



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5375

Introduced 1/31/2022, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

105 ILCS 5/34-21.3

from Ch. 122, par. 34-21.3

Amends the School Code. In provisions concerning the awarding of contracts by school boards, provides that on January 1 of each year, the State Board of Education shall adjust the amount for which a contract must be awarded to the lowest responsible bidder for inflation, as determined by the Consumer Price Index for All Urban Consumers for all items and rounded to the nearest \$100. Provides that the State Board of Education shall publish this information on its official website.

LRB102 24713 RJT 33953 b

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 10-20.21 and 34-21.3 as follows:

6 (105 ILCS 5/10-20.21)

7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies and
9 materials or work involving an expenditure in excess of
10 \$25,000 or a lower amount as required by board policy to the
11 lowest responsible bidder, considering conformity with
12 specifications, terms of delivery, quality and serviceability,
13 after due advertisement, except the following: (i) contracts
14 for the services of individuals possessing a high degree of
15 professional skill where the ability or fitness of the
16 individual plays an important part; (ii) contracts for the
17 printing of finance committee reports and departmental
18 reports; (iii) contracts for the printing or engraving of
19 bonds, tax warrants and other evidences of indebtedness; (iv)
20 contracts for the purchase of perishable foods and perishable
21 beverages; (v) contracts for materials and work which have
22 been awarded to the lowest responsible bidder after due
23 advertisement, but due to unforeseen revisions, not the fault

1 of the contractor for materials and work, must be revised
2 causing expenditures not in excess of 10% of the contract
3 price; (vi) contracts for the maintenance or servicing of, or
4 provision of repair parts for, equipment which are made with
5 the manufacturer or authorized service agent of that equipment
6 where the provision of parts, maintenance, or servicing can
7 best be performed by the manufacturer or authorized service
8 agent; (vii) purchases and contracts for the use, purchase,
9 delivery, movement, or installation of data processing
10 equipment, software, or services and telecommunications and
11 interconnect equipment, software, and services; (viii)
12 contracts for duplicating machines and supplies; (ix)
13 contracts for the purchase of fuel, including diesel,
14 gasoline, oil, aviation, natural gas, or propane, lubricants,
15 or other petroleum products; (x) purchases of equipment
16 previously owned by some entity other than the district
17 itself; (xi) contracts for repair, maintenance, remodeling,
18 renovation, or construction, or a single project involving an
19 expenditure not to exceed \$50,000 and not involving a change
20 or increase in the size, type, or extent of an existing
21 facility; (xii) contracts for goods or services procured from
22 another governmental agency; (xiii) contracts for goods or
23 services which are economically procurable from only one
24 source, such as for the purchase of magazines, books,
25 periodicals, pamphlets and reports, and for utility services
26 such as water, light, heat, telephone or telegraph; (xiv)

1 where funds are expended in an emergency and such emergency
2 expenditure is approved by 3/4 of the members of the board;
3 (xv) State master contracts authorized under Article 28A of
4 this Code; and (xvi) contracts providing for the
5 transportation of pupils, which contracts must be advertised
6 in the same manner as competitive bids and awarded by first
7 considering the bidder or bidders most able to provide safety
8 and comfort for the pupils, stability of service, and any
9 other factors set forth in the request for proposal regarding
10 quality of service, and then price. However, at no time shall a
11 cause of action lie against a school board for awarding a pupil
12 transportation contract per the standards set forth in this
13 subsection (a) unless the cause of action is based on
14 fraudulent conduct.

15 All competitive bids for contracts involving an
16 expenditure in excess of \$25,000 or a lower amount as required
17 by board policy must be sealed by the bidder and must be opened
18 by a member or employee of the school board at a public bid
19 opening at which the contents of the bids must be announced.
20 Each bidder must receive at least 3 days' notice of the time
21 and place of the bid opening. For purposes of this Section due
22 advertisement includes, but is not limited to, at least one
23 public notice at least 10 days before the bid date in a
24 newspaper published in the district, or if no newspaper is
25 published in the district, in a newspaper of general
26 circulation in the area of the district. State master

1 contracts and certified education purchasing contracts, as
2 defined in Article 28A of this Code, are not subject to the
3 requirements of this paragraph.

4 Under this Section, the acceptance of bids sealed by a
5 bidder and the opening of these bids at a public bid opening
6 may be permitted by an electronic process for communicating,
7 accepting, and opening competitive bids. An electronic bidding
8 process must provide for, but is not limited to, the following
9 safeguards:

10 (1) On the date and time certain of a bid opening, the
11 primary person conducting the competitive, sealed,
12 electronic bid process shall log onto a specified database
13 using a unique username and password previously assigned
14 to the bidder to allow access to the bidder's specific bid
15 project number.

16 (2) The specified electronic database must be on a
17 network that (i) is in a secure environment behind a
18 firewall; (ii) has specific encryption tools; (iii)
19 maintains specific intrusion detection systems; (iv) has
20 redundant systems architecture with data storage back-up,
21 whether by compact disc or tape; and (v) maintains a
22 disaster recovery plan.

23 It is the legislative intent of Public Act 96-841 to maintain
24 the integrity of the sealed bidding process provided for in
25 this Section, to further limit any possibility of bid-rigging,
26 to reduce administrative costs to school districts, and to

1 effect efficiencies in communications with bidders.

2 On January 1 of each year, the State Board of Education
3 shall adjust the amount established in this subsection (a) for
4 which a contract must be awarded to the lowest responsible
5 bidder for inflation, as determined by the Consumer Price
6 Index for All Urban Consumers for all items published by the
7 Bureau of Labor Statistics of the United States Department of
8 Labor and rounded to the nearest \$100. The State Board of
9 Education shall publish this information on its official
10 website.

