

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 456

By: Senator G. Stubblefield

By: Representative L. Fite

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING COMPETITIVE
BIDDING AND PURCHASING PROCEDURES FOR COUNTIES AND
MUNICIPALITIES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING COMPETITIVE
BIDDING AND PURCHASING PROCEDURES FOR
COUNTIES AND MUNICIPALITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-22-102 is amended to read as follows:
14-22-102. Applicability.

(a) It is unlawful for ~~any a~~ county official to make ~~any purchases a~~ purchase with county funds in excess of ~~twenty thousand dollars (\$20,000)~~ thirty-five thousand dollars (\$35,000), unless the method of purchasing prescribed ~~in~~ under this chapter is followed.

(b) This chapter ~~shall~~ does not apply to ~~any purchases a purchase~~ under ~~twenty thousand dollars (\$20,000)~~ thirty-five thousand dollars (\$35,000) or to the purchase of commodities ~~set forth in~~ under § 14-22-106.

(c)(1) Beginning January 1, 2025, and on each January 1 at subsequent five-year intervals, the amounts under subsections (a) and (b) of this section shall be adjusted to reflect the percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the five (5) years immediately preceding the percentage increase, and rounded to the nearest whole number.



(2) Following a percentage increase under subdivision (c)(1) of this section, the Department of Finance and Administration shall provide each county and Arkansas Legislative Audit with the percentage increase and the corresponding updated amounts under this section.

SECTION 2. Arkansas Code § 14-22-104 is amended to read as follows:

14-22-104. Purchases permitted.

~~All purchases of commodities~~ (a) A purchase of a commodity made by ~~any~~ a county purchasing official with county funds, except those specifically exempted by this chapter, shall be made as follows:

(1) Formal bidding ~~shall be~~ is required in each instance in which the estimated purchase price ~~shall equal or exceed twenty thousand dollars (\$20,000)~~ equals or exceeds thirty-five thousand dollars (\$35,000);

(2) ~~Open~~ An open market ~~purchases~~ purchase may be made of ~~any commodities where~~ a commodity if the purchase price is less than ~~twenty thousand dollars (\$20,000)~~ thirty-five thousand dollars (\$35,000); and

(3) ~~No~~ A purchasing official shall not parcel or split any items of commodities or estimates with the intent ~~or purpose~~ to change the classification or to enable the purchase to be made under a less restrictive procedure.

(b)(1) Beginning January 1, 2025, and on each January 1 at subsequent five-year intervals, the amount under subsection (a) of this section shall be adjusted to reflect the percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the five (5) years immediately preceding the percentage increase, and rounded to the nearest whole number.

(2) Following a percentage increase under subdivision (b)(1) of this section, the Department of Finance and Administration shall provide each county and Arkansas Legislative Audit with the percentage increase and the corresponding updated amounts under this section.

SECTION 3. Arkansas Code § 14-22-106(17), concerning county commodity purchases exempted from bid solicitation, is amended to read as follows:

(17)(A) New motor vehicles purchased from a licensed automobile dealership located in Arkansas for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the

county submits the purchase order for the same make and model motor vehicle, which may include additional options that were available for bid and purchased under state contract at the state bid option price.

(B) The purchase amount for a new motor vehicle may include additional ~~options~~ after-market equipment that was not available under the state contract up to ~~six hundred dollars (\$600)~~ one thousand two hundred dollars (\$1,200) over the fleet price awarded;

SECTION 4. Arkansas Code § 14-58-104 is amended to read as follows:

14-58-104. Specific purchases and contracts - Commodities.

~~(a)~~ The ~~municipal~~ governing body of a city of the first class, city of the second class, or an incorporated town may purchase the following commodities without soliciting bids:

(1) ~~Motor fuels, oil, asphalt, asphalt oil, and natural gas; and~~
~~(2) New motor vehicles from a motor vehicle dealer licensed under the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq., if the motor vehicle is purchased for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the municipal governing body of a city of the first class, city of the second class, or an incorporated town submits the purchase order for the same make and model motor vehicle.~~ Perishable foodstuffs for immediate use;

(2) Unprocessed feed for livestock and poultry;

(3) Advanced emergency medical services provided by a nonprofit corporation and proprietary medicines if specifically requested by a professional employee;

(4) Books, manuals, periodicals, films, and copyrighted educational aids for use in libraries and other informational material for institutional purposes;

(5) Scientific equipment and parts;

(6) Replacement parts and labor for repairs of machinery and equipment;

(7) Commodities available only from the United States Government;

(8)(A) Any commodities needed in instances in which an unforeseen and unavoidable emergency has arisen in which human life, health, or public property is in jeopardy.

(B) An emergency purchase under subdivision (8)(A) of this section shall not be approved unless a statement in writing is attached to the purchase order describing the emergency necessitating the purchase of the commodity without competitive bidding;

(9) Utility services, purchased at wholesale or the rates for which are subject to regulation by a state agency or a federal regulatory agency;

(10) Sand, gravel, soil, lumber, used pipe, or used steel;

(11)(A) Used or secondhand motor vehicles, machinery, or equipment.

