

1 SB42
2 149497-1
3 By Senator Dial
4 RFD: Fiscal Responsibility and Accountability
5 First Read: 14-JAN-14
6 PFD: 11/21/2013

2
3
4
5
6
7
8 SYNOPSIS: Currently, pursuant to the state competitive
9 bidding law, contracts for the purchase of personal
10 property or contractual services shall be let for
11 periods not greater than three years.

12 This bill would provide that contracts for
13 the purchase of personal property or contractual
14 services shall be let for periods not greater than
15 five years.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Section 16-13B-7, Code of Alabama 1975,
22 relating to competitive bidding; to provide that contracts for
23 the purchase of personal property or contractual services
24 shall be let for periods of not greater than five years.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 16-13B-7, Code of Alabama 1975,
27 is amended to read as follows:

1 "§16-13B-7.

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

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

1 by Alabama persons, firms, or corporations. Notwithstanding
2 the foregoing, no county or city board of education charged
3 with the letting of contracts or purchase of materials for the
4 construction, modification, alteration, or repair of any
5 publicly owned facility may specify the use of materials or
6 systems by a sole source, unless:

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

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

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

22 "(c) (1) For purchases of personal property in
23 instances where the awarding authority determines that the
24 total cost of ownership over the expected life of the item or
25 items, including acquisition costs plus sustaining costs or
26 life cycle costs, can be reasonably ascertained from industry
27 recognized and accepted sources, the lowest responsible bid

1 may be determined to be the bid offering the lowest life cycle
2 costs and otherwise meeting all of the conditions and
3 specifications contained in the invitation to bid. To utilize
4 this subdivision to determine the lowest responsible bidder,
5 the awarding authority shall include a notice in the
6 invitation to bid that the lowest responsible bid may be
7 determined by using life cycle costs and identify the industry
8 recognized and accepted sources that will be applicable to
9 such an evaluation.

10 "(2) The Department of Examiners of Public Accounts
11 shall establish procedures for the use of life cycle costs,
12 which shall be distributed to all contracting agencies and
13 shall be used in conducting any audits of the purchasing
14 agency.

15 "(d) The awarding authority or requisitioning agency
16 may reject any bid if the price is deemed excessive or quality
17 of product inferior.

18 "(e) Each record, with the successful bid indicated
19 thereon, and with the reasons for the award if not awarded to
20 the lowest bidder, shall, after award of the order or
21 contract, be open to public inspection.

22 "(f) Contracts for the purchase of personal property
23 or contractual services shall be let for periods not greater
24 than ~~three~~ five years. Lease-purchase contracts for capital
25 improvements and repairs to real property shall be let for
26 periods not greater than 10 years and all other lease-purchase
27 contracts shall be let for periods not greater than 10 years."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.