

HB67 INTRODUCED



1 HB67
2 EIHA2CC-1
3 By Representative Brown
4 RFD: State Government
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SYNOPSIS:

Under existing law, contracts for the purchase of computer equipment, hardware, and software is exempt from the competitive bidding requirements provided by general law.

This bill would delete this exemption.

Also under existing law, sole source contracts are exempt from the competitive bidding process. The contracts occur when the Chief Procurement Officer determines there is only one source for the required supply or service.

This bill would provide a rebuttable presumption that contracts for information technology supplies or services are not subject to the single source exemption.

Under existing law, purchases of computer programs and software applications are excluded from the competitive bid law requirements.

This bill would specify that purchases of computer servers, redundant server, data storage, and related technologies are not included within this exclusion.

A BILL



HB67 INTRODUCED

29 TO BE ENTITLED

30 AN ACT

31

32 Relating to competitive bidding; to amend Sections
33 41-16-51 and 41-4-135, Code of Alabama 1975, to delete an
34 exception from the competitive bidding requirements for
35 purchases of certain computer-related equipment; and to
36 further provide for the procurement of information technology
37 supply or service contracts.

38 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

39 Section 1. Section 41-16-51, Code of Alabama 1975, is
40 amended to read as follows:

41 "§41-16-51

42 (a) Competitive bids for entities subject to this
43 article shall not be required for utility services, the rates
44 for which are fixed by law, regulation, or ordinance, and the
45 competitive bidding requirements of this article shall not
46 apply to any of the following:

47 (1) The purchase of insurance.

48 (2) The purchase of ballots and supplies for conducting
49 any primary, general, special, or municipal election.

50 (3) Contracts for securing services of attorneys,
51 physicians, architects, teachers, superintendents of
52 construction, artists, appraisers, engineers, consultants,
53 certified public accountants, public accountants, or other
54 individuals possessing a high degree of professional skill
55 where the personality of the individual plays a decisive part.

56 (4) Contracts of employment in the regular civil



HB67 INTRODUCED

57 service.

58 (5) Contracts for fiscal or financial advice or
59 services.

60 (6) Purchases of products made or manufactured by blind
61 or visually impaired individuals under the direction or
62 supervision of the Alabama Institute for Deaf and Blind in
63 accordance with Chapter 2 of Title 21.

64 (7) Purchases of maps or photographs from any federal
65 agency.

66 (8) Purchases of computer programs, software
67 applications, manuscripts, books, maps, pamphlets,
68 periodicals, and library or research electronic data bases of
69 manuscripts, books, maps, pamphlets, or periodicals. This
70 exception shall not include the purchase of any of the
71 following: (i) computer servers; (ii) redundant servers
72 including hypervisors; and (iii) hyperconverged infrastructure
73 and related equipment and services including clustering
74 technologies, data storage and data management related
75 equipment or services, including Cloud data storage services
76 and related equipment, or other information technology related
77 services and equipment, the purchase of which shall be
78 strictly subject to any applicable competitive bid of this
79 chapter or other applicable procurement requirements of this
80 title.

81 (9) The selection of paying agents and trustees for any
82 security issued by a public body.

83 (10) Existing contracts up for renewal for sanitation
84 or solid waste collection, recycling, and disposal between



HB67 INTRODUCED

85 municipalities or counties, or both, and those providing the
86 service.

87 ~~(11) Purchases of computer and word processing hardware~~
88 ~~when the hardware is the only type that is compatible with~~
89 ~~hardware already owned by the entity taking bids and custom~~
90 ~~software.~~

91 ~~(12)~~ (11) Professional services contracts for
92 codification and publication of the laws and ordinances of
93 municipalities and counties.

94 ~~(13)~~ (12) Contractual services and purchases of
95 commodities for which there is only one vendor or supplier and
96 contractual services and purchases of personal property which
97 by their very nature are impossible to award by competitive
98 bidding.

99 ~~(14)~~ (13) Purchases of dirt, sand, or gravel by a county
100 governing body from in-county property owners in order to
101 supply a county project in which the materials will be used.
102 The material shall be delivered to the project site by county
103 employees and equipment used only on project components
104 conducted exclusively by county employees.

105 ~~(15)~~ (14) Contractual services and purchases of products
106 related to, or having an impact upon, security plans,
107 procedures, assessments, measures, or systems, or the security
108 or safety of individuals, structures, facilities, or
109 infrastructures.

110 ~~(16)~~ (15) Subject to the limitations in this
111 subdivision, purchases, leases, or lease/purchases of goods or
112 services, other than voice or data wireless communication



HB67 INTRODUCED

113 services, made as a part of the purchasing cooperative
114 sponsored by the National Association of Counties, its
115 successor organization, or any other national or regional
116 governmental cooperative purchasing program. The purchases,
117 leases, or lease/purchases may only be made if all of the
118 following occur:

119 a. The goods or services being purchased, including
120 those purchased through a lease/purchase agreement, or leased
121 are available as a result of a competitive bid process
122 conducted by a governmental entity and approved by the
123 Department of Examiners of Public Accounts for each bid.

124 b. The goods or services are either not at the time
125 available to counties on the state purchasing program or are
126 available at a price equal to or less than that on the state
127 purchasing program.

128 c. The purchase, lease, or lease/purchase is made
129 through a participating Alabama vendor holding an Alabama
130 business license if such a vendor exists.

