

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

**127th General Assembly
Regular Session
2007-2008**

Sub. S. B. No. 268

Senator Seitz

**Cosponsors: Senators Niehaus, Gardner, Schuler, Schuring, Cates, Fedor,
Roberts**

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A B I L L

To amend sections 9.48, 125.04, 307.86, and 3313.46 1
and to enact section 307.862 of the Revised Code 2
to allow a county contracting authority to use 3
competitive sealed proposals instead of 4
competitive sealed bidding when doing so would be 5
advantageous to the county, to extend the current 6
county and township joint purchasing authority to 7
other political subdivisions, and to authorize 8
boards of education to forgo the second newspaper 9
publication of bid advertisement in lieu of an 10
internet web site posting. 11

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

Section 1. That sections 9.48, 125.04, 307.86, and 3313.46 be 12
amended and section 307.862 of the Revised Code be enacted to read 13
as follows: 14

Sec. 9.48. (A) As used in this section, "political 15
subdivision" has the same meaning as in section 2744.01 of the 16
Revised Code. 17

(B) A ~~county or township~~ political subdivision may do any of 18
the following: 19

(1) Permit one or more other ~~counties or townships~~ political 20
subdivisions to participate in contracts into which it has entered 21
for the acquisition of equipment, materials, supplies, or 22
services, and may charge such participating ~~counties or townships~~ 23
political subdivisions a reasonable fee to cover any additional 24
costs incurred as a result of their participation; 25

(2) Participate in a joint purchasing program operated by or 26
through a national or state association of political subdivisions 27
in which the purchasing ~~county or township~~ political subdivision 28
is eligible for membership. 29

(3) Participate in contract offerings from the federal 30
government that are available to a ~~county or township~~ political 31
subdivision including, but not limited to, contract offerings from 32
the general services administration. 33

~~(B)~~(C) Acquisition by a ~~county or township~~ political 34
subdivision of equipment, material, supplies, or services, through 35
participation in a contract of another ~~county or township~~ 36
political subdivision or participation in an association program 37
under division ~~(A)~~(B)(1) or (2) of this section, is exempt from 38
any competitive selection requirements otherwise required by law, 39
if the contract in which it is participating was awarded pursuant 40
to a publicly solicited request for a proposal or a competitive 41
selection procedure of another political subdivision within this 42
state or in another state. Acquisition by a ~~county or township~~ 43
political subdivision of equipment, materials, supplies, or 44
services pursuant to division ~~(A)~~(B)(3) of this section is exempt 45
from any competitive selection requirements otherwise required by 46
law. No ~~county or township~~ political subdivision shall acquire 47
equipment, materials, supplies, or services by participating in a 48
contract under this section if it has received bids for such 49

acquisition, unless its participation enables it to make the 50
acquisition upon the same terms, conditions, and specifications at 51
a lower price. 52

~~(C)(D)~~ A ~~county or township~~ political subdivision that is 53
eligible to participate in a joint purchasing program operated by 54
or through a national or state association of political 55
subdivisions in which the purchasing ~~county or township~~ political 56
subdivision is eligible for membership may purchase supplies or 57
services from another party, including another political 58
subdivision, instead of through participation in contracts 59
authorized by division ~~(A)(B)~~(2) of this section if the ~~county or~~ 60
~~township~~ political subdivision can purchase those supplies or 61
services from the other party upon equivalent terms, conditions, 62
and specifications but at a lower price than it can through those 63
contracts. Purchases that a ~~county or township~~ political 64
subdivision makes under this division are exempt from any 65
competitive selection procedures otherwise required by law. A 66
~~county or township~~ political subdivision that makes any purchase 67
under this division shall maintain sufficient information 68
regarding the purchase to verify that ~~the county or township~~ it 69
satisfied the conditions for making a purchase under this 70
division. Nothing in this division restricts any action taken by a 71
~~county or township~~ political subdivision as authorized by division 72
~~(A)(B)~~(1) of this section. 73

(E) The authorization granted to a municipal corporation 74
under this section shall be in addition to, and not in derogation 75
of, the powers and authority granted by state law, the Ohio 76
Constitution, and the provisions of a municipal charter, 77
ordinance, or resolution. 78

