

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 and
9 materials or work involving an expenditure in excess of
10 \$35,000 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:

14 (i) contracts for the services of individuals
15 possessing a high degree of professional skill where the
16 ability or fitness of the individual plays an important
17 part;

18 (ii) contracts for the printing of finance committee
19 reports and departmental reports;

20 (iii) contracts for the printing or engraving of
21 bonds, tax warrants and other evidences of indebtedness;

22 (iv) contracts for the purchase of perishable foods
23 and perishable beverages;

1 (v) contracts for materials and work which have been
2 awarded to the lowest responsible bidder after due
3 advertisement, but due to unforeseen revisions, not the
4 fault of the contractor for materials and work, must be
5 revised causing expenditures not in excess of 10% of the
6 contract price;

7 (vi) contracts for the maintenance or servicing of, or
8 provision of repair parts for, equipment which are made
9 with the manufacturer or authorized service agent of that
10 equipment where the provision of parts, maintenance, or
11 servicing can best be performed by the manufacturer or
12 authorized service agent;

13 (vii) purchases and contracts for the use, purchase,
14 delivery, movement, or installation of data processing
15 equipment, software, or services and telecommunications
16 and interconnect equipment, software, and services;

17 (viii) contracts for duplicating machines and
18 supplies;

19 (ix) contracts for the purchase of fuel, including
20 diesel, gasoline, oil, aviation, natural gas, or propane,
21 lubricants, or other petroleum products;

22 (x) purchases of equipment previously owned by some
23 entity other than the district itself;

24 (xi) contracts for repair, maintenance, remodeling,
25 renovation, or construction, or a single project involving
26 an expenditure not to exceed \$50,000 and not involving a

1 change or increase in the size, type, or extent of an
2 existing facility;

3 (xii) contracts for goods or services procured from
4 another governmental agency;

5 (xiii) contracts for goods or services which are
6 economically procurable from only one source, such as for
7 the purchase of magazines, books, periodicals, pamphlets
8 and reports, and for utility services such as water,
9 light, heat, telephone or telegraph;

10 (xiv) where funds are expended in an emergency and
11 such emergency expenditure is approved by 3/4 of the
12 members of the board;

13 (xv) State master contracts authorized under Article
14 28A of this Code;

15 (xvi) contracts providing for the transportation of
16 pupils, which contracts must be advertised in the same
17 manner as competitive bids and awarded by first
18 considering the bidder or bidders most able to provide
19 safety and comfort for the pupils, stability of service,
20 and any other factors set forth in the request for
21 proposal regarding quality of service, and then price; and

22 (xvii) contracts for goods, services, or management in
23 the operation of a school's food service, including a
24 school that participates in any of the United States
25 Department of Agriculture's child nutrition programs if a
26 good faith effort is made on behalf of the school district

1 to give preference to:

2 (1) contracts that procure food that promotes the
3 health and well-being of students, in compliance with
4 United States Department of Agriculture nutrition
5 standards for school meals. Contracts should also
6 promote the production of scratch made, minimally
7 processed foods;

8 (2) contracts that give a preference to State, ~~or~~
9 regional, or local suppliers that source local food
10 products;

11 (3) contracts that give a preference to food
12 suppliers that utilize producers that adopt hormone
13 and pest management practices recommended by the
14 United States Department of Agriculture;

15 (4) contracts that give a preference to food
16 suppliers that value animal welfare; and

17 (5) contracts that increase opportunities for
18 businesses owned and operated by minorities, women, or
19 persons with disabilities.

20 Food supplier data shall be submitted to the school
21 district at the time of the bid, to the best of the
22 bidder's ability, and updated annually thereafter during
23 the term of the contract. The contractor shall submit the
24 updated food supplier data. The data required under this
25 item (xvii) shall include the name and address of each
26 supplier, distributor, processor, and producer involved in

1 the provision of the products that the bidder is to
2 supply.

3 However, at no time shall a cause of action lie against a
4 school board for awarding a pupil transportation contract per
5 the standards set forth in this subsection (a) unless the
6 cause of action is based on fraudulent conduct.

7 All competitive bids for contracts involving an
8 expenditure in excess of \$35,000 or a lower amount as required
9 by board policy must be sealed by the bidder and must be opened
10 by a member or employee of the school board at a public bid
11 opening at which the contents of the bids must be announced.
12 Each bidder must receive at least 3 days' notice of the time
13 and place of the bid opening. For purposes of this Section due
14 advertisement includes, but is not limited to, at least one
15 public notice at least 10 days before the bid date in a
16 newspaper published in the district, or if no newspaper is
17 published in the district, in a newspaper of general
18 circulation in the area of the district. State master
19 contracts and certified education purchasing contracts, as
20 defined in Article 28A of this Code, are not subject to the
21 requirements of this paragraph.

