



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4773

Introduced 1/12/2010, by Rep. Cynthia Soto

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

Amends the School Code. For competitive bids for service contracts involving an expenditure in excess of \$10,000, provides that the bidder must disclose, before the public bid opening, in an affidavit that becomes part of the bid, (1) any charges filed against the bidder within the past 10 years pursuant to the National Labor Relations Act, the Civil Rights Act of 1964, or the Illinois Human Rights Act, (2) any charges filed against the bidder within the past 10 years related to bid-rigging or bid manipulation, (3) any legal claims pending against the bidder, (4) all workplace injuries reported by employees within the past year, (5) all employee turnover, (6) any units of government that have barred the bidder or its affiliates from future bidding, (7) any contributions given to the political campaigns of school board members or any political action committee created with the purpose of affecting policies related to a particular school district or its students, (8) any gifts given to a prohibited recipient under the State Officials and Employees Ethics Act, and (9) any gifts or contributions given to non-profit organizations established with the purpose of affecting a particular school district or its students. Provides that if the affidavit contains false or incomplete information, the school district does not have to consider the bid. Effective immediately.

LRB096 16499 MJR 31769 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 Section
5 10-20.21 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,
9 materials or work or contracts with private carriers for
10 transportation of pupils involving an expenditure in excess of
11 \$25,000 or a lower amount as required by board policy to the
12 lowest responsible bidder, considering conformity with
13 specifications, terms of delivery, quality and serviceability,
14 after due advertisement, except the following: (i) contracts
15 for the services of individuals possessing a high degree of
16 professional skill where the ability or fitness of the
17 individual plays an important part; (ii) contracts for the
18 printing of finance committee reports and departmental
19 reports; (iii) contracts for the printing or engraving of
20 bonds, tax warrants and other evidences of indebtedness; (iv)
21 contracts for the purchase of perishable foods and perishable
22 beverages; (v) contracts for materials and work which have been
23 awarded to the lowest responsible bidder after due

1 advertisement, but due to unforeseen revisions, not the fault
2 of the contractor for materials and work, must be revised
3 causing expenditures not in excess of 10% of the contract
4 price; (vi) contracts for the maintenance or servicing of, or
5 provision of repair parts for, equipment which are made with
6 the manufacturer or authorized service agent of that equipment
7 where the provision of parts, maintenance, or servicing can
8 best be performed by the manufacturer or authorized service
9 agent; (vii) purchases and contracts for the use, purchase,
10 delivery, movement, or installation of data processing
11 equipment, software, or services and telecommunications and
12 interconnect equipment, software, and services; (viii)
13 contracts for duplicating machines and supplies; (ix)
14 contracts for the purchase of natural gas when the cost is less
15 than that offered by a public utility; (x) purchases of
16 equipment previously owned by some entity other than the
17 district itself; (xi) contracts for repair, maintenance,
18 remodeling, renovation, or construction, or a single project
19 involving an expenditure not to exceed \$50,000 and not
20 involving a change or increase in the size, type, or extent of
21 an existing facility; (xii) contracts for goods or services
22 procured from another governmental agency; (xiii) contracts
23 for goods or services which are economically procurable from
24 only one 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) where

1 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 transportation
5 of pupils with special needs or disabilities, which contracts
6 must be advertised in the same manner as competitive bids and
7 awarded by first considering the bidder or bidders most able to
8 provide safety and comfort for the pupils with special needs or
9 disabilities, stability of service, and any other factors set
10 forth in the request for proposal regarding quality of service,
11 and then price.

12 All competitive bids for contracts involving an
13 expenditure in excess of \$25,000 or a lower amount as required
14 by board policy must be sealed by the bidder and must be opened
15 by a member or employee of the school board at a public bid
16 opening at which the contents of the bids must be announced.
17 Each bidder must receive at least 3 days' notice of the time
18 and place of the bid opening. For purposes of this Section due
19 advertisement includes, but is not limited to, at least one
20 public notice at least 10 days before the bid date in a
21 newspaper published in the district, or if no newspaper is
22 published in the district, in a newspaper of general
23 circulation in the area of the district. For competitive bids
24 for service contracts involving an expenditure in excess of
25 \$10,000, the bidder must disclose, before the public bid
26 opening, in an affidavit that becomes part of the bid, (1) any