Sec. 125.04. (A) Except as provided in division (D) of this 79
section, the department of administrative services shall determine 80

what supplies and services are purchased by or for state agencies. 81
Whenever the department of administrative services makes any 82
change or addition to the lists of supplies and services that it 83
determines to purchase for state agencies, it shall provide a list 84
to the agencies of the changes or additions and indicate when the 85
department will be prepared to furnish each item listed. Except 86
for the requirements of division (B) of section 125.11 of the 87
Revised Code, sections 125.04 to 125.08 and 125.09 to 125.15 of 88
the Revised Code do not apply to or affect the educational 89
institutions of the state. The department shall not include the 90
bureau of workers' compensation in the lists of supplies, 91
equipment, and services purchased and furnished by the department. 92

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Nothing in this division precludes the bureau from entering 94
into a contract with the department for the department to perform 95
services relative to supplies, equipment, and services contained 96
in this division for the bureau. 97

(B)(1) As used in this division: 98

(a) "Emergency medical service organization" has the same 99
meaning as in section 4765.01 of the Revised Code. 100

(b) "Political subdivision" means any county, township, 101
municipal corporation, school district, conservancy district, 102
township park district, park district created under Chapter 1545. 103
of the Revised Code, regional transit authority, regional airport 104
authority, regional water and sewer district, or port authority. 105
"Political subdivision" also includes any other political 106
subdivision described in the Revised Code that has been approved 107
by the department to participate in the department's contracts 108
under this division. 109

(c) "Private fire company" has the same meaning as in section 110
9.60 of the Revised Code. 111

(2) Subject to division (C) of this section, the department 112
of administrative services may permit a political subdivision, 113
county board of elections, private fire company, or private, 114
nonprofit emergency medical service organization to participate in 115
contracts into which the department has entered for the purchase 116
of supplies and services. The department may charge the entity a 117
reasonable fee to cover the administrative costs the department 118
incurs as a result of participation by the entity in such a 119
purchase contract. 120

A political subdivision desiring to participate in such 121
purchase contracts shall file with the department a certified copy 122
of an ordinance or resolution of the legislative authority or 123
governing board of the political subdivision. The resolution or 124
ordinance shall request that the political subdivision be 125
authorized to participate in such contracts and shall agree that 126
the political subdivision will be bound by such terms and 127
conditions as the department prescribes and that it will directly 128
pay the vendor under each purchase contract. A board of elections 129
desiring to participate in such purchase contracts shall file with 130
the purchasing authority a written request for inclusion in the 131
program. A private fire company or private, nonprofit emergency 132
medical service organization desiring to participate in such 133
purchase contracts shall file with the department a written 134
request for inclusion in the program signed by the chief officer 135
of the company or organization. A request for inclusion shall 136
include an agreement to be bound by such terms and conditions as 137
the department prescribes and to make direct payments to the 138
vendor under each purchase contract. 139

The department shall include in its annual report an estimate 140
of the cost it incurs by permitting political subdivisions, county 141
boards of elections, private fire companies, and private, 142
nonprofit emergency medical service organizations to participate 143

in contracts pursuant to this division. The department may require 144
such entities to file a report with the department, as often as it 145
finds necessary, stating how many such contracts the entities 146
participated in within a specified period of time, and any other 147
information the department requires. 148

(3) Purchases made by a political subdivision or a county 149
board of elections under this division are exempt from any 150
competitive selection procedures otherwise required by law. No 151
political subdivision shall make any purchase under this division 152
when bids have been received for such purchase by the subdivision, 153
unless such purchase can be made upon the same terms, conditions, 154
and specifications at a lower price under this division. 155

(C) A political subdivision as defined in division (B) of 156
this section or a county board of elections may purchase supplies 157
or services from another party, including a political subdivision, 158
instead of through participation in contracts described in 159
division (B) of this section if the political subdivision or 160
county board of elections can purchase those supplies or services 161
from the other party upon equivalent terms, conditions, and 162
specifications but at a lower price than it can through those 163
contracts. Purchases that a political subdivision or county board 164
of elections makes under this division are exempt from any 165
competitive selection procedures otherwise required by law. A 166
political subdivision or county board of elections that makes any 167
purchase under this division shall maintain sufficient information 168
regarding the purchase to verify that the political subdivision or 169
county board of elections satisfied the conditions for making a 170
purchase under this division. Nothing in this division restricts 171
any action taken by a county or township as authorized by division 172
~~(A)~~(B)(1) of section 9.48 of the Revised Code. 173