22 Under this Section, the acceptance of bids sealed by a
23 bidder and the opening of these bids at a public bid opening
24 may be permitted by an electronic process for communicating,
25 accepting, and opening competitive bids. An electronic bidding
26 process must provide for, but is not limited to, the following

1 safeguards:

2 (1) On the date and time certain of a bid opening, the
3 primary person conducting the competitive, sealed,
4 electronic bid process shall log onto a specified database
5 using a unique username and password previously assigned
6 to the bidder to allow access to the bidder's specific bid
7 project number.

8 (2) The specified electronic database must be on a
9 network that (i) is in a secure environment behind a
10 firewall; (ii) has specific encryption tools; (iii)
11 maintains specific intrusion detection systems; (iv) has
12 redundant systems architecture with data storage back-up,
13 whether by compact disc or tape; and (v) maintains a
14 disaster recovery plan.

15 It is the legislative intent of Public Act 96-841 to maintain
16 the integrity of the sealed bidding process provided for in
17 this Section, to further limit any possibility of bid-rigging,
18 to reduce administrative costs to school districts, and to
19 effect efficiencies in communications with bidders.

20 (b) To require, as a condition of any contract for goods
21 and services, that persons bidding for and awarded a contract
22 and all affiliates of the person collect and remit Illinois
23 Use Tax on all sales of tangible personal property into the
24 State of Illinois in accordance with the provisions of the
25 Illinois Use Tax Act regardless of whether the person or
26 affiliate is a "retailer maintaining a place of business

1 within this State" as defined in Section 2 of the Use Tax Act.
2 For purposes of this Section, the term "affiliate" means any
3 entity that (1) directly, indirectly, or constructively
4 controls another entity, (2) is directly, indirectly, or
5 constructively controlled by another entity, or (3) is subject
6 to the control of a common entity. For purposes of this
7 subsection (b), an entity controls another entity if it owns,
8 directly or individually, more than 10% of the voting
9 securities of that entity. As used in this subsection (b), the
10 term "voting security" means a security that (1) confers upon
11 the holder the right to vote for the election of members of the
12 board of directors or similar governing body of the business
13 or (2) is convertible into, or entitles the holder to receive
14 upon its exercise, a security that confers such a right to
15 vote. A general partnership interest is a voting security.

16 To require that bids and contracts include a certification
17 by the bidder or contractor that the bidder or contractor is
18 not barred from bidding for or entering into a contract under
19 this Section and that the bidder or contractor acknowledges
20 that the school board may declare the contract void if the
21 certification completed pursuant to this subsection (b) is
22 false.

23 (b-5) To require all contracts and agreements that pertain
24 to goods and services and that are intended to generate
25 additional revenue and other remunerations for the school
26 district in excess of \$1,000, including without limitation

1 vending machine contracts, sports and other attire, class
2 rings, and photographic services, to be approved by the school
3 board. The school board shall file as an attachment to its
4 annual budget a report, in a form as determined by the State
5 Board of Education, indicating for the prior year the name of
6 the vendor, the product or service provided, and the actual
7 net revenue and non-monetary remuneration from each of the
8 contracts or agreements. In addition, the report shall
9 indicate for what purpose the revenue was used and how and to
10 whom the non-monetary remuneration was distributed.

11 (b-10) To prohibit any contract to purchase food with a
12 bidder or offeror if the bidder's or offeror's contract terms
13 prohibit the school from donating food to food banks,
14 including, but not limited to, homeless shelters, food
15 pantries, and soup kitchens.

16 (c) If the State education purchasing entity creates a
17 master contract as defined in Article 28A of this Code, then
18 the State education purchasing entity shall notify school
19 districts of the existence of the master contract.

20 (d) In purchasing supplies, materials, equipment, or
21 services that are not subject to subsection (c) of this
22 Section, before a school district solicits bids or awards a
23 contract, the district may review and consider as a bid under
24 subsection (a) of this Section certified education purchasing
25 contracts that are already available through the State
26 education purchasing entity.

1 (Source: P.A. 102-1101, eff. 6-29-22; 103-8, eff. 1-1-24.)