



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2106

Introduced 2/7/2023, 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.

LRB103 04728 RJT 49737 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:

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 suppliers that source local food products;

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

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

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

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

1 supply.

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

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

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

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

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

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

19 On January 1 of each year, the State Board of Education
20 shall adjust the amount established in this subsection (a) for
21 which a contract must be awarded to the lowest responsible
22 bidder for inflation, as determined by the Consumer Price
23 Index for All Urban Consumers for all items published by the
24 Bureau of Labor Statistics of the United States Department of
25 Labor and rounded to the nearest \$100. The State Board of
26 Education shall publish this information on its official

1 website.

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

24 To require that bids and contracts include a certification
25 by the bidder or contractor that the bidder or contractor is
26 not barred from bidding for or entering into a contract under

1 this Section and that the bidder or contractor acknowledges
2 that the school board may declare the contract void if the
3 certification completed pursuant to this subsection (b) is
4 false.

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

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

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

1 districts of the existence of the master contract.

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

9 (Source: P.A. 101-570, eff. 8-23-19; 101-632, eff. 6-5-20;
10 102-1101, eff. 6-29-22.)

11 (105 ILCS 5/34-21.3) (from Ch. 122, par. 34-21.3)

12 Sec. 34-21.3. Contracts. The board shall by record vote
13 let all contracts (other than those excepted by Section
14 10-20.21 of this ~~The School~~ Code) for supplies, materials,
15 work, and contracts with private carriers for transportation
16 of pupils, involving an expenditure in excess of \$25,000 or a
17 lower amount as required by board policy by competitive
18 bidding as provided in Section 10-20.21 of this ~~The School~~
19 Code.

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

23 On January 1 of each year, the State Board of Education
24 shall adjust the amount established in this Section for which
25 a contract must be awarded to the lowest responsible bidder

1 for inflation, as determined by the Consumer Price Index for
2 All Urban Consumers for all items published by the Bureau of
3 Labor Statistics of the United States Department of Labor and
4 rounded to the nearest \$100. The State Board of Education
5 shall publish this information on its official website.

6 For a period of one year from and after the expiration or
7 other termination of his or her term of office as a member of
8 the board: (i) the former board member shall not be eligible
9 for employment nor be employed by the board, a local school
10 council, an attendance center, or any other subdivision or
11 agent of the board or the school district governed by the
12 board, and (ii) neither the board nor the chief purchasing
13 officer shall let or delegate authority to let any contract
14 for services, employment, or other work to the former board
15 member or to any corporation, partnership, association, sole
16 proprietorship, or other entity other than publicly traded
17 companies from which the former board member receives an
18 annual income, dividends, or other compensation in excess of
19 \$1,500. Any contract that is entered into by or under a
20 delegation of authority from the board or the chief purchasing
21 officer shall contain a provision stating that the contract is
22 not legally binding on the board if entered into in violation
23 of the provisions of this paragraph.

24 In addition, the State Board of Education, in consultation
25 with the board, shall (i) review existing conflict of interest
26 and disclosure laws or regulations that are applicable to the

1 executive officers and governing boards of school districts
2 organized under this Article and school districts generally,
3 (ii) determine what additional disclosure and conflict of
4 interest provisions would enhance the reputation and fiscal
5 integrity of the board and the procedure under which contracts
6 for goods and services are let, and (iii) develop appropriate
7 reporting forms and procedures applicable to the executive
8 officers, governing board, and other officials of the school
9 district.

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