To whom it may concern:

This letter serves as an addendum to the *Alabama Competitive Bid and Public Works Laws* booklet, dated December 14, 2014, issued by the Department of Examiners of Public Accounts. The Alabama Office of the Attorney General has issued several opinions related to the Alabama competitive bid law and the Alabama public works law since publication of the *Alabama Competitive Bid and Public Works Laws* booklet. We recommend that you review the Attorney General opinions indicated below which were issued from October 1, 2014 through the date of this letter, as they may be helpful in understanding the Alabama competitive bid law and the Alabama public works law.

A project for maintenance of multiple water tanks that exceeds $50,000 is subject to the Public Works Law. The project may not be divided into parts. The tank maintenance contract cannot be renewed without competitive bidding. Hon. James A. Patton, Attorney, Colbert County Commission, 11-03-2014, [AG 2015-008](#).

The Morgan County Emergency Management Communications District may enter into an exclusive contract for ambulance service within the county for emergency and nonemergency dispatches. Incorporated municipalities within Morgan County may, by ordinance, elect to enter a joint agreement with the Morgan County Emergency Management Communications District to competitively bid a contract for exclusive ambulance service within their respective jurisdictions. Hon. Julian D. Butler, Attorney, Morgan County Emergency Communication District, 11-06-2014, [AG 2015-014](#).

Because the City of Saraland will possess a contractual right to purchase the property upon which the City Hall Complex will be built, the construction thereof is a public works project subject to bidding pursuant to sections 39-2-1 through 39-2-14 of the Code of Alabama. Hon. Andrew J. Rutens, Attorney, City of Saraland, 12-15-2014, [AG 2015-019](#).

Any modification of a renewable contract for residential solid waste collection, transfer, and disposal that includes an increase in the amount charged for services, beyond that contemplated by the original contract, requires competitive bidding. Hon. Thomas M. Sowa, Attorney, Calhoun County Commission, 02-19-2015, [AG 2015-032](#).

Although not statutorily prohibited, pursuant to common law, a member of the Cleburne County Commission should not financially benefit from the business of the county commission. Hon. Steve Swafford, County Administrator, Cleburne County Commission, 03-06-2015, [AG 2015-035](#).
The 911 Board of Commissioners for Cullman County (“Board”) may enter a contract for software, hardware, and training to enhance its existing mapping system without competitive bidding if the Board determines that the purchase is for custom software; hardware that is the only type compatible with the existing system; contractual services that are impossible to award by competitive bidding; or contractual services having an impact on the security or safety of persons, structures, facilities, or infrastructures. Hon. Roy W. Williams, Jr., Attorney, E-911 Board of Commissioners for Cullman County, 05-12-2015, AG 2015-044

A newspaper meeting the requirements of section 6-8-60 of the Code of Alabama is a newspaper of general circulation in the county for purposes of the Public Works Law. Hon. Teddy Pouncey, Chairman, South Dallas Water Authority, 05-12-2015, AG 2015-046

Because the Town of Pinckard (“Town”) is a Class 8 municipality, section 11-43-12.1 of the Code of Alabama permits the Town to do business with a shop owned by a municipal officer when that shop or vendor is the only domiciled vendor within the municipality and the cost of the personal property or service offered by the vendor does not exceed $3000 yearly. If the vendor is not the only one of its kind domiciled within the Town limits, or the service will exceed $3,000 yearly, the elected official or municipal employee may bid on providing service to the Town pursuant to section 11-43-12.1(b) and in accordance with section 41-16-50 of the Code. Hon. Fred McNab, Mayor, Town of Pinckard, 07-13-2015, AG 2015-051

The Houston County Board of Education may purchase real property upon which the successful bidder will construct or remodel a building by bidding in compliance with the Public Works Law. Upon completion of the transaction, the Houston County Board of Education should comply with the disclosure requirements of section 9-15-100 of the Code of Alabama. Hon. Kevin Walding, Attorney, Houston County Board of Education, 09-14-2015, AG 2015-064

If the Alabama Department of Transportation determines that the failure to obtain approval to bid as a joint venture and omission of a contractor identification number assigned to the joint venture in the bid are minor irregularities not defeating the responsiveness of the lowest bidder, it may award the contract to that bidder. Hon. John R. Cooper, Director, Alabama Department of Transportation, 10-21-2015, AG 2016-006

A backhoe is not a piece of equipment that is needed, used, and consumed in the normal and routine operation of a utility system; thus, the purchase of a backhoe, even a used one, is subject to the Competitive Bid Law. Hon. Justin A. Lackey, Attorney, Cumberland Mountain Water Authority, 11-05-2015, AG 2016-009

A proposed contract with a vendor that will provide software development, installation, project management, equipment, information security, testing support, resources, supplies, and delivery and maintenance service to comprehensively manage/operate the Board of School Commissioners of Mobile County (“Board”) may be exempt from requirements of the Competitive Bid Law if the Board determines the contract fits within an exemption found in section 16-13B-2 of the Code of Alabama. Hon. Christopher A. Arledge, Attorney, Board of School Commissioners of Mobile County, 12-08-2015, AG 2016-015

Alabama State University may enter into a profit-sharing agreement with a private entity to jointly bid on federal contracts or grants that provide educational programing beneficial
to either the student body or the public. Hon. Gwendolyn E. Boyd, President, Alabama State University, 06-14-2016, **AG 2016-040**

The purchase of services to convert records from the Banner/Oracle database to the Alliant Microsoft/SQL platform database, and the purchase and installation of the custom Campus Key ERP software, would be exempt from the Competitive Bid Law if the services involve a high degree of professional skill, custom software, or there is only one vendor for the software. Hon. Jimmy Baker, Acting Chancellor, Alabama Community College System, 09-07-2016, **AG 2016-052**

The Water Works Board of the City of Vincent may not divide the installation of new water meters into multiple contracts for payments of less than $50,000 to evade the Public Works Law. If the Board can demonstrate, based on several specified factors, that it is not evading the Public Works Law by spreading out its meter purchases over several years as funds become available, then it will not violate section 39-2-2(a) of the Code of Alabama. Hon. William R. Justice, Attorney, Water Works Board of the City of Vincent, 12-07-2016, **AG 2017-010**

District attorneys using a nonexclusive fuel card are not required to competitively bid purchases. Hon. Randy I. Hillman, Executive Director, Office of Prosecution Services, 01-03-2017, **AG 2017-013**

A contract for a Supervisory Control and Data Acquisition System is a public work under section 39-2-1(6) of the Code of Alabama. The contract is not exempt from the Public Works Law. There is no term limitation on a public works contract. Hon. Patrick Bryant, City Manager, City of Talladega, 03-29-2017, **AG 2017-026**

Please contact us if you need additional information.

Sincerely,

[Signature]

Ronald L. Jones
CHIEF EXAMINER

RLJ/jh