1 charges filed against the bidder within the past 10 years
2 pursuant to the National Labor Relations Act, the Civil Rights
3 Act of 1964, or the Illinois Human Rights Act, the disposition
4 of those charges, and the current work status of the employees
5 who filed the charges; (2) any charges filed against the bidder
6 within the past 10 years related to bid-rigging or bid
7 manipulation under the Criminal Code of 1961; (3) any legal
8 claims pending against the bidder; (4) all workplace injuries
9 reported by employees within the past year and the current work
10 status of the employees who reported being injured; (5) all
11 employee turnover; (6) any units of government that have barred
12 the bidder or its affiliates from future bidding; (7) any
13 contributions given to the political campaigns of school board
14 members or any political action committee created for the
15 purpose of affecting policies related to a particular school
16 district or its students; (8) any gifts given to a prohibited
17 recipient under the State Officials and Employees Ethics Act,
18 the amount of the gift, and the name of the recipient; and (9)
19 any gifts or contributions given to non-profit organizations
20 established for the purpose of affecting a particular school
21 district or its students, such as a non-profit foundation or a
22 booster club. If the affidavit contains false or incomplete
23 information, the school district does not have to consider the
24 bid. If the school district chooses not to consider the bid,
25 the school district shall document this fact and make it
26 available for public inspection. State master contracts and

1 certified education purchasing contracts, as defined in
2 Article 28A of this Code, are not subject to the requirements
3 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. However, bids for
8 construction purposes are prohibited from being communicated,
9 accepted, or opened electronically. An electronic bidding
10 process must provide for, but is not limited to, the following
11 safeguards:

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

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

25 It is the legislative intent of Public Act 96-841 ~~this~~
26 ~~amendatory Act of the 96th General Assembly~~ to maintain the

1 integrity of the sealed bidding process provided for in this
2 Section, to further limit any possibility of bid-rigging, to
3 reduce administrative costs to school districts, and to effect
4 efficiencies in communications with bidders.

5 (b) To require, as a condition of any contract for goods
6 and services, that persons bidding for and awarded a contract
7 and all affiliates of the person collect and remit Illinois Use
8 Tax on all sales of tangible personal property into the State
9 of Illinois in accordance with the provisions of the Illinois
10 Use Tax Act regardless of whether the person or affiliate is a
11 "retailer maintaining a place of business within this State" as
12 defined in Section 2 of the Use Tax Act. For purposes of this
13 Section, the term "affiliate" means any entity that (1)
14 directly, indirectly, or constructively controls another
15 entity, (2) is directly, indirectly, or constructively
16 controlled by another entity, or (3) is subject to the control
17 of a common entity. For purposes of this subsection (b), an
18 entity controls another entity if it owns, directly or
19 individually, more than 10% of the voting securities of that
20 entity. As used in this subsection (b), the term "voting
21 security" means a security that (1) confers upon the holder the
22 right to vote for the election of members of the board of
23 directors or similar governing body of the business or (2) is
24 convertible into, or entitles the holder to receive upon its
25 exercise, a security that confers such a right to vote. A
26 general partnership interest is a voting security.

1 To require that bids and contracts include a certification
2 by the bidder or contractor that the bidder or contractor is
3 not barred from bidding for or entering into a contract under
4 this Section and that the bidder or contractor acknowledges
5 that the school board may declare the contract void if the
6 certification completed pursuant to this subsection (b) is
7 false.

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

22 (c) If the State education purchasing entity creates a
23 master contract as defined in Article 28A of this Code, then
24 the State education purchasing entity shall notify school
25 districts of the existence of the master contract.

26 (d) In purchasing supplies, materials, equipment, or

1 services that are not subject to subsection (c) of this
2 Section, before a school district solicits bids or awards a
3 contract, the district may review and consider as a bid under
4 subsection (a) of this Section certified education purchasing
5 contracts that are already available through the State
6 education purchasing entity.

7 (Source: P.A. 95-990, eff. 10-3-08; 96-392, eff. 1-1-10;
8 96-841, eff. 12-23-09; revised 12-29-09.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.