

1 HB518
2 158977-3
3 By Representative Williams (P)
4 RFD: State Government
5 First Read: 20-FEB-14

1 authority is a two-year or four-year college or university
2 governed by a board. The awarding authority or requisitioning
3 agency shall have the right to reject any bid if the price is
4 deemed excessive or quality of product inferior. Awards are
5 final only after approval of the Purchasing Agent.

6 "(b) The awarding authority may award multiple
7 purchase contracts resulting from a single invitation-to-bid
8 where the specifications of the items of personal property
9 intended to be purchased by a requisitioning agency or
10 agencies are determined, in whole or in part, by technical
11 compatibility and operational requirements. In order to make
12 multiple awards under this provision, the awarding authority
13 must include in the invitation-to-bid a notice that multiple
14 awards may be made and the specific technical compatibility or
15 operational requirements necessitating multiple awards.
16 Multiple awards of purchase contracts with unique technical
17 compatibility or operational specifications shall be made to
18 the lowest responsible bidder complying with the unique
19 technical compatibility or operational specifications. The
20 requisitioning agency shall provide the awarding authority
21 with the information necessary for it to determine the
22 necessity for the award of multiple purchase contracts under
23 this provision.

24 "This subsection (b) shall not apply to ~~contracts~~
25 ~~for the purchase of personal property for which a service or~~
26 ~~service contract, whether subject to competitive bidding under~~
27 ~~this article or not, is necessary to utilize the personal~~

1 ~~property throughout the period of utilization of the personal~~
2 ~~property the purchase of Integrated Digital Enhanced Network~~
3 ~~equipment and related services property contracts for the~~
4 ~~purchase or use of push to talk services, which shall be~~
5 ~~purchased through a separate competitive bid process.~~

6 "(c) Each bid, with the name of the bidder, shall be
7 entered on a record. Each record, with the successful bid
8 indicated thereon and with the reasons for the award if not
9 awarded to the lowest bidder shall, after award of the order
10 or contract, be open to public inspection.

11 "(d) The Purchasing Agent in the purchase of or
12 contract for personal property or contractual services shall
13 give preference, provided there is no sacrifice or loss in
14 price or quality, to commodities produced in Alabama or sold
15 by Alabama persons, firms, or corporations.

16 "(e) (1) Contracts for the purchase of personal
17 property or contractual services other than personal services
18 shall be let by competitive bid for periods not greater than
19 five years and current contracts existing on February 28,
20 2006, may be extended or renewed for an additional two years
21 with a 90-day notice of such extension or renewal given to the
22 Legislative Council, however, any contract that generates
23 funds or will reduce annual costs by awarding the contract for
24 a longer term than a period of three years which is let by or
25 on behalf of a state two-year or four-year college or
26 university may be let for periods not greater than 10 years.
27 Any contract awarded pursuant to this section for terms of

1 less than 10 years may be extended for a period not to exceed
2 10 years from the initial awarding of the contract provided
3 that the terms of the contract shall not be altered or
4 renegotiated during the period for which the contract is
5 extended.

6 "(2) For purchases of personal property made on or
7 after January 1, 2010, in instances in which the awarding
8 authority determines that the total cost of ownership over the
9 expected life of the item or items, including acquisition
10 costs plus sustaining costs, and including specifically life
11 cycle costs, can be reasonably ascertained from industry
12 recognized and accepted sources, the lowest responsible bid
13 may be determined to be the bid offering the lowest life cycle
14 costs and otherwise meeting all of the conditions and
15 specifications contained in the invitation to bid. To utilize
16 this provision to determine the lowest responsible bidder, the
17 awarding authority must include a notice in the invitation to
18 bid that the lowest responsible bid may be determined by using
19 life cycle costs and identify the industry recognized and
20 accepted sources that will be applicable to such an
21 evaluation.

22 "(3) Industry recognized and accepted sources may be
23 provided by rules adopted pursuant to the Alabama
24 Administrative Procedure Act by the Green Fleets Review
25 Committee if the review committee is established and enacted
26 at the 2009 Regular Session. If the Green Fleets Review
27 Committee is not enacted at the 2009 Regular Session, the

1 Permanent Joint Legislative Committee on Energy Policy may
2 adopt rules providing industry recognized and accepted
3 sources, pursuant to the Alabama Administrative Procedure Act.

