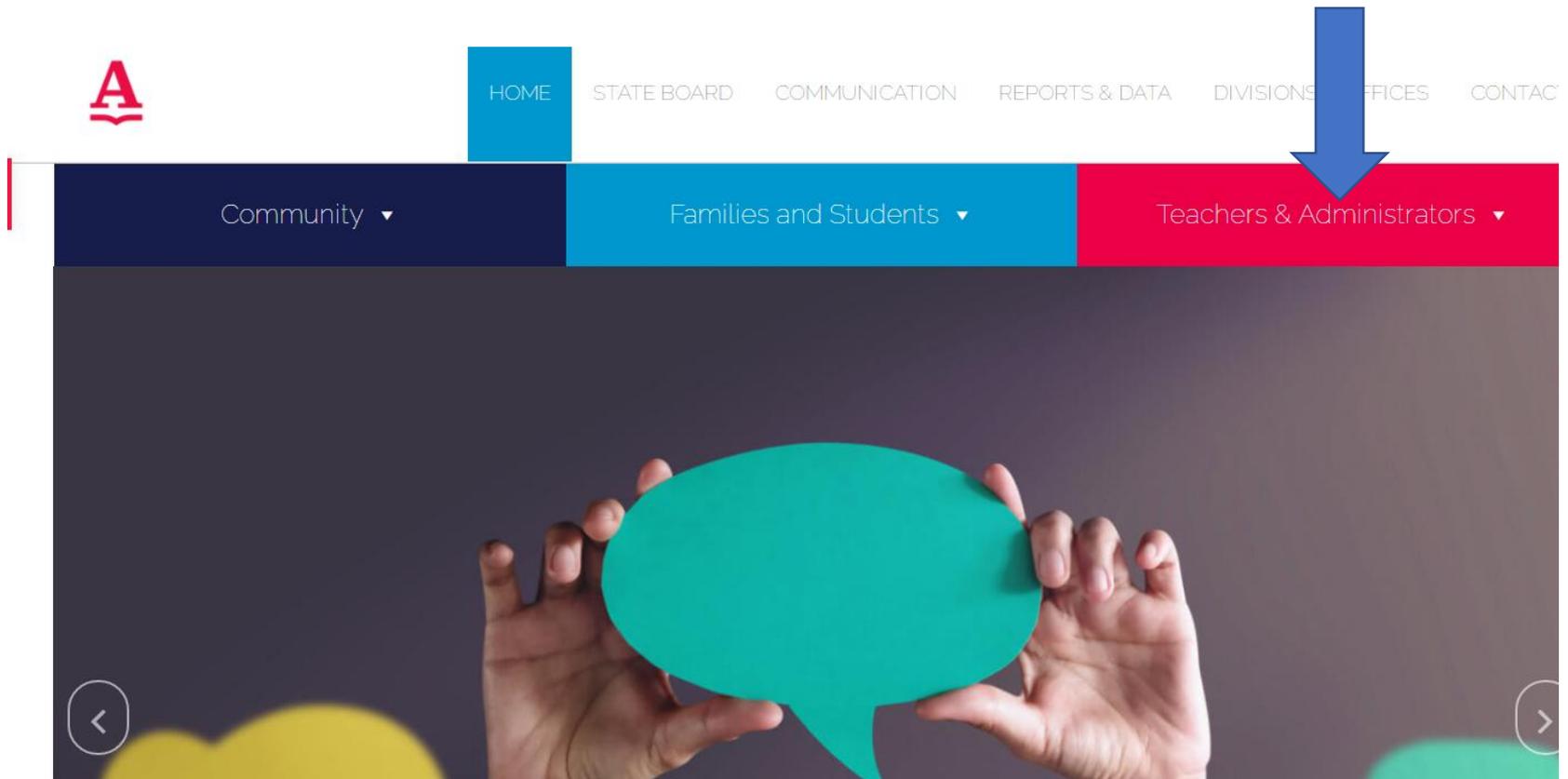
- A federal program plans purchase a 3-D printer for \$21,500 that, according to the vendor, is only available from that vendor.
 - If required, the school board must obtain prior approval from the awarding agency. Requirements for sole source purchases in the state bid law would apply.

Federal Procurement Regulations

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.

LEA Fiscal Accountability On the SDE Website



Teachers & Administrators

- Career and Technical Education
- Child Nutrition Programs
- Cognia
- Compliance Monitoring
- LEA Accounting
- **LEA Fiscal Accountability**
- Superintendent's Corner
- Teacher Center >Teacher Certification
- Transportation



ALSDE Website

Purchasing Cooperatives

- Links to the approved purchasing cooperatives are included under:
 - **BID LAW AND PURCHASING – BID LAW**
 - There is an additional approved national purchasing cooperative for Apple products.

LEA Fiscal Accountability

- Employee Leave Laws
- State Board Laws
- Forms – Board of Adjustments
- Forms – CSFO
- Forms – Fiscal Accountability
- State Allocations
- Warrant Information – Short-Term Loans
- Warrant Information – Warrants
- CSFO and Fiscal Accountability – Bonds
- CSFO and Fiscal Accountability – CSFO
- Local Schools – Audits
- Local Schools – Procedures
- Bid Law and Purchasing – Bid Law
- Bid Law and Purchasing – Public Works
- Bid Law and Purchasing – Purchasing Cards
- State and Local Funding – Tax Status
- Affordable Care Act



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