



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0613

Introduced 2/6/2009, by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21
30 ILCS 805/8.33 new

from Ch. 122, par. 10-20.21

Amends the School Code. In provisions requiring certain contracts to be awarded by competitive bid, provides that the acceptance of bids sealed by a bidder and the opening of these bids at a public bid opening may be permitted by an electronic process for communicating, accepting, and opening competitive bids; requires certain safeguards. Imposes conditions on any rulemaking authority. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 03444 NHT 13468 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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) (from Ch. 122, par. 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; and
3 (xv) State master contracts authorized under Article 28A of
4 this Code.

5 All competitive bids for contracts involving an
6 expenditure in excess of \$25,000 or a lower amount as required
7 by board policy must be sealed by the bidder and must be opened
8 by a member or employee of the school board at a public bid
9 opening at which the contents of the bids must be announced.
10 Each bidder must receive at least 3 days' notice of the time
11 and place of the bid opening. For purposes of this Section due
12 advertisement includes, but is not limited to, at least one
13 public notice at least 10 days before the bid date in a
14 newspaper published in the district, or if no newspaper is
15 published in the district, in a newspaper of general
16 circulation in the area of the district. State master contracts
17 and certified education purchasing contracts, as defined in
18 Article 28A of this Code, are not subject to the requirements
19 of this paragraph.

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

26 (1) On the date and time certain of a bid opening, the

1 primary person conducting the competitive, sealed,
2 electronic bid process shall log onto a specified database
3 using a unique username and password previously assigned to
4 the bidder to allow access to the bidder's specific bid
5 project number.

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

13 It is the legislative intent of this amendatory Act of the 96th
14 General Assembly to maintain the integrity of the sealed
15 bidding process provided for in this Section, to further limit
16 any possibility of bid-rigging, to reduce administrative costs
17 to school districts, and to effect efficiencies in
18 communications with bidders. Rulemaking authority to implement
19 this amendatory Act of the 96th General Assembly, if any, is
20 conditioned on the rules being adopted in accordance with all
21 provisions of the Illinois Administrative Procedure Act and all
22 rules and procedures of the Joint Committee on Administrative
23 Rules; any purported rule not so adopted, for whatever reason,
24 is unauthorized.

25 (b) To require, as a condition of any contract for goods
26 and services, that persons bidding for and awarded a contract

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

21 To require that bids and contracts include a certification
22 by the bidder or contractor that the bidder or contractor is
23 not barred from bidding for or entering into a contract under
24 this Section and that the bidder or contractor acknowledges
25 that the school board may declare the contract void if the
26 certification completed pursuant to this subsection (b) is

1 false.

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

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. 94-714, eff. 7-1-06; 95-990, eff. 10-3-08.)

2 Section 90. The State Mandates Act is amended by adding
3 Section 8.33 as follows:

4 (30 ILCS 805/8.33 new)

5 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
6 of this Act, no reimbursement by the State is required for the
7 implementation of any mandate created by this amendatory Act of
8 the 96th General Assembly.

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