

2023 Changes: Alabama's Competitive Bid & Public Works Laws



Changes to Competitive Bid Law

Effective August 1, 2023



Bid Threshold

Increases the bid threshold from \$15K to \$30K



Future Threshold Adjustments

Beginning October 1, 2027, & every 3 years thereafter, the bid threshold will be adjusted based on the Consumer Price Index (CPI).

- ✧ Subject to approval from the Legislative Council
- ✧ Notification to be provided by the Department of Examiners of Public Accounts of the adjusted dollar amounts by July 1 before the fiscal year in which the changes will take effect



Repair/Lease of Heavy-Duty Off-Highway Construction Equipment

Dollar amounts are subject to future CPI adjustments using
the same process



Repair/Lease of Heavy-Duty Off-Highway Construction Equipment

Increased the dollar amounts in the bidding exemption for the lease or repair of:

- ✧ Certain heavy-duty off-highway construction equipment
- ✧ Vehicles with a gross vehicle weight rating of 25K lbs. or greater



Repair/Lease of Heavy-Duty Off-Highway Construction Equipment

The following are exempt from the Competitive Bid Law:

- ✧ Expenditures of \$40K or less on repair parts or repair
- ✧ Leases of \$10K or less per month, per vehicle or per piece of equipment or machinery, but not to exceed \$30K per month in total



Like-Item Expenditures

If an initial expenditure is made without bidding & more of the same or “like items” are needed later, this act forgives the initial expenditure, provided the awarding authority:

- ✧ Documents its reasonable belief the initial expenditure would not reach the bid threshold; &
- ✧ Bids out the subsequent expenditure.



When No Bid or Only One Bid is Received

The awarding authority may rebid the contract OR negotiate through the receipt of informal bids not subject to the Competitive Bid Law.

- ✦ If only one bid, the awarding authority can only negotiate the price down.



When Both or All Bids Exceed the Anticipated Budget

The awarding authority may negotiate with the lowest responsible & responsive bidder, provided the negotiated price is lower than the bid price.



In-County Dirt, Sand & Gravel

- ✧ Creates an exception to bidding purchases of dirt, sand or gravel from in-county property owners to supply **a county project** in which the materials will be used
- ✧ Requires material be delivered to the project site by county employees & equipment used only on **project components** conducted exclusively by county employees



Purchases Between Governmental Entities

Codifying longstanding practice, this act added a new statutory exception for purchases of goods or services between governmental entities of the state.



Purchases from the State Bid List

Exception to competitive bidding for purchases of goods or services on the Alabama Buys e-procurement system

- ✧ Purchases must be made under terms & conditions of statewide contract
- ✧ Prices paid for the goods & services may not exceed amount provided in statewide contract



Changes to Public Works Law

Effective September 1, 2023



Bid Threshold

Increases the bid threshold from \$50K to \$100K



Bid Announcement Advertisements

- ✧ This act eliminates the requirement that bid announcement notices for public works contracts over \$500K be advertised in 3 different newspapers in the state.
- ✧ Bid announcement notices must be advertised in a newspaper of general circulation in the county at least once each week for 3 consecutive weeks.



Project Completion Advertisements

The contractor must advertise a project completion notice **for a minimum of 3 weeks** using one or more of the following methods:

- ✧ In a newspaper of general circulation in the county or counties in which the work, or some portion thereof, has been done.
- ✧ On a website that is maintained by a newspaper of general circulation in the county or counties in which the work, or some portion thereof, has been done.
- ✧ On a website utilized by the awarding authority for publishing notices.



Project Completion Advertisements (Continued)

If no newspaper is published in the county in which the work was done, & if the awarding authority does not utilize a website for the purpose of publishing notices, the notice may be given by posting at the courthouse for 30 days, & proof of the posting of the notice must be given by the awarding authority & the contractor.



Project Completion Advertisements (Continued)

- ✧ This act codifies existing practice for advertising project completion notices for **annual in-place road resurfacing contracts**.
- ✧ It is no longer required to advertise project completion notices for projects that are below \$100K.



Electronic Submission of Bids

Sealed bids may be solicited & submitted through electronic means, provided:

- ✧ The awarding authority adopts rules & policies to ensure that all submissions are transmitted securely; &
- ✧ Bids remain sealed until bid opening.



Using Competitive Bid Exceptions for Public Works Projects

Allows a county commission to purchase equipment or materials using certain Competitive Bid exceptions & then later use those materials & equipment for a project that is subject to the Public Works Law



Using Competitive Bid Exceptions for Public Works Projects (Continued)

2 requirements must be met to utilize this new flexibility:

- ✧ The county commission must adopt a resolution on the front end explaining this action.
- ✧ After the materials & equipment are purchased, the remainder of the project must be competitively bid under the Public Works Law, even if the remainder of the project involves less than \$100K.



“Emergency” Provisions



Emergency Provisions

Competitive Bid Law

In the event circumstances arise for which a delay in remedying or otherwise addressing would cause harm to an individual or public property, a contract may be let without advertising or bidding, provided the awarding authority does the following:

- ✧ Documents 2 or more price quotations or price estimates; &
- ✧ Adopts a resolution declaring the nature of the circumstances, the action to be taken, & the reasons for taking the action.



Emergency Provisions (Continued)

Public Works Law

“(1) In case of an emergency for which a delay in remedying would cause immediate harm to a person or public property, contracts may be let to the extent necessary to meet the emergency without public advertisement or bidding.

(2) In case of an emergency affecting public health, safety, or convenience, as declared in writing by the awarding authority, setting forth the nature of the danger to the public health, safety, or convenience which would result from delay, contracts may be let to the extent necessary to meet the emergency without public advertisement.

(3) Any action taken under subdivision (1) or (2), & the reasons for the action taken, shall immediately be made public by the awarding authority & published in writing.”



Questions?