(D) This section does not apply to supplies or services 174
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required by the legislative or judicial branches, the capitol 176
square review and advisory board, the adjutant general, to 177
supplies or services purchased by a state agency directly as 178
provided in division (A) or (E) of section 125.05 of the Revised 179
Code, to purchases of supplies or services for the emergency 180
management agency as provided in section 125.023 of the Revised 181
Code, or to purchases of supplies or services for the department 182
of rehabilitation and correction in its operation of the program 183
for the employment of prisoners established under section 5145.16 184
of the Revised Code that shall be made pursuant to rules adopted 185
by the director of administrative services and the director of 186
rehabilitation and correction in accordance with Chapter 119. of 187
the Revised Code. The rules may provide for the exemption of the 188
program for the employment of prisoners from the requirements of 189
division (A) of this section. 190

Sec. 307.86. Anything to be purchased, leased, leased with an 191
option or agreement to purchase, or constructed, including, but 192
not limited to, any product, structure, construction, 193
reconstruction, improvement, maintenance, repair, or service, 194
except the services of an accountant, architect, attorney at law, 195
physician, professional engineer, construction project manager, 196
consultant, surveyor, or appraiser, by or on behalf of the county 197
or contracting authority, as defined in section 307.92 of the 198
Revised Code, at a cost in excess of twenty-five thousand dollars, 199
except as otherwise provided in division (D) of section 713.23 and 200
in sections 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 201
339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 202
5543.19, 5713.01, and 6137.05 of the Revised Code, shall be 203
obtained through competitive bidding. However, competitive bidding 204
is not required when any of the following applies: 205

(A) The board of county commissioners, by a unanimous vote of 206
its members, makes a determination that a real and present 207

emergency exists, and that determination and the reasons for it 208
are entered in the minutes of the proceedings of the board, when 209
either of the following applies: 210

(1) The estimated cost is less than fifty thousand dollars. 211

(2) There is actual physical disaster to structures, radio 212
communications equipment, or computers. 213

For purposes of this division, "unanimous vote" means all 214
three members of a board of county commissioners when all three 215
members are present, or two members of the board if only two 216
members, constituting a quorum, are present. 217

Whenever a contract of purchase, lease, or construction is 218
exempted from competitive bidding under division (A)(1) of this 219
section because the estimated cost is less than fifty thousand 220
dollars, but the estimated cost is twenty-five thousand dollars or 221
more, the county or contracting authority shall solicit informal 222
estimates from no fewer than three persons who could perform the 223
contract, before awarding the contract. With regard to each such 224
contract, the county or contracting authority shall maintain a 225
record of such estimates, including the name of each person from 226
whom an estimate is solicited. The county or contracting authority 227
shall maintain the record for the longer of at least one year 228
after the contract is awarded or the amount of time the federal 229
government requires. 230

(B)(1) The purchase consists of supplies or a replacement or 231
supplemental part or parts for a product or equipment owned or 232
leased by the county, and the only source of supply for the 233
supplies, part, or parts is limited to a single supplier. 234

(2) The purchase consists of services related to information 235
technology, such as programming services, that are proprietary or 236
limited to a single source. 237

(C) The purchase is from the federal government, the state, 238

another county or contracting authority of another county, or a 239
board of education, township, or municipal corporation. 240

(D) The purchase is made by a county department of job and 241
family services under section 329.04 of the Revised Code and 242
consists of family services duties or workforce development 243
activities or is made by a county board of mental retardation and 244
developmental disabilities under section 5126.05 of the Revised 245
Code and consists of program services, such as direct and 246
ancillary client services, child care, case management services, 247
residential services, and family resource services. 248

(E) The purchase consists of criminal justice services, 249
social services programs, family services, or workforce 250
development activities by the board of county commissioners from 251
nonprofit corporations or associations under programs funded by 252
the federal government or by state grants. 253

