

# Optional Road & Bridge Project Advertising

**Morgan Arrington**

General Counsel, Association of County Commissions of Alabama

## Act 2021-146

- Rebuild Alabama “clean-up bill”
  - Temporarily waive requirements for the International Fuel Tax Agreement and International Registration Plan during declared state of emergency or disaster
  - Clarify that Department of Revenue is the distributor of certain license taxes and fees
  - Clarify references to motor fuel excises taxes with regard to surety bonds
  - Reduce additional annual license tax and registration fee for electric low-speed vehicles
  - **Authorizes alternative advertisement procedures for road and bridge projects**

## New Language

### Section 23-8-6

...

(c) The **bidding procedures approved by the Department of Examiners of Public Accounts, as authorized in Section 40-17-371(c)(2)d., may be used for any county road and bridge project** otherwise subject to Chapter 2 of Title 39.

## Section 40-17-371(c)(2)d.

d. Counties must ensure that at least fifty percent (50%) of the funds are allocated for projects utilizing **established bidding procedures submitted by the Association of County Engineers of Alabama and approved by the Department of Examiners of Public Accounts**. In addition, the county may utilize such funds to meet any other project matching requirements associated with other federally or state funded transportation projects, upon approval of the county commission. A county may utilize over fifty percent of its annual allocation of these funds for project match if the project follows the provisions for bidding herein described or is let to contract through ALDOT.

# What was submitted by ACEA?

Link to packet

<M:\Issues Folder\Roads and Bridge\Rebuild Alabama Act\Examiner Bid Packet 08102019.pdf>



## Rebuild Alabama Act Summary of Bid Procedures



Two funds will be created by counties to account for new Rebuild Alabama revenues. The 25% portion of the new fuel tax levies under Rebuild Alabama shall be deposited into a new and separate fund called the **County Rebuild Alabama Fund (CRAF)**, proposed fund number 220. The federal exchange funds set out in the Rebuild Alabama Act to begin Oct 1, 2019, shall be deposited into a new and separate account called the **Federal Aid Exchange Fund (FAEF)**, proposed fund number 221.

Except as otherwise provided in the Rebuild Alabama Act, counties must ensure that at least fifty percent (50%) of the **County Rebuild Alabama Funds (CRAFs)** be allocated for projects utilizing established bidding procedures submitted by the Association of County Engineers of Alabama (ACEA) and approved by the Department of Examiners of Public Accounts (Examiners), the ACEA proposes the following apply to the bidding of CRAFs and FAEFs:

- Except for the advertising method and schedule enumerated below in items 2 and 3, all contracts paid for using CRAF and FAEF funds will comply with the Public Works Law (Code of Alabama 1975, Title 39) and the Competitive Bid Law (41-16-50), where applicable;
- The placement of the advertisement for bids and the notice of completion on a central website, hosted by the Association of County Commissions of Alabama (ACCA), will satisfy all advertisement requirements for projects utilizing CRAF and FAEF funds otherwise provided by law. Such advertisements shall utilize the documents included in this submittal. The ACCA will provide notice to ALDOT and the Alabama Roadbuilders Association of this method of advertising in an effort to inform all contractors;
- All projects utilizing CRAF and FAEF funds will be bid and let to contract according to the schedule and will utilize the sample documents included with this submittal. The ACCA will provide notice to ALDOT and the Alabama Roadbuilders Association of this method of advertising in an effort to inform all contractors;
- County required reports will be on file for the Examiners to aid in the assurance on the proper expenditure of the funds. Reports will be retained in accordance with the county record disposition authority.

## Excerpts from ACEA Submission

**“Except for the advertising method and schedule enumerated below in items 2 and 3, all contracts paid for using CRAF and FAEF funds will comply with the Public Works Law (Code of Alabama 1975, Title 39) and the Competitive Bid Law (41-16-50), where applicable;**

- [1] The placement of the **advertisement for bids and the notice of completion on a central website**, hosted by the Association of County Commissions of Alabama (ACCA), **will satisfy all advertisement requirements for projects utilizing CRAF and FAEF funds** otherwise provided by law. **Such advertisements shall utilize the documents included in this submittal.** The ACCA will provide notice to ALDOT and the **Alabama Roadbuilders Association** of this method of advertising in an effort to inform all contractors;



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## Excerpts from ACEA Submission

**“[2] All projects utilizing CRAF and FAEF funds will be bid and let to contract according to the schedule and will utilize the sample documents included with this submittal.** The ACCA will provide **notice to ALDOT and the Alabama Roadbuilders Association** of this method of advertising in an effort to inform all contractors;

**[3] County required reports will be on file** for the Examiners to aid in the assurance on the proper expenditure of the funds. Reports will be **retained in accordance with the county record disposition authority.**”



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# DOE Approval

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**Rachel Laurie Riddle**  
Chief Examiner


August 14, 2020

Association of County Engineers of Alabama  
100 North Jackson Street  
Montgomery, AL 36104

On August 16, 2019, the Department granted approval for bidding procedures in accordance with the provisions of Section 7(c)(2)d of Act 2019-2, known as the "Alabama Rebuild Act." The approval was effective August 16, 2019 for a one-year period. Additionally, the Association submitted sample forms and administrative policies related to the Alabama Rebuild Act that did not require the Department's approval under the Act. In order to promote consistency among the counties across the state, the Department stated that it believed it was in the best interest of the state for each county to utilize these forms and administrative policies.

The Department hereby extends the previous approval for another one-year period. Please let me know if you have any questions or concerns.

Sincerely,

  
Rachel Laurie Riddle  
CHIEF EXAMINER

## Where do we stand?

Through **August 14, 2021**, the placement of advertisement for bids and the notice of completion on the Rebuild Alabama website hosted by ACCA will satisfy all advertisement requirements for CRAF and FAEF funds

- Provided that the advertisements utilize the documents submitted by ACEA to DOE

## Where do we stand?

Through **August 14, 2021**, the bidding procedures approved by DOE (**i.e. advertisement of bids and notice of completion**) **MAY** be used for **any county road and bridge project** otherwise subject to the Public Works Law

- Provided that the advertisements and notice of completion utilize the documents submitted by ACEA to DOE
- This is PERMISSIVE language and counties may continue to operate non-CRAF and non-FAEF projects entirely in accordance with the Public Works Law


## What's Next?

- At a minimum, ACEA should submit a request for renewed approval from DOE
  - Would cover advertisement of bids and notices of completion on the Rebuild Alabama website
  - Is it time for more a multi-year approval?
- For consideration, ACEA may develop revised “bidding procedures” and submit to DOE for approval under the new authority granted in Act 2021-146

## Contact Information



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