

1 HB335
2 209292-5
3 By Representatives Baker, Jones (S) and Faulkner
4 RFD: County and Municipal Government
5 First Read: 04-FEB-21

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ENROLLED, An Act,

Relating to competitive bidding; to amend Section 41-16-57, Code of Alabama 1975; to change the term of public contracts for residential solid waste collection and disposal.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-16-57, Code of Alabama 1975, is amended to read as follows:

"§41-16-57.

"(a) When purchases are required to be made through competitive bidding, awards shall be made to the lowest responsible bidder taking into consideration the qualities of the commodities proposed to be supplied, their conformity with specifications, the purposes for which required, the terms of delivery, transportation charges, and the dates of delivery. If at any time after the award has been made the lowest responsible bidder notifies the awarding authority in writing that the bidder will no longer comply with the terms of the award to provide the goods or services to the awarding authority under the terms and conditions of the original award, or the awarding authority documents that the lowest responsible bidder defaults under the terms of the original award, the awarding authority may terminate the award to the defaulting bidder and make an award to the second lowest responsible bidder for the remainder of the award period

1 without rebidding, provided the award to the second lowest
2 responsible bidder is in all respects made under the terms and
3 conditions contained in the original bid specifications and is
4 for the same or a lower price than the bid originally
5 submitted to the awarding authority by the second lowest
6 responsible bidder.

7 "(b) The awarding authority in the purchase of or
8 contract for goods or services shall give preference, provided
9 there is no sacrifice or loss in price or quality, to
10 commodities produced in Alabama or sold by Alabama persons,
11 firms, or corporations. Notwithstanding the foregoing, no
12 county official, county commission, city council or city
13 councilmen, or other public official charged with the letting
14 of contracts or purchase of goods or services may specify the
15 use of materials or systems by a sole source, unless:

16 "(1) The governmental body can document that the
17 sole source goods or services are of an indispensable nature,
18 all other viable alternatives have been explored, and it has
19 been determined that only these goods or services will fulfill
20 the function for which the product is needed. Frivolous
21 features will not be considered.

22 "(2) No other vendor offers substantially equivalent
23 goods or services that can accomplish the purpose for which
24 the goods or services are required.

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

4 "(c) (1) Beginning January 1, 2009, for purchases of
5 personal property, including on or after June 9, 2011, goods
6 which are, or are to become, fixtures, in instances where the
7 awarding authority determines that the total cost of ownership
8 over the expected life of the item or items, including
9 acquisition costs plus sustaining costs or life cycle costs,
10 can be reasonably ascertained from industry recognized and
11 accepted sources, the lowest responsible bid may be determined
12 to be the bid offering the lowest life cycle costs and
13 otherwise meeting all of the conditions and specifications
14 contained in the invitation to bid. To utilize this
15 subdivision to determine the lowest responsible bidder, the
16 awarding authority shall include a notice in the invitation to
17 bid that the lowest responsible bid may be determined by using
18 life cycle costs and identify the industry recognized and
19 accepted sources that will be applicable to such an
20 evaluation.

21 "(2) No later than November 30, 2008, the Department
22 of Examiners of Public Accounts shall establish procedures for
23 the use of life cycle costs, which shall be distributed to all
24 contracting agencies and shall be used in conducting any
25 audits of the purchasing agency.

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

4 "(e) Each record, with the successful bid indicated
5 thereon, and with the reasons for the award if not awarded to
6 the lowest bidder, ~~shall~~, after award of the order or
7 contract, shall be open to public inspection.

8 "(f) Contracts for the purchase of personal property
9 or contractual services shall be let for periods not greater
10 ~~than three years. Contracts for the collection and disposal~~
11 ~~of residential solid waste shall be let for periods not~~
12 ~~greater than five years. Contracts for the leasing of motor~~
13 ~~vehicles~~ than three years, except contracts for the collection
14 and disposal of residential solid waste, other than those
15 contracts in Class 1 municipalities, shall be let for periods
16 not greater than five years. Contracts for the leasing of
17 motor vehicles by local governing bodies shall be let for
18 periods not greater than five years. Lease-purchase contracts
19 for capital improvements and repairs to real property shall be
20 let for periods not greater than 10 years and all other
21 lease-purchase contracts shall be let for periods not greater
22 than 10 years."

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 23-FEB-21.

Jeff Woodard
Clerk

Senate	20-APR-21	Amended and Passed
House	27-APR-21	Concurred in Senate Amendment