(F) The purchase consists of any form of an insurance policy 254
or contract authorized to be issued under Title XXXIX of the 255
Revised Code or any form of health care plan authorized to be 256
issued under Chapter 1751. of the Revised Code, or any combination 257
of such policies, contracts, or plans that the contracting 258
authority is authorized to purchase, and the contracting authority 259
does all of the following: 260

(1) Determines that compliance with the requirements of this 261
section would increase, rather than decrease, the cost of the 262
purchase; 263

(2) Employs a competent consultant to assist the contracting 264
authority in procuring appropriate coverages at the best and 265
lowest prices; 266

(3) Requests issuers of the policies, contracts, or plans to 267
submit proposals to the contracting authority, in a form 268
prescribed by the contracting authority, setting forth the 269

coverage and cost of the policies, contracts, or plans as the	270
contracting authority desires to purchase;	271
(4) Negotiates with the issuers for the purpose of purchasing	272
the policies, contracts, or plans at the best and lowest price	273
reasonably possible.	274
(G) The purchase consists of computer hardware, software, or	275
consulting services that are necessary to implement a computerized	276
case management automation project administered by the Ohio	277
prosecuting attorneys association and funded by a grant from the	278
federal government.	279
(H) Child care services are purchased for provision to county	280
employees.	281
(I)(1) Property, including land, buildings, and other real	282
property, is leased for offices, storage, parking, or other	283
purposes, and all of the following apply:	284
(a) The contracting authority is authorized by the Revised	285
Code to lease the property.	286
(b) The contracting authority develops requests for proposals	287
for leasing the property, specifying the criteria that will be	288
considered prior to leasing the property, including the desired	289
size and geographic location of the property.	290
(c) The contracting authority receives responses from	291
prospective lessors with property meeting the criteria specified	292
in the requests for proposals by giving notice in a manner	293
substantially similar to the procedures established for giving	294
notice under section 307.87 of the Revised Code.	295
(d) The contracting authority negotiates with the prospective	296
lessors to obtain a lease at the best and lowest price reasonably	297
possible considering the fair market value of the property and any	298
relocation and operational costs that may be incurred during the	299

period the lease is in effect. 300

(2) The contracting authority may use the services of a real 301
estate appraiser to obtain advice, consultations, or other 302
recommendations regarding the lease of property under this 303
division. 304

(J) The purchase is made pursuant to section 5139.34 or 305
sections 5139.41 to 5139.46 of the Revised Code and is of programs 306
or services that provide case management, treatment, or prevention 307
services to any felony or misdemeanor delinquent, unruly youth, 308
or status offender under the supervision of the juvenile court, 309
including, but not limited to, community residential care, day 310
treatment, services to children in their home, or electronic 311
monitoring. 312

(K) The purchase is made by a public children services agency 313
pursuant to section 307.92 or 5153.16 of the Revised Code and 314
consists of family services, programs, or ancillary services that 315
provide case management, prevention, or treatment services for 316
children at risk of being or alleged to be abused, neglected, or 317
dependent children. 318

(L) The purchase is to obtain the services of emergency 319
medical service organizations under a contract made by the board 320
of county commissioners pursuant to section 307.05 of the Revised 321
Code with a joint emergency medical services district. 322

(M) The county contracting authority determines that the use 323
of competitive sealed proposals would be advantageous to the 324
county and the contracting authority complies with section 307.862 325
of the Revised Code. 326

Any issuer of policies, contracts, or plans listed in 327
division (F) of this section and any prospective lessor under 328
division (I) of this section may have the issuer's or prospective 329
lessor's name and address, or the name and address of an agent, 330

placed on a special notification list to be kept by the 331
contracting authority, by sending the contracting authority that 332
name and address. The contracting authority shall send notice to 333
all persons listed on the special notification list. Notices shall 334
state the deadline and place for submitting proposals. The 335
contracting authority shall mail the notices at least six weeks 336
prior to the deadline set by the contracting authority for 337
submitting proposals. Every five years the contracting authority 338
may review this list and remove any person from the list after 339
mailing the person notification of that action. 340

