



Rep. Fred Crespo

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LRB098 15494 OMW 57200 a

1 AMENDMENT TO HOUSE BILL 3936

2 AMENDMENT NO. _____. Amend House Bill 3936 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 \$25,000
10 or a lower amount as required by board policy to the lowest
11 responsible bidder, considering conformity with
12 specifications, terms of delivery, quality and serviceability,
13 after due advertisement, except the following: (i) contracts
14 for the services of individuals possessing a high degree of
15 professional skill where the ability or fitness of the
16 individual plays an important part; (ii) contracts for the

1 printing of finance committee reports and departmental
2 reports; (iii) contracts for the printing or engraving of
3 bonds, tax warrants and other evidences of indebtedness; (iv)
4 contracts for the purchase of perishable foods and perishable
5 beverages; (v) contracts for materials and work which have been
6 awarded to the lowest responsible bidder after due
7 advertisement, but due to unforeseen revisions, not the fault
8 of the contractor for materials and work, must be revised
9 causing expenditures not in excess of 10% of the contract
10 price; (vi) contracts for the maintenance or servicing of, or
11 provision of repair parts for, equipment which are made with
12 the manufacturer or authorized service agent of that equipment
13 where the provision of parts, maintenance, or servicing can
14 best be performed by the manufacturer or authorized service
15 agent; (vii) purchases and contracts for the use, purchase,
16 delivery, movement, or installation of data processing
17 equipment, software, or services and telecommunications and
18 interconnect equipment, software, and services; (viii)
19 contracts for duplicating machines and supplies; (ix)
20 contracts for the purchase of natural gas when the cost is less
21 than that offered by a public utility; (x) purchases of
22 equipment previously owned by some entity other than the
23 district itself; (xi) contracts for repair, maintenance,
24 remodeling, renovation, or construction, or a single project
25 involving an expenditure not to exceed \$50,000 and not
26 involving a change or increase in the size, type, or extent of

1 an existing facility; (xii) contracts for goods or services
2 procured from another governmental agency or from a cooperative
3 organized in any state in the United States of America or the
4 District of Columbia that awards contracts by a competitive
5 procurement process and whose membership is limited to
6 governmental agencies; (xiii) contracts for goods or services
7 which are economically procurable from only one source, such as
8 for the purchase of magazines, books, periodicals, pamphlets
9 and reports, and for utility services such as water, light,
10 heat, telephone or telegraph; (xiv) where funds are expended in
11 an emergency and such emergency expenditure is approved by 3/4
12 of the members of the board; (xv) State master contracts
13 authorized under Article 28A of this Code; and (xvi) contracts
14 providing for the transportation of pupils, which contracts
15 must be advertised in the same manner as competitive bids and
16 awarded by first considering the bidder or bidders most able to
17 provide safety and comfort for the pupils, stability of
18 service, and any other factors set forth in the request for
19 proposal regarding quality of service, and then price. However,
20 at no time shall a cause of action lie against a school board
21 for awarding a pupil transportation contract per the standards
22 set forth in this subsection (a) unless the cause of action is
23 based on fraudulent conduct.

24 All competitive bids for contracts involving an
25 expenditure in excess of \$25,000 or a lower amount as required
26 by board policy must be sealed by the bidder and must be opened

1 by a member or employee of the school board at a public bid
2 opening at which the contents of the bids must be announced.
3 Each bidder must receive at least 3 days' notice of the time
4 and place of the bid opening. For purposes of this Section due
5 advertisement includes, but is not limited to, at least one
6 public notice at least 10 days before the bid date in a
7 newspaper published in the district, or if no newspaper is
8 published in the district, in a newspaper of general
9 circulation in the area of the district. State master contracts
10 and certified education purchasing contracts, as defined in
11 Article 28A of this Code, are not subject to the requirements
12 of this paragraph.

13 Under this Section, the acceptance of bids sealed by a
14 bidder and the opening of these bids at a public bid opening
15 may be permitted by an electronic process for communicating,
16 accepting, and opening competitive bids. However, bids for
17 construction purposes are prohibited from being communicated,
18 accepted, or opened electronically. An electronic bidding
19 process must provide for, but is not limited to, the following
20 safeguards:

21 (1) On the date and time certain of a bid opening, the
22 primary person conducting the competitive, sealed,
23 electronic bid process shall log onto a specified database
24 using a unique username and password previously assigned to
25 the bidder to allow access to the bidder's specific bid
26 project number.

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

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

13 (b) To require, as a condition of any contract for goods
14 and services, that persons bidding for and awarded a contract
15 and all affiliates of the person collect and remit Illinois Use
16 Tax on all sales of tangible personal property into the State
17 of Illinois in accordance with the provisions of the Illinois
18 Use Tax Act regardless of whether the person or affiliate is a
19 "retailer maintaining a place of business within this State" as
20 defined in Section 2 of the Use Tax Act. For purposes of this
21 Section, the term "affiliate" means any entity that (1)
22 directly, indirectly, or constructively controls another
23 entity, (2) is directly, indirectly, or constructively
24 controlled by another entity, or (3) is subject to the control
25 of a common entity. For purposes of this subsection (b), an
26 entity controls another entity if it owns, directly or

1 individually, more than 10% of the voting securities of that
2 entity. As used in this subsection (b), the term "voting
3 security" means a security that (1) confers upon the holder the
4 right to vote for the election of members of the board of
5 directors or similar governing body of the business or (2) is
6 convertible into, or entitles the holder to receive upon its
7 exercise, a security that confers such a right to vote. A
8 general partnership interest is a voting security.

9 To require that bids and contracts include a certification
10 by the bidder or contractor that the bidder or contractor is
11 not barred from bidding for or entering into a contract under
12 this Section and that the bidder or contractor acknowledges
13 that the school board may declare the contract void if the
14 certification completed pursuant to this subsection (b) is
15 false.

16 (b-5) To require all contracts and agreements that pertain
17 to goods and services and that are intended to generate
18 additional revenue and other remunerations for the school
19 district in excess of \$1,000, including without limitation
20 vending machine contracts, sports and other attire, class
21 rings, and photographic services, to be approved by the school
22 board. The school board shall file as an attachment to its
23 annual budget a report, in a form as determined by the State
24 Board of Education, indicating for the prior year the name of
25 the vendor, the product or service provided, and the actual net
26 revenue and non-monetary remuneration from each of the

1 contracts or agreements. In addition, the report shall indicate
2 for what purpose the revenue was used and how and to whom the
3 non-monetary remuneration was distributed.

4 (c) If the State education purchasing entity creates a
5 master contract as defined in Article 28A of this Code, then
6 the State education purchasing entity shall notify school
7 districts of the existence of the master contract.

8 (d) In purchasing supplies, materials, equipment, or
9 services that are not subject to subsection (c) of this
10 Section, before a school district solicits bids or awards a
11 contract, the district may review and consider as a bid under
12 subsection (a) of this Section certified education purchasing
13 contracts that are already available through the State
14 education purchasing entity.

15 (Source: P.A. 96-392, eff. 1-1-10; 96-841, eff. 12-23-09;
16 96-1000, eff. 7-2-10; 97-951, eff. 8-13-12.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."