



Sen. Ram Villivalam

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10200HB4813sam002

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1 AMENDMENT TO HOUSE BILL 4813

2 AMENDMENT NO. _____. Amend House Bill 4813 by replacing
3 everything after the enacting clause with the following:

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 \$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:

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

1 part;

2 (ii) contracts for the printing of finance committee
3 reports and departmental reports;

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

6 (iv) contracts for the purchase of perishable foods
7 and perishable beverages;

8 (v) contracts for materials and work which have been
9 awarded to the lowest responsible bidder after due
10 advertisement, but due to unforeseen revisions, not the
11 fault of the contractor for materials and work, must be
12 revised causing expenditures not in excess of 10% of the
13 contract price;

14 (vi) contracts for the maintenance or servicing of, or
15 provision of repair parts for, equipment which are made
16 with the manufacturer or authorized service agent of that
17 equipment where the provision of parts, maintenance, or
18 servicing can best be performed by the manufacturer or
19 authorized service agent;

20 (vii) purchases and contracts for the use, purchase,
21 delivery, movement, or installation of data processing
22 equipment, software, or services and telecommunications
23 and interconnect equipment, software, and services;

24 (viii) contracts for duplicating machines and
25 supplies;

26 (ix) contracts for the purchase of fuel, including

1 diesel, gasoline, oil, aviation, natural gas, or propane,
2 lubricants, or other petroleum products;

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

5 (xi) contracts for repair, maintenance, remodeling,
6 renovation, or construction, or a single project involving
7 an expenditure not to exceed \$50,000 and not involving a
8 change or increase in the size, type, or extent of an
9 existing facility;

10 (xii) contracts for goods or services procured from
11 another governmental agency;

12 (xiii) contracts for goods or services which are
13 economically procurable from only one source, such as for
14 the purchase of magazines, books, periodicals, pamphlets
15 and reports, and for utility services such as water,
16 light, heat, telephone or telegraph;

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

20 (xv) State master contracts authorized under Article
21 28A of this Code; ~~and~~

22 (xvi) contracts providing for the transportation of
23 pupils, which contracts must be advertised in the same
24 manner as competitive bids and awarded by first
25 considering the bidder or bidders most able to provide
26 safety and comfort for the pupils, stability of service,

1 and any other factors set forth in the request for
2 proposal regarding quality of service, and then price; and
3 (xvii) contracts for goods, services, or management in
4 the operation of a school's food service, including a
5 school that participates in any of the United States
6 Department of Agriculture's child nutrition programs if a
7 good faith effort is made on behalf of the school district
8 to give preference to:

9 (1) contracts that procure food that promotes the
10 health and well-being of students, in compliance with
11 United States Department of Agriculture nutrition
12 standards for school meals. Contracts should also
13 promote the production of scratch made, minimally
14 processed foods;

15 (2) contracts that give a preference to State or
16 regional suppliers that source local food products;

17 (3) contracts that give a preference to food
18 suppliers that utilize producers that adopt hormone
19 and pest management practices recommended by the
20 United States Department of Agriculture;

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

23 (5) contracts that increase opportunities for
24 businesses owned and operated by minorities, women, or
25 persons with disabilities.

26 Food supplier data shall be submitted to the school

1 district at the time of the bid, to the best of the
2 bidder's ability, and updated annually thereafter during
3 the term of the contract. The contractor shall submit the
4 updated food supplier data. The data required under this
5 item (xvii) shall include the name and address of each
6 supplier, distributor, processor, and producer involved in
7 the provision of the products that the bidder is to
8 supply.

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

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

1 requirements of this paragraph.

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

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

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

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

26 (b) To require, as a condition of any contract for goods

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

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

1 certification completed pursuant to this subsection (b) is
2 false.

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

17 (b-10) To prohibit any contract to purchase food with a
18 bidder or offeror if the bidder's or offeror's contract terms
19 prohibit the school from donating food to food banks,
20 including, but not limited to, homeless shelters, food
21 pantries, and soup kitchens.

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. 101-570, eff. 8-23-19; 101-632, eff. 6-5-20.)

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