Any contracting authority that negotiates a contract under 341
division (F) of this section shall request proposals and 342
renegotiate with issuers in accordance with that division at least 343
every three years from the date of the signing of such a contract. 344

Any consultant employed pursuant to division (F) of this 345
section and any real estate appraiser employed pursuant to 346
division (I) of this section shall disclose any fees or 347
compensation received from any source in connection with that 348
employment. 349

Sec. 307.862. (A) When a county contracting authority uses 350
competitive sealed proposals pursuant to section 307.86 of the 351
Revised Code, the county contracting authority shall do all of the 352
following: 353

(1) Develop factors and criteria to evaluate each proposal, 354
specify the relative importance of each factor or criterion in 355
writing, and describe the evaluation procedures the contracting 356
authority shall follow when awarding a contract to an offeror. 357

(2) Solicit competitive sealed proposals through a request 358
for proposals; 359

(3) Include, at a minimum, all of the information described 360

<u>in division (B) of this section in the request for proposals;</u>	361
<u>(4) Give notice of the request for proposals in the same</u>	362
<u>manner that notice must be given for competitive bidding pursuant</u>	363
<u>to section 307.87 of the Revised Code;</u>	364
<u>(5) Open proposals that the contracting authority receives in</u>	365
<u>a manner that prevents the disclosure of contents of competing</u>	366
<u>offers to competing offerors;</u>	367
<u>(6) Rank each proposal using the factors and criteria the</u>	368
<u>contracting authority develops pursuant to division (A)(1) of this</u>	369
<u>section;</u>	370
<u>(7) If necessary, conduct discussions with offerors for the</u>	371
<u>purpose of ensuring full understanding of, and responsiveness to,</u>	372
<u>the requirements specified in the request for proposals, and</u>	373
<u>accord fair and equal treatment with respect to any opportunity</u>	374
<u>for discussion with offerors to provide any clarification,</u>	375
<u>correction, or revision of proposals;</u>	376
<u>(8) If the contracting authority determines that discussions</u>	377
<u>described in division (A)(7) of this section are necessary, avoid</u>	378
<u>disclosing any information derived from proposals submitted by</u>	379
<u>competing offerors during those discussions;</u>	380
<u>(9) Negotiate with the offeror who submits the proposal that</u>	381
<u>the contracting authority determines is the most advantageous to</u>	382
<u>the county based on the rankings performed by the contracting</u>	383
<u>authority pursuant to division (A)(6) of this section and</u>	384
<u>including any adjustment to those rankings based on discussions</u>	385
<u>conducted pursuant to division (A)(7) of this section;</u>	386
<u>(10) Conduct negotiations with only one offeror at a time;</u>	387
<u>(11) Except as provided in division (F) of this section,</u>	388
<u>award a contract in accordance with division (E) of this section.</u>	389
<u>(B) A contracting authority shall include, at a minimum, all</u>	390

of the following information in the contracting authority's 391
request for proposals: 392

(1) The name and address of the department, office, 393
institution, board, or commission that is requesting to purchase 394
supplies, services, or both; 395

(2) Instructions for offerors to follow when submitting 396
proposals; 397

(3) Instructions governing communications between an offeror 398
and the contracting authority, including, but not limited to, the 399
name, title, and telephone number of the person to whom questions 400
concerning the request for proposals should be directed; 401

(4) A description of the scope of work that the contracting 402
authority requests an offeror to perform or supplies the 403
contracting authority plans to purchase; 404

(5) To the extent possible, a description of the performance 405
criteria the contracting authority shall require an offeror to 406
satisfy, including but not limited to, the quantity of the 407
supplies, services, or both, to be purchased; the requirements the 408
contracting authority shall follow for inspection and acceptance 409
of the supplies, services, or both; and the delivery schedule for 410
each such supply or service; 411

(6) The factors and criteria the contracting authority shall 412
consider in evaluating proposals received; 413

(7) Any terms and conditions that the contracting authority 414
is required by law to include in the contract the contracting 415
authority awards, including any requirement for a bond and the 416
amount required for that bond; 417

(8) The date and time by which, and the place to which an 418
offeror must deliver the offeror's proposal to the contracting 419
authority in order to be considered for the contract; 420