(B) A used or secondhand motor vehicle that has been under lease to a municipality and has fewer than five thousand (5,000) miles of use shall not be purchased except upon competitive bids as provided in this chapter;

(12) Machinery, equipment, facilities, or other personal property purchased or acquired for or in connection with the securing and developing of industry under the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq., or any other provision of law pertaining to the securing and developing of industry;

(13) Registered livestock to be used for breeding purposes;

(14) Motor fuels, oil, asphalt, asphalt oil, and natural gas;

(15) Motor vehicles, equipment, machinery, material, or supplies offered for sale at public auction or through a process requiring sealed bids;

(16) All goods and services that are regularly provided to state agencies and municipal government by the Division of Correction's various penal industries;

(17)(A) New motor vehicles purchased from a licensed automobile dealership located in Arkansas for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the municipality submits the purchase order for the same make and model motor vehicle.

(B) The purchase amount for a new motor vehicle may include additional options up to six hundred dollars (\$600) over the fleet price awarded;

(18) Renewal or extension of the term of an existing contract;

(19) Purchase of insurance for municipal employees, including without limitation health insurance, workers' compensation insurance, life insurance, risk management services, or dental insurance;

(20) Goods or services if the governing body has approved by resolution the purchase of goods or services through competitive bidding or procurement procedures used by:

(A) The United States Government or one (1) of its agencies;

(B) Another state; or

(C) An association of governments or governmental agencies, including associations of governments or governmental agencies below the state level; and

(21)(A) Goods or services available only from a single source.

(B) A purchase under this subdivision (21) shall be supported with:

(i) Documentation concerning the exclusivity of the single source; and

(ii) A written proclamation from the chief executive filed with the clerk or recorder that sets forth the basis for the single source procurement.

~~(b) The municipal governing body of a city of the first class, city of the second class, or an incorporated town may renew or extend the term of an existing contract without soliciting bids.~~

SECTION 5. Arkansas Code § 14-58-303(b), concerning municipal purchases and contracts, is amended to read as follows:

(b)(1)(A) Except as provided under § 14-58-104, the ~~municipal~~ governing body of any city of the first class shall provide by ordinance the procedure for making all purchases ~~which that~~ do not exceed the sum of ~~twenty thousand dollars (\$20,000)~~ thirty-five thousand dollars (\$35,000).

(B) Except as provided under § 14-58-104, the ~~municipal~~ governing body of any city of the second class or incorporated town may provide by ordinance the procedure for making all purchases.

(2)(A)(i) Except as provided under § 14-58-104, in a city of the first class ~~where in which~~ the amount of expenditure for any purpose or contract exceeds the sum of ~~twenty thousand dollars (\$20,000)~~ thirty-five

thousand dollars (\$35,000), the mayor or the mayor's authorized representative shall invite competitive bidding on the purpose or contract by legal advertisement in any local newspaper.

(ii) Bids received pursuant to the advertisement shall be opened and read on the date set for receiving the bids in the presence of the mayor or the mayor's authorized representative.

(iii) The mayor or the mayor's authorized representative ~~shall have~~ has exclusive power to award the bid to the lowest responsible bidder, ~~but~~ and may reject any and all bids received.

(B) The governing body by ~~ordinance~~ resolution may waive the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical or as provided under § 14-58-104.

(C) Cities of the first class, cities of the second class, and incorporated towns may accept competitive bids in the following forms:

- (i) Written; or
- (ii) Electronic media.

(3)(A) Beginning January 1, 2025, and on each January 1 at subsequent five-year intervals, the amounts under this subdivision shall be adjusted to reflect the percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the five (5) years immediately preceding the percentage increase, and rounded to the nearest whole number.

(B) Following a percentage increase under subdivision (c)(1) of this section, the Department of Finance and Administration shall provide each city of the first class and Arkansas Legislative Audit with the percentage increase and the corresponding updated amounts under this section.

SECTION 6. Arkansas Code § 14-58-304 is amended to read as follows:
14-58-304. Purchase of insurance.

The ~~Except as provided under § 14-58-104, the~~ purchase of all types of insurance by cities of the first class, cities of the second class, or incorporated towns ~~shall be~~ is governed by ~~the provisions of~~ § 14-58-303.

SECTION 7. Arkansas Code § 14-58-305(a), concerning municipal payment of claims, is amended to read as follows:

(a) In a city of the first class, city of the second class, or incorporated town, the mayor or his duly authorized representative may approve or disapprove for payment out of funds previously appropriated for that purpose, ~~or disapprove, any bills, debts, or liabilities asserted as~~ legal claims asserted or brought against the city or town.

SECTION 8. Arkansas Code § 14-58-303 is amended to read as follows:
14-58-308. Bonds of officers and employees.

(a) All officers and employees of a city of the first class, city of the second class, or incorporated town handling financial matters for the city or town shall furnish a fidelity bond in such amount, on such form, and with such security as may be approved by the municipal governing body.

(b) The premiums on these bonds shall be paid by the city or town.

APPROVED: 3/24/21