

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 355 Department or Agency: Department of Finance – Division of Purchasing
Rule No. 355-4-1-.03

Rule Title: General Requirements of Vendors
 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer M. Stewart

Date 6/19/12

(DATE FILED)
(STAMP)

DEPARTMENT OF FINANCE
Division of Purchasing

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Finance – Division of Purchasing

RULE NO. & TITLE: 355-4-1-.03 General Requirements of Vendors

INTENDED ACTION: Amend existing rule

SUBSTANCE OF PROPOSED ACTION:

Amend the existing rule to clarify the prohibition against registration by bid subscription organizations; to clarify responsibility of vendors to maintain their registration information; to amend the conditions under which a vendor can be removed from the Division of Purchasing vendor list; to clarify that vendors are responsible for reading all pages contained in an Invitation to Bid (“ITB”); to clarify disclosure requirements for use tax, lease tax, or fees of any kind to be paid by the State of Alabama; to clarify that, where applicable, only pre-qualified bidders may respond to an ITB.

TIME, PLACE, MANNER OF PRESENTING VIEWS:


Views on this intended action may be presented by telephone to Mose Stuart at (334) 242-4516. Written views may be submitted to:

Mose Stuart
Department of Finance – Legal Division
Third Floor, State Capitol Building
Montgomery, Alabama 36130

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

August 3, 2012

CONTACT PERSON AT AGENCY: Mose Stuart



Mose Stuart
Senior Associate Counsel

355-4-1-.03 General Requirements of Vendors.

1. Vendor Registration Application. Every person or firm (also known hereinafter as Vendor) desiring to receive an ITB notice on goods or services purchased through Division of Purchasing must submit a vendor registration application. The information submitted on the application will determine the types of goods or services and the geographic area in which the applicant proposes to bid. Vendor registration will be conducted electronically from the Division of Purchasing website at www.purchasing.alabama.gov. Instructions for the registration process will be given at the website. The Division of Purchasing **will not** accept a vendor registration from any bid subscription organization. Any bid subscription organization registered and subsequently discovered, it will be promptly unregistered and removed from the Division of Purchasing Vendor database. Any registration fees paid by the bid subscription organization to the Division of Purchasing will be forfeited to the Division of Purchasing.
2. Vendor Registration Fee. Every Vendor desiring to receive an ITB notice on goods and services purchased through the Division of Purchasing must, when submitting the vendor registration application, pay a bi-annual vendor registration fee in the amount of \$200.00. The registration fee must be paid at the time of registration by either an accepted credit or debit card or by electronic check. Vendor registration cannot be completed without payment of the required fee.
3. Changes in Vendor Registration. It is the sole responsibility of the vendor to ~~keep the Division of Purchasing informed of changes to be made to the vendor's registration by doing so in the manner prescribed by the Director of Purchasing~~ maintain its registration information. All changes and/or updates to Vendor information will be made electronically at the Division of Purchasing website at www.purchasing.alabama.gov. There is no additional fee for changes and/or updates submitted.
4. Removal from Vendor List. The Director of purchasing may remove from the Vendor list the name of any vendor for reasons of nonperformance on any contract; ~~failure to respond to three consecutive ITB's;~~ or other factors deemed reasonable and valid by the Director of Purchasing.
5. State Laws and Rules. Vendors are presumed to be knowledgeable of all laws, rules, and regulations that govern the purchasing process in Alabama. Vendors are responsible ~~to read~~ for reading all pages contained in an ITB.
6. Improper Sale of Purchase. After a term contract has been established, it is improper for any state agency to purchase from any other source except in emergency situations. No vendor shall attempt to sell items to state agencies that are listed on term contracts with other vendors. Attempts to sell contract items of other vendors to individual state agencies by price reductions or any other manner may result in removal of the offending vendor from all vendor lists.

7. Taxes and Fees. The State of Alabama is exempt from paying federal excise taxes and state and local sales taxes. Bidders must offer prices that do not include such taxes. Exemption certificates will be furnished upon request. ~~Where use tax, lease taxes or fees of any kind are applicable, they must be identified and their cost shown as separate item or items.~~
8. Samples. Samples of items, when called for, must be furnished free of expense and, if not destroyed in the evaluation process, will, upon request, be returned at the bidder's expense. Request for the return of samples must accompany the sample and include UPS pickup slip, postage, or other acceptable modes of return. Individual samples must be labeled with bidder's name, bid number and item reference, manufacturer's brand name and number or they may be rejected. When return is not requested samples will be disposed of in manner acceptable to the Director of Purchasing.
9. Invoices/Payments. Invoices shall be submitted in arrears to the requisitioning agency's address appearing on the purchase order unless otherwise directed. Inquiries concerning payment after correct invoices have been submitted should be directed to the requisitioning agency.
10. Pre-Qualified Bidders. Prior to the purchase of a specific good or service, the Purchasing Division may screen potential vendors to determine those firms that are capable, financially and otherwise, of providing the desired good or service in accordance with the specifications, within the desired time frame and in the desired quantities. ~~The Only vendors on this Pre-Qualified Bidders List will receive the ITB for the good or service~~ may respond to the ITB for the good or service.

Author: Alabama Department of Finance

Statutory Authority: Code of Ala. 1975, §§ 41-4-35; 41-4-110(c).

History: Filed September 30, 1982. **Amended:** Filed

December 6, 1989; effective January 15, 1990. **Repealed and New**

Rule: Filed November 15, 2001; effective December 20, 2001. **Amended:** April 6, 2010; Effective May 12, 2010.

Ed. Note: This rule was previously Rule No. 35541.

02 (same

title) as per certification filed November 15, 2001; effective December 20, 2001.