(9) A list of any documents that the contracting authority incorporates by reference in the request for proposals, provided that the contracting authority specifies in the request for proposals that the documents are readily available to all offerors and the location where an offeror may obtain those documents; 421
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(10) A statement that includes all of the following information: 426
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(a) That the contracting authority reserves the right to reject any proposal in which the offeror takes exception to the terms and conditions of the request for proposals; fails to meet the terms and conditions of the request for proposals, including but not limited to, the standards, specifications, and requirements specified in the request for proposals; or submits prices that the contracting authority considers to be excessive, compared to existing market conditions, or determines exceed the available funds of the contracting authority; 428
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(b) That the contracting authority reserves the right to reject, in whole or in part, any proposal that the county contracting authority has determined, using the factors and criteria the contracting authority develops pursuant to division (A)(1) of this section, would not be in the best interest of the county; 437
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(c) That the contracting authority may conduct discussions with offerors who submit proposals for the purpose of clarifications or corrections regarding a proposal to ensure full understanding of, and responsiveness to, the requirements specified in the request for proposals. 443
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(11) Information concerning any potential partial or multiple party awards that the contracting authority may include in the contract, and a description of the supplies, services, or both that may be subject to a partial award or multiple awards; 448
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(12) Any additional information the contracting authority 452
considers necessary for its purposes in determining to whom to 453
award the contract. 454

(C) In order to ensure fair and impartial evaluation, 455
proposals and any documents or other records related to a 456
subsequent negotiation for a final contract that would otherwise 457
be available for public inspection and copying under section 458
149.43 of the Revised Code shall not be available until after the 459
award of the contract. 460

(D) An offeror may withdraw the offeror's proposal at any 461
time prior to the award of a contract. A contracting authority may 462
terminate negotiations with an offeror at any time during the 463
negotiation process if the offeror fails to provide the necessary 464
information for negotiations in a timely manner or fails to 465
negotiate in good faith. If the contracting authority terminates 466
negotiations with an offeror, the contracting authority shall 467
negotiate with the offeror whose proposal is ranked the next most 468
advantageous to the county according to the factors and criteria 469
developed pursuant to division (A)(1) of this section. 470

(E) A county contracting authority may award a contract to 471
the offeror whose proposal is determined to be the most 472
advantageous to the county, taking into consideration the 473
evaluation factors and criteria developed pursuant to division 474
(A)(1) of this section and set forth in the request for proposals. 475
A contracting authority may award a contract in whole or in part 476
to one or more offerors. The contracting authority shall include a 477
written statement in the contract file stating the basis on which 478
the award is made. 479

The contracting authority shall send a written notice to the 480
offeror to whom it wishes to award the contract and shall make 481
that notice available to the public. Within a reasonable time 482
period after the award is made, the contracting authority shall 483

notify all other offerors that the contract has been awarded to 484
another offeror. 485

(F) A contracting authority may cancel or reissue a request 486
for proposals if any of the following apply: 487

(1) The supplies or services offered through all of the 488
proposals submitted to the contracting authority are not in 489
compliance with the requirements, specifications, and terms and 490
conditions set forth in the request for proposals; 491

(2) The prices submitted by the offerors are excessive 492
compared to existing market conditions or exceed the available 493
funds of the contracting authority; 494

(3) The contracting authority determines that award of a 495
contract would not be in the best interest of the county. 496

(G) A county contracting authority shall not use competitive 497
sealed proposals for contracts for construction, design, 498
demolition, alteration, repair, or reconstruction of a building, 499
highway, drainage system, water system, road, street, alley, 500
sewer, ditch, sewage disposal plant, waterworks, and all other 501
structures or works of any nature by a county contracting 502
authority. 503

Sec. 3313.46. (A) In addition to any other law governing the 504
bidding for contracts by the board of education of any school 505
district, when any such board determines to build, repair, 506
enlarge, improve, or demolish any school building, the cost of 507
which will exceed twenty-five thousand dollars, except in cases of 508
urgent necessity, or for the security and protection of school 509
property, and except as otherwise provided in division (D) of 510
section 713.23 and in section 125.04 of the Revised Code, all of 511
the following shall apply: 512