4 "(f) Contracts for the purchase of services for
5 receiving, processing, and paying claims for services rendered
6 recipients of the Alabama Medicaid program authorized under
7 Section 22-6-7 which are required to be competitively bid may
8 be awarded to the bidder whose proposal is most advantageous
9 to the state, taking into consideration cost factors, program
10 suitability factors (technical factors) including
11 understanding of program requirements, management plan,
12 excellence of program design, key personnel, corporate or
13 company resources and designated location, and other factors
14 including financial condition and capability of the bidder,
15 corporate experience and past performance and priority of the
16 business to insure the contract awarded is the best for the
17 purposes required. Each of these criteria shall be given
18 relative weight value as designated in the invitation to bid,
19 with price retaining the most significant weight.

20 Responsiveness to the bid shall be scored for each designated
21 criteria. If, for reasons cited above, the bid selected is not
22 from the lowest bidding contractor, the Alabama Medicaid
23 Agency shall present its reasons for not recommending award to
24 the low bidder to the Medicaid Interim Committee. The
25 committee shall evaluate the findings of the Alabama Medicaid
26 Agency and must, by resolution, approve the action of the
27 awarding authority before final awarding of any such contract.

1 The committee shall also hear any valid appeals against the
2 recommendation of the Alabama Medicaid Agency from the low bid
3 contractor(s) whose bid was not selected.

4 "(g) Notwithstanding the requirements under Sections
5 41-16-20, 41-16-21, and this section, contractual services and
6 purchases of personal property regarding the athletic
7 department, food services, and transit services negotiated on
8 behalf of two-year and four-year colleges and universities may
9 be awarded without competitive bidding provided that no state
10 revenues, appropriations, or other state funds are expended or
11 committed and when it is deemed by the respective board that
12 financial benefits will accrue to the institution, except that
13 in the cases where an Alabama business entity as defined by
14 this section is available to supply the product or service
15 they will have preference unless the product or service
16 supplied by a foreign corporation is substantially different
17 or superior to the product or service supplied by the Alabama
18 business entity. However, the terms and conditions of any of
19 the services or purchases which are contracted through
20 negotiation without being competitively bid and the name and
21 address of the recipient of such a contract shall be
22 advertised in a newspaper of general circulation in the
23 municipality in which the college or university is located
24 once a week for two consecutive weeks commencing no later than
25 10 days after the date of the contract. For the purposes of
26 this section, the term Alabama business entity shall mean any

1 sole proprietorship, partnership, or corporation organized in
2 the State of Alabama.

3 "(h) (1) For purchases of motor vehicles by the state
4 made on or after January 1, 2010, the lowest responsible bid
5 may be determined to be a bid offering the lowest life cycle
6 costs, if it is determined that the total cost of ownership
7 over the expected life of a motor vehicle, including
8 acquisition costs plus maintenance costs, including
9 specifically life cycle costs, can be reasonably ascertained
10 from industry recognized and accepted sources. The lowest
11 responsible bid shall otherwise meet all of the conditions and
12 specifications contained in the invitation to bid. To utilize
13 this provision to determine the lowest responsible bidder, the
14 state must include a notice in the invitation to bid that the
15 lowest responsible bid may be determined by using life cycle
16 costs and identify the industry recognized and accepted
17 sources that will be applicable to such an evaluation.

18 "(2) Industry recognized and accepted sources may be
19 provided by rules adopted pursuant to the Alabama
20 Administrative Procedure Act by the Green Fleets Review
21 Committee if the review committee is established and enacted
22 at the 2009 Regular Session. If the Green Fleets Review
23 Committee is not enacted at the 2009 Regular Session, the
24 Permanent Joint Legislative Committee on Energy Policy may
25 adopt rules providing industry recognized and accepted sources
26 pursuant to the Alabama Administrative Procedure Act.

1 "(i) When a single invitation-to-bid specifies a set
2 of deliverables that would be capable of division into
3 separate, independent contracts, the awarding authority, at
4 its discretion, may award a secondary contract for any subset
5 of such deliverables, not to exceed 20 percent of the original
6 contract value, to any Alabama business certified under the
7 Federal HUBZone program whose properly submitted responsible
8 bid does not exceed five percent of the lowest responsible
9 bid. In order to make a secondary award under this provision,
10 the awarding authority shall include in the invitation-to-bid
11 a notice that a secondary award may be made."

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on State Government
..... 20-FEB-14

Read for the second time and placed
on the calendar 1 amendment 26-FEB-14

Read for the third time and passed
as amended..... 13-MAR-14

Yeas 97, Nays 0, Abstains 0

Jeff Woodard
Clerk