

## School Contractor Loses on Bid Law Dispute

Coastal Builders was awarded the contract to construct an elementary school facility for the Board of School Commissioners of Mobile County (the “Board”) after it submitted the low bid for the project. At a “preconstruction meeting” between the parties, Coastal informed the Board that it had inadvertently failed to include in its bid the \$38,329 cost of a “control package” required under the bid specifications. Several options were discussed, such as adding the control package price to the bid directly or through a subsequent change order, and Coastal believed that the Board agreed bear the cost of this item. A contract was then executed by both parties which did not include the omitted item, and the Board later refused to pay for the control package.

The trial court ruled in favor of Coastal in its suit to compel the Board to pay it \$38,329 in damages, accepting Coastal’s argument that the Board had in fact promised to pay this amount. The Alabama Court of Civil Appeals, however, reversed. It noted that Alabama’s general Competitive Bid law requires any contract involving expenditures of \$7,500 or more (such as the purported agreement for the control package) by a public entity be let by open bid. Under prior decisions, an agreement that does not comply with the Bid Law is void and cannot be enforced. The appellate court indicated it was compelled to apply the clear mandate of this law, recognizing the legislative intent to protect the public by insuring that the lowest possible price was paid when public funds were expended. *Board of School Commissioners of Mobile County v. Coastal Builders, Inc.*, 945 So.2d 1059 (Ala.Civ.App. 2005).

Courts tend to strictly apply laws intended for the public benefit, such as a competitive bid law. While Coastal suffered adverse consequences in this case when its interests were found subordinate to the public interest, the problem arose only because of its own error.