(1) The board shall cause to be prepared the plans, 513

specifications, and related information as required in divisions 514
(A), (B), and (D) of section 153.01 of the Revised Code unless the 515
board determines that other information is sufficient to inform 516
any bidders of the board's requirements. However, if the board 517
determines that such other information is sufficient for bidding a 518
project, the board shall not engage in the construction of any 519
such project involving the practice of professional engineering, 520
professional surveying, or architecture, for which plans, 521
specifications, and estimates have not been made by, and the 522
construction thereof inspected by, a licensed professional 523
engineer, licensed professional surveyor, or registered architect. 524

(2) The board shall advertise for bids once each week for a 525
period of ~~at least~~ not less than two consecutive weeks in a 526
newspaper of general circulation in the district ~~prior to~~ before 527
the date specified by the board for receiving bids. The board may 528
also cause notice to be inserted in trade papers or other 529
publications designated by it or to be distributed by electronic 530
means, including posting the notice on the board's internet web 531
site. If the board posts the notice on its web site, it may 532
eliminate the second notice otherwise required to be published in 533
a newspaper of general circulation within the school district, 534
provided that the first notice published in such newspaper meets 535
all of the following requirements: 536

(a) It is published at least two weeks before the opening of 537
bids. 538

(b) It includes a statement that the notice is posted on the 539
board of education's internet web site. 540

(c) It includes the internet address of the board's internet 541
web site. 542

(d) It includes instructions describing how the notice may be 543
accessed on the board's internet web site. 544

(3) Unless the board extends the time for the opening of bids 545
they shall be opened at the time and place specified by the board 546
in the advertisement for the bids. 547

(4) Each bid shall contain the name of every person 548
interested therein. Each bid shall meet the requirements of 549
section 153.54 of the Revised Code. 550

(5) When both labor and materials are embraced in the work 551
bid for, the board may require that each be separately stated in 552
the bid, with the price thereof, or may require that bids be 553
submitted without such separation. 554

(6) None but the lowest responsible bid shall be accepted. 555
The board may reject all the bids, or accept any bid for both 556
labor and material for such improvement or repair, which is the 557
lowest in the aggregate. In all other respects, the award of 558
contracts for improvement or repair, but not for purchases made 559
under section 3327.08 of the Revised Code, shall be pursuant to 560
section 153.12 of the Revised Code. 561

(7) The contract shall be between the board and the bidders. 562
The board shall pay the contract price for the work pursuant to 563
sections 153.13 and 153.14 of the Revised Code. The board shall 564
approve and retain the estimates referred to in section 153.13 of 565
the Revised Code and make them available to the auditor of state 566
upon request. 567

(8) When two or more bids are equal, in the whole, or in any 568
part thereof, and are lower than any others, either may be 569
accepted, but in no case shall the work be divided between such 570
bidders. 571

(9) When there is reason to believe there is collusion or 572
combination among the bidders, or any number of them, the bids of 573
those concerned therein shall be rejected. 574

(B) Division (A) of this section does not apply to the board 575

of education of any school district in any of the following	576
situations:	577
(1) The acquisition of educational materials used in	578
teaching.	579
(2) If the board determines and declares by resolution	580
adopted by two-thirds of all its members that any item is	581
available and can be acquired only from a single source.	582
(3) If the board declares by resolution adopted by two-thirds	583
of all its members that division (A) of this section does not	584
apply to any installation, modification, or remodeling involved in	585
any energy conservation measure undertaken through an installment	586
payment contract under section 3313.372 of the Revised Code or	587
undertaken pursuant to division (G) of section 133.06 of the	588
Revised Code.	589
(4) The acquisition of computer software for instructional	590
purposes and computer hardware for instructional purposes pursuant	591
to division (B)(4) of section 3313.37 of the Revised Code.	592
(C) No resolution adopted pursuant to division (B)(2) or (3)	593
of this section shall have any effect on whether sections 153.12	594
to 153.14 and 153.54 of the Revised Code apply to the board of	595
education of any school district with regard to any item.	596
Section 2. That existing sections 9.48, 125.04, 307.86, and	597
3313.46 of the Revised Code are hereby repealed.	598