

HB417 INTRODUCED



1 HB417
2 L5NSFWW-1
3 By Representative Shaw
4 RFD: County and Municipal Government
5 First Read: 10-Feb-26



SYNOPSIS:

Under existing law, contracts for public works in excess of \$100,000 are subject to the public works law and must be competitively bid pursuant to the requirements of that law.

This bill would exempt contracts for the purchase of playground equipment from the public works law and would provide that such contracts must be bid pursuant to the applicable competitive bidding law.

A BILL
TO BE ENTITLED
AN ACT

Relating to competitive bidding; to amend Section 39-2-2, Code of Alabama 1975, as last amended by Act 2025-383; to exempt from the public works law the purchase and installation of playground equipment on public property.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 39-2-2, Code of Alabama 1975, as last amended by Act 2025-383, is amended to read as follows:

"§39-2-2

(a) (1) Before entering into any contract for a public works involving an amount in excess of one hundred thousand



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dollars (\$100,000), the awarding authority shall advertise for sealed bids, except as provided in subsection (k).

(2)a. If the awarding authority is the state, a county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement, or some part thereof, is to be made.

b.1. If the awarding authority is a municipality, or an instrumentality thereof, it shall advertise for sealed bids at least once in a newspaper of general circulation published in the municipality where the awarding authority is located.

2. If no newspaper is published in the municipality, the awarding authority shall advertise by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for the length of time as may be determined. In addition to bulletin board notice, the awarding authority shall also send the notice by U.S. mail or electronic mail to the Department of Finance for publication of the advertisement on the centralized website maintained by the department as further described in subsection (c).

(3) The advertisements shall briefly describe the improvement, state that plans and specifications for the improvement are on file for examination in a designated office of the awarding authority, state the procedure for obtaining plans and specifications, state the time and place in which bids shall be received and opened, and identify whether prequalification is required and where all written prequalification information is available for review.



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57 (4) All bids shall be opened publicly at the advertised
58 time and place.

59 (5) No public work involving a sum in excess of one
60 hundred thousand dollars (\$100,000) shall be split into parts
61 involving sums of one hundred thousand dollars (\$100,000) or
62 less for the purpose of evading the requirements of this
63 section.

64 (b) (1) An awarding authority may let contracts for
65 public works involving one hundred thousand dollars (\$100,000)
66 or less with or without advertising or sealed bids.

67 (2) Notwithstanding the advertising requirements of
68 subdivision (a) (2), an awarding authority may enter into a
69 contract for public works if: (i) the awarding authority
70 submitted the advertisement for sealed bids for the contract
71 in accordance with subdivision (a) (2); and (ii) the
72 advertisement was published for at least three weeks, or if
73 the awarding authority is a municipality or instrumentality
74 thereof for at least seven consecutive calendar days, on a
75 centralized website maintained by the Department of Finance as
76 further described in subsection (c).

77 (3) If the awarding authority under subdivision (2) is
78 the Department of Transportation, the Department of Finance
79 may alternatively satisfy the requirements of subdivision
80 (2) (ii) by publishing the advertisement on its publicly
81 accessible website for at least three weeks.

82 (4) If the awarding authority under subdivision (2) is
83 a county or instrumentality thereof, the county or
84 instrumentality may alternatively satisfy the requirements of



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subdivision (2)(ii) by publishing the advertisement in accordance with the procedures submitted by the Association of County Engineers of Alabama and approved by the Department of Examiners of Public Accounts as authorized by general law.

(c) The Department of Finance shall establish and maintain a centralized website or digital platform to provide publicly accessible notice of advertisements for sealed bids pursuant to this section. The department may further provide for the administration and operations related thereto by the adoption of administrative rules, including, but not limited to, the assessment of fees to awarding authorities for the posting of advertisements to cover the implementation and maintenance cost of the website or digital platform.

(d) All contracts for public works entered into in violation of this title shall be void and violative of public policy. Anyone who willfully violates this chapter concerning public works shall be guilty of a Class C felony.

(e)(1) Excluded from the operation of this title shall be contracts with persons who shall perform only architectural, engineering, construction management, program management, or project management services in support of the public works and who shall not engage in actual construction, repair, renovation, or maintenance of the public works with their own forces, by contract, subcontract, purchase order, lease, or otherwise.

(2)a. Excluded from operation of the bidding requirements in this title are contracts for the purchase of any heating or air conditioning units or systems by any



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awarding authority subject to Chapter 13B of Title 16, Article 3, commencing with Section 41-16-50 of Chapter 16 of Title 41, or Article 5, commencing with Section 41-4-110 of Chapter 4 of Title 41, provided the contract is entered into with an Alabama vendor who has been granted approved vendor status for the sale of heating or air conditioning units or systems as a part of a purchasing cooperative, and each of the following occur:

1. The heating or air conditioning unit or system being purchased is available as a result of a competitive bid process conducted by a governmental entity which has been approved by the Department of Examiners of Public Accounts.

2. The purchase of the heating or air conditioning unit or system is not available on the state purchasing program at the time or the purchase under the purchasing cooperative is available at a price that is equal to or less than that available through the state purchasing program.