11 (b) To require, as a condition of any contract for goods
12 and services, that persons bidding for and awarded a contract
13 and all affiliates of the person collect and remit Illinois
14 Use Tax on all sales of tangible personal property into the
15 State of Illinois in accordance with the provisions of the
16 Illinois Use Tax Act regardless of whether the person or
17 affiliate is a "retailer maintaining a place of business
18 within this State" as defined in Section 2 of the Use Tax Act.
19 For purposes of this Section, the term "affiliate" means any
20 entity that (1) directly, indirectly, or constructively
21 controls another entity, (2) is directly, indirectly, or
22 constructively controlled by another entity, or (3) is subject
23 to the control of a common entity. For purposes of this
24 subsection (b), an entity controls another entity if it owns,
25 directly or individually, more than 10% of the voting
26 securities of that entity. As used in this subsection (b), the

1 term "voting security" means a security that (1) confers upon
2 the holder the right to vote for the election of members of the
3 board of directors or similar governing body of the business
4 or (2) is convertible into, or entitles the holder to receive
5 upon its exercise, a security that confers such a right to
6 vote. A general partnership interest is a voting security.

7 To require that bids and contracts include a certification
8 by the bidder or contractor that the bidder or contractor is
9 not barred from bidding for or entering into a contract under
10 this Section and that the bidder or contractor acknowledges
11 that the school board may declare the contract void if the
12 certification completed pursuant to this subsection (b) is
13 false.

14 (b-5) To require all contracts and agreements that pertain
15 to goods and services and that are intended to generate
16 additional revenue and other remunerations for the school
17 district in excess of \$1,000, including without limitation
18 vending machine contracts, sports and other attire, class
19 rings, and photographic services, to be approved by the school
20 board. The school board shall file as an attachment to its
21 annual budget a report, in a form as determined by the State
22 Board of Education, indicating for the prior year the name of
23 the vendor, the product or service provided, and the actual
24 net revenue and non-monetary remuneration from each of the
25 contracts or agreements. In addition, the report shall
26 indicate for what purpose the revenue was used and how and to

1 whom the non-monetary remuneration was distributed.

2 (b-10) To prohibit any contract to purchase food with a
3 bidder or offeror if the bidder's or offeror's contract terms
4 prohibit the school from donating food to food banks,
5 including, but not limited to, homeless shelters, food
6 pantries, and soup kitchens.

7 (c) If the State education purchasing entity creates a
8 master contract as defined in Article 28A of this Code, then
9 the State education purchasing entity shall notify school
10 districts of the existence of the master contract.

11 (d) In purchasing supplies, materials, equipment, or
12 services that are not subject to subsection (c) of this
13 Section, before a school district solicits bids or awards a
14 contract, the district may review and consider as a bid under
15 subsection (a) of this Section certified education purchasing
16 contracts that are already available through the State
17 education purchasing entity.

18 (Source: P.A. 101-570, eff. 8-23-19; 101-632, eff. 6-5-20.)

19 (105 ILCS 5/34-21.3) (from Ch. 122, par. 34-21.3)

20 Sec. 34-21.3. Contracts. The board shall by record vote
21 let all contracts (other than those excepted by Section
22 10-20.21 of this ~~The School~~ Code) for supplies, materials,
23 work, and contracts with private carriers for transportation
24 of pupils, involving an expenditure in excess of \$25,000 or a
25 lower amount as required by board policy by competitive

1 bidding as provided in Section 10-20.21 of this ~~The School~~
2 Code.

3 The board may delegate to the general superintendent of
4 schools, by resolution, the authority to approve contracts in
5 amounts of \$25,000 or less.

6 On January 1 of each year, the State Board of Education
7 shall adjust the amount established in this Section for which
8 a contract must be awarded to the lowest responsible bidder
9 for inflation, as determined by the Consumer Price Index for
10 All Urban Consumers for all items published by the Bureau of
11 Labor Statistics of the United States Department of Labor and
12 rounded to the nearest \$100. The State Board of Education
13 shall publish this information on its official website.

14 For a period of one year from and after the expiration or
15 other termination of his or her term of office as a member of
16 the board: (i) the former board member shall not be eligible
17 for employment nor be employed by the board, a local school
18 council, an attendance center, or any other subdivision or
19 agent of the board or the school district governed by the
20 board, and (ii) neither the board nor the chief purchasing
21 officer shall let or delegate authority to let any contract
22 for services, employment, or other work to the former board
23 member or to any corporation, partnership, association, sole
24 proprietorship, or other entity other than publicly traded
25 companies from which the former board member receives an
26 annual income, dividends, or other compensation in excess of

1 \$1,500. Any contract that is entered into by or under a
2 delegation of authority from the board or the chief purchasing
3 officer shall contain a provision stating that the contract is
4 not legally binding on the board if entered into in violation
5 of the provisions of this paragraph.

6 In addition, the State Board of Education, in consultation
7 with the board, shall (i) review existing conflict of interest
8 and disclosure laws or regulations that are applicable to the
9 executive officers and governing boards of school districts
10 organized under this Article and school districts generally,
11 (ii) determine what additional disclosure and conflict of
12 interest provisions would enhance the reputation and fiscal
13 integrity of the board and the procedure under which contracts
14 for goods and services are let, and (iii) develop appropriate
15 reporting forms and procedures applicable to the executive
16 officers, governing board, and other officials of the school
17 district.

18 (Source: P.A. 95-990, eff. 10-3-08.)