

# **PROCEDURES FOR REVERSE AUCTION PURCHASES**

**For**

**Agencies Soliciting Competitive Bids Under Title 41, Chapter 16,  
and Title 16, Chapter 13B, *Code of Alabama 1975***

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Prepared by

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These procedures have been prepared by the State of Alabama, Department of Examiners of Public Accounts as required by Act Number 2008-379 and Act 2009-760, Acts of Alabama.



## 1. Applicable Agencies

These procedures apply to State Trade Schools, State Junior Colleges, State Colleges, and Universities under the supervision and control of the State Board of Education, District Boards of Education of Independent School Districts, County Commissions, Governing Bodies of the Municipalities of the State, and Governing Bodies of Instrumentalities of Counties and Municipalities, including water works boards, sewer boards, gas boards, and other like utility boards and commissions specified in the *Code of Alabama 1975*, Section 41-16-50 and to City and County Boards of Education specified in the *Code of Alabama 1975*, Section 16-13B-1<sup>1</sup>. These procedures **do not** apply to the Departments, Boards, Bureaus, Commissions, Committees, Institutions, Corporations, Authorities, and Offices of the State of Alabama specified in the *Code of Alabama 1975*, Section 41-16-20.

## 2. Definition of Reverse Auction

A reverse auction is a purchasing process in which offerors (suppliers) submit bids in competition to sell services or supplies in an open environment via the internet. The auction itself is an invitation-only, timed event.

## 3. Methods of Handling Reverse Auctions

There are basically three ways of handling reverse auctions:

- acquire the necessary software to conduct the auction on an “in-house” basis;
- contract with a commercial auction host to conduct the auction as an agent; or
- participate through a regional, state, or national purchasing cooperative.

## 4. Bidding Process

The reverse auction procedure shall include either of the following, as specified in the *Code of Alabama 1975*, Section 41-16-54:

- a real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple anonymous suppliers submit bids to provide the designated goods or services, or
- a bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple anonymous suppliers submit bids to provide the designated goods or services.

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<sup>1</sup> Section amended July 14, 2009 to reflect change due to the passage of Act 2009-760, Acts of Alabama.

## **5. Eligible Purchases**

The law does not limit the types of services or items that may be purchased through the reverse auction process. However, reverse auction purchasing is only allowable in the event that an item to be purchased is either not (at the time) available on the state purchasing program under the same terms and conditions, or if available, the lowest price offered in the reverse auction is equal to or less than the price for which the item is available on the state purchasing program under the same terms and conditions. The reverse auction process is most effective in the procurement of commodities and other generic goods and services that can be clearly defined and quantified. The reverse auction procedure may be used as a form of procurement for purchases or contracts which involve an amount of \$15,000 or more, as specified in the *Code of Alabama*, Section 41-16-54.

## **6. Notification of Invitation to Bid**

All proposed purchases by reverse auction shall be advertised according to the provisions specified in the *Code of Alabama*, Section 41-16-54. Solicitation shall also be made by sending notices by mail or electronic means to all persons, firms, or corporations who have filed a request in writing that they be listed for solicitation on bids for the particular items that are set forth in the request. Notification shall include the scheduled time and internet location in which multiple anonymous suppliers may submit bids to provide the designated goods or services.

## **7. Bid Specifications**

Clear and concise bid specifications must be developed by the awarding authority for the supplies or services being procured. The purpose of the specification is to describe the supplies or services to be purchased and serve as a basis for comparison of bid responses. Where a brand name or equal specification is used, use of the brand name should be for the purpose of describing the base standard of quality, performance and characteristics desired and should not be intended to limit or restrict competition.

## **8. Pre-Screening of Bidders**

Bidders may be pre-screened at the option of the awarding authority. The pre-screening process enables the awarding authority to ensure that only responsible parties submit bids. Should the awarding authority elect to pre-screen (pre-qualify) bidders, the process must be documented in writing and will become part of the bid documentation and a public record. Prospective bidders should submit a notification of intent to bid in a sealed envelope noting the project name/bid number on the outer envelope to the awarding authority/agent within an appropriate timeframe as specified by the awarding authority/agent.

## **9. Reverse Auction Process**

A contact person, department or agent should be designated to answer questions from suppliers regarding the reverse auction process. Online instructions should also be provided to bidders. Bidders will be notified of the start of the reverse auction through an electronic notification. The reverse auction will conclude at the previously scheduled stop time. The awarding authority will be responsible for providing a secure location and/or website for the reverse auction.

## **10. Non-Disclosure of Competitors**

The bidder interface will be configured such that a bidder will not know the identity of competing bidders until the reverse auction is complete. *See generally Code of Alabama*, Section 41-16-56.

## **11. Record of Auction**

An event record of the auction should be maintained by the awarding authority that will include the prices offered by the bidders. This record will become part of the contract documents and a public record at the conclusion of the event. The event record must disclose the beginning and ending times of the auctions. The bid documents shall be retained for at least seven years, as provided by law, and are subject to review by the Department of Examiners of Public Accounts.

## **12. Price Submittals**

Bidders may submit multiple prices during the event. The lowest price offered will become the price portion of the bid response.

## **13. Communication**

Any attempt on the part of the bidder, their representative, etc. to solicit correspondence and or information from the auction agent, another bidder, or the awarding authority hosting the reverse auction during the auction event, results in an automatic disqualification from the reverse auction process.

## **14. Rejected Bids**

The awarding authority may reject any bid, in whole or in part, if any of the following occur:

- a) bids offer supplies or services that are not in compliance with the requirements, specifications, terms or conditions as stated in the reverse auction,
- b.) the price of the lowest responsive and responsible bid is excessive in comparison with market conditions or the awarding authority's funds,
- c.) it is determined that awarding any item is not in the best interest of the agency/department,
- d.) the lowest price offered in the reverse auction is equal to or more than the price for which the item is available on the State purchasing program under the same terms and conditions.

## **15. Award**

Contracts will be awarded to the lowest responsible bidder as provided by the Alabama Competitive Bid Law.

**16. Tie Bids**

In the event that multiple bidders submit identical prices for the same goods or services, the bid received first will be considered to be the lowest. Any other identical bids received later will be considered in the order received.

**17. Public Viewing of Auction Event**

The public may attend the internet auction event which will be conducted such that the names of the bidders will not be disclosed until after the completion of the auction, at which time the event record will be available to the public.