3. The entity entering into the contract for the purchase of the heating or air conditioning unit or system has been notified by the Department of Examiners of Public Accounts that the competitive bid process utilized by the cooperative program offering the goods complies with this subdivision.

4. Upon request, the vendor has provided the purchasing entity with a report of sales made under this subdivision during the previous 12-month period, to include a general description of the heating or air conditioning units and systems sold, the number of units sold per entity, and the



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purchase price of the units.

b. The exemption from the requirement to use sealed bids for the purchase of heating or air conditioning units or systems authorized by this section shall not serve to exempt any public works project from the remaining provisions of this chapter, including, but not limited to, design, installation, and review requirements, compliance with all applicable codes, laws, specifications, and standards, and the compensation of engineers, architects, or others as mandated by state law or rule.

(3)a. Excluded from the operation of this title are contracts for the purchase, design, and installation of playground equipment. Such contracts shall be procured as otherwise required for the procurement of goods and services, including, but not limited to, Chapter 13B of Title 16; Article 3 of Chapter 16 of Title 41; and Article 5 of Chapter 4 of Title 41.

b. For purposes of this subdivision, "playground equipment" means any structure or apparatus intended for children's recreational use and play in a public area, including a public park, public school, or other public property. The term includes slides, swings, climbing equipment, seesaws, and splash pads. The term also includes purchases ancillary to the use of a playground, including safety surfacing, fencing, signage, and shade structures.

(f) (1) In case of an emergency for which a delay in remedying would cause immediate harm to a person or public property, contracts may be let to the extent necessary to meet



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the emergency without public advertisement or bidding.

(2) In case of an emergency affecting public health, safety, or convenience, as declared in writing by the awarding authority, setting forth the nature of the danger to the public health, safety, or convenience which would result from delay, contracts may be let to the extent necessary to meet the emergency without public advertisement.

(3) Any action taken under subdivision (1) or (2), and the reasons for the action taken, shall immediately be made public by the awarding authority and published in writing.

(g) No awarding authority may specify in the plans and specifications for the improvement the use of materials, products, systems, or services by a sole source unless all of the following requirements are met:

(1) Except for contracts involving the construction, reconstruction, renovation, or replacement of public roads, bridges, and water and sewer facilities, the awarding authority can document to the satisfaction of the Division of Real Property Management of the Department of Finance, or in the case of an educational institution or state educational institution as provided pursuant to Sections 41-4-353 and 41-4-400, to the satisfaction of its governing board, that the sole source product, material, system, or service is of an indispensable nature for the improvement, that there are no other viable alternatives, and that only this particular product, material, system, or service fulfills the function for which it is needed.

(2) The sole source specification has been recommended



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by the architect or engineer of record as an indispensable item for which there is no other viable alternative.

(3) All information substantiating the use of a sole source specification, including the recommendation of the architect or engineer of record, shall be documented and made available for examination in the office of the awarding authority at the time of advertisement for sealed bids.

(h) If a proposed public works project is acknowledged in writing by the Alabama Homeland Security Department as: (i) having a direct impact on the security or safety of persons or facilities; and (ii) requiring confidential handling for the protection of such persons or facilities, contracts may be let without public advertisement but with the taking of informal bids otherwise consistent with the requirements of this title and the requirements of maintaining confidentiality. Records of bidding and award shall not be disclosed to the public and shall remain confidential.

(i) If a pre-bid meeting is held, the pre-bid meeting shall be held at least seven days prior to the bid opening except when the project has been declared an emergency in accordance with subsection (f).

(j) The awarding authority may not offer a contract for bidding unless confirmation of any applicable grant has been received and any required matching funds have been secured by or are available to the awarding authority.

(k) Notwithstanding subsection (a), the Department of Transportation may enter into contracts for road construction or road maintenance projects that do not involve more than two



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hundred fifty thousand dollars (\$250,000) without advertising for sealed bids, provided the project is listed on the publicly accessible website of the department for at least seven calendar days before entering into the contract. The total cost of all projects not subject to advertising and sealed bids pursuant to this subsection may not exceed one million dollars (\$1,000,000) in the aggregate per year.

(1) For the purposes of this chapter, sealed bids may also be solicited and submitted through electronic means including, but not limited to, electrical, digital, magnetic, optical, electromagnetic, or any other similar technology, provided that the awarding authority adopts rules and policies to ensure that all electronic submissions are transmitted securely and bids ~~remained~~remain sealed until bid opening.

(m)(1) Notwithstanding any other provision of law, any entity subject to this chapter that is an awarding authority of a contract for public works, by resolution or board action, may purchase materials or equipment pursuant to Section 41-16-51(a)(14), (16), (17), (18), or (19), even when those materials or equipment are otherwise part of the contract for public works subject to the requirements of this title.

(2) Except for those materials or equipment described in subdivision (1), the remaining portion of the public works project shall be subject to the requirements of this title, even if the remaining portion would involve an amount less than one hundred thousand dollars (\$100,000) as a result of the exclusion of the purchase of the materials or equipment as described in subdivision (1)."



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253 Section 2. This act shall become effective on June 1,
254 2026.