

1 HB100  
2 95511-2  
3 By Representative Warren  
4 RFD: Government Operations  
5 First Read: 05-FEB-08  
6 PFD: 01/17/2008



1 other personal property where the lessee is, or becomes  
2 legally and contractually, bound under the terms of the lease,  
3 to pay a total amount of seven thousand five hundred dollars  
4 (\$7,500) or more, made by or on behalf of any state trade  
5 school, state junior college, state college, or university  
6 under the supervision and control of the State Board of  
7 Education, the city and county boards of education, the  
8 district boards of education of independent school districts,  
9 the county commissions, the governing bodies of the  
10 municipalities of the state, and the governing boards of  
11 instrumentalities of counties and municipalities, including  
12 waterworks boards, sewer boards, gas boards, and other like  
13 utility boards and commissions, except as hereinafter  
14 provided, shall be made under contractual agreement entered  
15 into by free and open competitive bidding, on sealed bids, to  
16 the lowest responsible bidder. Prior to advertising for bids  
17 for an item of personal property, where the county, a  
18 municipality, or an instrumentality thereof is the awarding  
19 authority, the awarding authority may establish a local  
20 preference zone consisting of either the legal boundaries or  
21 jurisdiction of the awarding authority, or the boundaries of  
22 the county in which the awarding authority is located, or the  
23 boundaries of the Standard Metropolitan Statistical Area  
24 (SMSA) in which the awarding authority is located. If no such  
25 action is taken by the awarding authority, the boundaries of  
26 the local preference zone shall be deemed to be the same as  
27 the legal boundaries or jurisdiction of the awarding

1 authority. In the event a bid is received for an item of  
2 personal property to be purchased or contracted for from a  
3 person, firm, or corporation deemed to be a responsible  
4 bidder, having a place of business within the local preference  
5 zone where the county, a municipality, or an instrumentality  
6 thereof is the awarding authority, and the bid is no more than  
7 ~~three~~ five percent greater than the bid of the lowest  
8 responsible bidder, the awarding authority may award the  
9 contract to the resident responsible bidder. In no case may  
10 the local preference zone or the five percent preference  
11 established herein be used to qualify an otherwise unqualified  
12 bidder or to allow the awarding of the contract that would  
13 otherwise be prohibited by state law. In the event only one  
14 bidder responds to the invitation to bid, the awarding  
15 authority may reject the bid and negotiate the purchase or  
16 contract, providing the negotiated price is lower than the bid  
17 price.

18 "(b) The governing bodies of two or more contracting  
19 agencies, as enumerated in subsection (a) within the same  
20 county or adjoining counties, or the governing bodies of two  
21 or more counties, or the governing bodies of two or more city  
22 or county boards of education, may provide, by joint  
23 agreement, for the purchase of labor, services, or work, or  
24 for the purchase or lease of materials, equipment, supplies,  
25 or other personal property for use by their respective  
26 agencies. The agreement shall be entered into by similar  
27 ordinances, in the case of municipalities, or resolutions, in

1 the case of other contracting agencies, adopted by each of the  
2 participating governing bodies, which shall set forth the  
3 categories of labor, services, or work, or for the purchase or  
4 lease of materials, equipment, supplies, or other personal  
5 property to be purchased, the manner of advertising for bids  
6 and the awarding of contracts, the method of payment by each  
7 participating contracting agency, and other matters deemed  
8 necessary to carry out the purposes of the agreement. Each  
9 contracting agency's share of expenditures for purchases under  
10 any agreement shall be appropriated and paid in the manner set  
11 forth in the agreement and in the same manner as for other  
12 expenses of the contracting agency. The contracting agencies  
13 entering into a joint agreement, as herein permitted, may  
14 designate a joint purchasing agent, and the agent shall have  
15 the responsibility to comply with this article. Purchases,  
16 contracts, or agreements made pursuant to a joint purchasing  
17 agreement shall be subject to all terms and conditions of this  
18 article.

19 "In the event that utility services are no longer  
20 exempt from competitive bidding under this article,  
21 non-adjointing counties may not purchase utility services by  
22 joint agreement under authority granted by this subsection.

23 "~~(c) All~~ The awarding authority may shall require  
24 bidders shall to furnish a bid bond on any contract exceeding  
25 ten thousand dollars (\$10,000) if bonding is available for the  
26 services, equipment, or materials.

27 "§41-16-57.

1           "(a) When purchases are required to be made through  
2 competitive bidding, awards shall be made to the lowest  
3 responsible bidder taking into consideration the qualities of  
4 the commodities proposed to be supplied, their conformity with  
5 specifications, the purposes for which required, the terms of  
6 delivery, transportation charges, and the dates of delivery.  
7 If at any time after the award has been made, the lowest  
8 responsible bidder notifies the awarding authority in writing  
9 that the bidder will no longer comply with the terms of the  
10 award to provide the goods or services to the awarding  
11 authority under the terms and conditions of the original award  
12 or the awarding authority documents that the lowest  
13 responsible bidder defaults under the terms of the original  
14 award, the awarding authority may terminate the award to the  
15 defaulting bidder and make an award to the second lowest  
16 responsible bidder for the remainder of the award period  
17 without rebidding, provided the award to the second lowest  
18 responsible bidder is in all respects made under the terms and  
19 conditions contained in the original bid specifications and is  
20 for the same or a lower price than the bid originally  
21 submitted to the awarding authority by the second lowest  
22 responsible bidder.

23           "(b) The awarding authority in the purchase of or  
24 contract for personal property or contractual services shall  
25 give preference, provided there is no sacrifice or loss in  
26 price or quality, to commodities produced in Alabama or sold  
27 by Alabama persons, firms, or corporations. Notwithstanding

1 the foregoing, no county official, county commission, school  
2 board, city council or city councilmen, or other public  
3 official, state board, or state agency charged with the  
4 letting of contracts or purchase of materials for the  
5 construction, modification, alteration, or repair of any  
6 publicly owned facility may specify the use of materials or  
7 systems by a sole source, unless:

8 "(1) The governmental body can document to the  
9 satisfaction of the State of Alabama Building Commission that  
10 the "sole source" product or service is of an "indispensable"  
11 nature, all other viable alternatives have been explored, and  
12 it has been determined that only this product or service will  
13 fulfill the function for which the product is needed.  
14 Frivolous features will not be considered.

15 "(2) The sole source specification has been  
16 recommended by the architect or engineer of record and who  
17 also documents that there is no other product available and  
18 that the use of the requirement is of an indispensable nature  
19 and why.

20 "(3) All information substantiating the use of a  
21 sole source specification is documented in writing and is  
22 filed into the project file.

23 "(c) The awarding authority or requisitioning agency  
24 may reject any bid if the price is deemed excessive or quality  
25 of product inferior.

26 "(d) Each record, with the successful bid indicated  
27 thereon, and with the reasons for the award if not awarded to

1 the lowest bidder, shall, after award of the order or  
2 contract, be open to public inspection.

3 "(e) Contracts for the purchase of personal property  
4 or contractual services shall be let for periods not greater  
5 than three years. "Lease-purchase" contracts for capital  
6 improvements and repairs to real property shall be let for  
7 periods not greater than 10 years and all other lease-purchase  
8 contracts shall be let for periods not greater than 10 years."

9 Section 2. This act shall become effective  
10 immediately following its passage and approval by the  
11 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 Government Oper-  
ations ..... 05-FEB-08

Read for the second time and placed  
on the calendar ..... 06-FEB-08

Read for the third time and passed  
as amended ..... 12-FEB-08

Yeas 84, Nays 14, Abstains 3

Greg Pappas  
Clerk