

# HB67 INTRODUCED



1 HB67  
2 EIHA2CC-1  
3 By Representative Brown  
4 RFD: State Government  
5 First Read: 06-Feb-24  
6 PFD: 30-Jan-24



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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



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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



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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



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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



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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



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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



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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





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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



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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."



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