131 d. The entity purchasing, leasing, or lease/purchasing
132 goods or services under this subdivision has been notified by
133 the Department of Examiners of Public Accounts that the
134 competitive bid process utilized by the cooperative program
135 offering the goods complies with this subdivision. In
136 addition, upon request, a vendor shall provide the entity
137 purchasing, leasing, or lease/purchasing goods or services
138 equaling thirty thousand dollars or more which are made under
139 this subdivision during the previous 12 months a report of the
140 sales, leases, and lease/purchases. The report shall include a



HB67 INTRODUCED

141 general description of the goods or services; the number of
142 units sold, leased, and leased/purchased per entity; and the
143 price of units purchased, leased, or leased/purchased.

144 ~~(17)~~ (16) Purchases of goods or services, other than
145 wireless communication services, whether voice or data, from
146 vendors that have been awarded a current and valid Government
147 Services Administration contract. Any purchase made pursuant
148 to this subdivision shall be under the same terms and
149 conditions as provided in the Government Services
150 Administration contract. Prices paid for the goods and
151 services, other than wireless communication services, whether
152 voice or data, may not exceed the amount provided in the
153 Government Services Administration contract.

154 ~~(18)~~ (17) Purchases of goods or services from vendors
155 that have been awarded a current and valid statewide contract
156 listed on the Alabama Buys e-procurement system. Any purchase
157 made pursuant to this subdivision shall be under the same
158 terms and conditions as provided in the statewide contract.
159 Prices paid for the goods and services may not exceed the
160 amount provided in the statewide contract.

161 ~~(19)~~ (18) Purchases of goods or services between
162 governmental entities of the state, as authorized by Section
163 11-1-10.

164 (b) This article shall not apply to:

165 (1) Any purchases of products where the price of the
166 products is already regulated and established by state law.

167 (2) Purchases made by individual schools of the county
168 or municipal public school systems from monies other than



HB67 INTRODUCED

169 those raised by taxation or received through appropriations
170 from state or county sources.

171 (3) The purchase, lease, sale, construction,
172 installation, acquisition, improvement, enlargement, or
173 expansion of any building or structure or other facility
174 designed or intended for lease or sale by a medical clinic
175 board organized under Chapter 58 of Title 11.

176 (4) The purchase, lease, or other acquisition of
177 machinery, equipment, supplies, and other personal property or
178 services by a medical clinic board organized under Chapter 58
179 of Title 11.

180 (5) Purchases for public hospitals and nursing homes
181 operated by the governing boards of instrumentalities of the
182 state, counties, and municipalities.

183 (6) Contracts for the purchase, lease, sale,
184 construction, installation, acquisition, improvement,
185 enlargement, or extension of any plant, building, structure,
186 or other facility or any machinery, equipment, furniture, or
187 furnishings therefor designed or intended for lease or sale
188 for industrial development, other than public utilities, under
189 Division 1 of Article 4 of Chapter 54 of Title 11, or Article
190 2 of Chapter 54 of Title 11, or any other law or amendment to
191 the Constitution of Alabama of 2022 authorizing the
192 construction of plants or other facilities for industrial
193 development or for the construction and equipment of buildings
194 for public building authorities under Chapter 56 of Title 11.

195 (7) The purchase of equipment, supplies, or materials
196 needed, used, and consumed in the normal and routine operation



HB67 INTRODUCED

197 of any waterworks system, sanitary sewer system, gas system,
198 or electric system, or any two or more thereof, that are owned
199 by municipalities, counties, or public corporations, boards,
200 or authorities that are agencies, departments, or
201 instrumentalities of municipalities or counties and no part of
202 the operating expenses of which system or systems, during the
203 then current fiscal year, have been paid from revenues derived
204 from taxes or from appropriations of the state, a county, or a
205 municipality.

206 (8) Purchases made by local housing authorities,
207 organized and existing under Chapter 1 of Title 24, from
208 monies other than those raised by state, county, or city
209 taxation or received through appropriations from state,
210 county, or city sources.

211 (9) The purchase of services to aid in the prevention
212 and detection of criminal activity by law enforcement agencies
213 and community-oriented policing programs.

214 (c) The state trade schools, state junior colleges,
215 state colleges, and universities under the supervision and
216 control of the State Board of Education, the district boards
217 of education of independent school districts, the county
218 commissions, and the governing bodies of the municipalities of
219 the state shall establish and maintain purchasing facilities
220 and procedures as may be necessary to carry out the intent and
221 purpose of this article by complying with the requirements for
222 competitive bidding in the operation and management of each
223 state trade school, state junior college, state college, or
224 university under the supervision and control of the State



HB67 INTRODUCED

225 Board of Education, the district boards of education of
226 independent school districts, the county commissions, and the
227 governing bodies of the municipalities of the state and the
228 governing boards of instrumentalities of counties and
229 municipalities, including waterworks boards, sewer boards, gas
230 boards, and other like utility boards and commissions.

231 (d) Contracts entered into in violation of this article
232 shall be void and any individual who violates this article
233 shall be guilty of a Class C felony."

234

235 Section 2. Section 41-4-135, Code of Alabama 1975, is
236 amended to read as follows:

237 "§41-4-135

238 (a) A contract may be awarded for a supply or service
239 without competition when the Chief Procurement Officer
240 determines in writing that there is only one source for the
241 required supply or service. In any event, sole source
242 contracts may not exceed one year unless the Chief Procurement
243 Officer determines in writing that there continues to be only
244 one source for the required supply or service.

245 (b) There is a rebuttable presumption that any
246 information technology supply or service contract to be
247 awarded is not subject to this section. This presumption may
248 be overcome only by attestation of the Chief Procurement
249 Officer and the procuring authority that the procuring
250 authority has conducted a detailed search and found no other
251 potentially acceptable products or services offered by any
252 vendor or supplier domiciled in the state."



HB67 INTRODUCED

253 Section 3. This act shall become effective on October
254 1, 2024.