

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2161 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: S3/29/05 H4/7/05

A Bill

SENATE BILL 1164

4
5 By: Senator Altes
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For An Act To Be Entitled

8
9 AN ACT CONCERNING ETHICS IN THE PUBLIC SCHOOL
10 PROCUREMENT PROCESS; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT CONCERNING ETHICS IN THE PUBLIC
14 SCHOOL PROCUREMENT PROCESS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 *SECTION 1. Arkansas Code § 6-21-304(a), concerning the purchase of*
20 *commodities by a school district, is amended to read as follows:*

21 *6-21-304. Manner of making purchases.*

22 *(a)(1) All purchases of commodities by any school district, except*
23 *those specifically exempted by § 6-21-305, shall be made as follows:*

24 ~~(1)(A)~~ *In each instance in which the estimated purchase price*
25 *shall equal or exceed ten thousand dollars (\$10,000), the commodity shall be*
26 *procured by soliciting bids, provided that the purchasing official may reject*
27 *all bids and may purchase the commodity by negotiating a contract. If the*
28 *purchasing official, after rejecting all bids, determines that the purchase*
29 *should be made by negotiation, then each responsible bidder who submitted a*
30 *bid shall be notified of the determination and shall be given a reasonable*
31 *opportunity to negotiate;*

32 ~~(2)(B)~~ *Open market purchases may be made where the purchase*
33 *price is less than ten thousand dollars (\$10,000); and*

34 ~~(3)(C)~~ *No purchasing official shall parcel or split any item or*
35 *items with the intent or purpose to enable the purchase to be made under a*



1 less restrictive procedure.

2 (2)(A) In soliciting bids for the purchase of a commodity, a
3 school district or a person or organization acting on behalf of a school
4 district shall not impose qualifications or specifications that unreasonably
5 restrict competition for the purchase of a commodity.

6 (B)(i) As used in this subdivision, "specifications" means
7 a technical description or other description of the physical or functional
8 characteristics of a commodity.

9 (ii) Specifications shall not include the name or
10 identity of any specific vendor.

11 (3)(A) A school district shall notify in writing all actual or
12 prospective bidders, offerors, or contractors who make a written request to
13 the school district for notification of opportunities to bid.

14 (B) Notice under subdivision (a)(3)(A) of this section
15 shall be provided in sufficient time to allow actual or prospective bidders,
16 offerors, or contractors to submit a bid or otherwise appropriate response.

17 (4)(A) Any competitive bid submitted to a school district in
18 response to a solicitation for bids for the purchase of a commodity shall be
19 accompanied by a form substantially similar to the following and signed and
20 notarized by the agent of the bidder:

21
22 "NAME OF SCHOOL DISTRICT

23
24 NAME OF COUNTY

25
26 I, _____, hereby state:

27
28 (1) I am the duly authorized agent of _____,
29 the bidder submitting the competitive bid which is attached to this
30 statement, for the purpose of certifying the facts pertaining to the
31 existence of collusion among and between bidders and state officials, as well
32 as facts pertaining to the giving or offering of things of value to
33 government personnel in return for special consideration in the awarding of
34 any contract pursuant to the bid to which this statement is attached.

35 (2) I am fully aware of the facts and circumstances surrounding the
36 making of the bid to which this statement is attached and have been

1 personally and directly involved in the proceedings leading to the submission
2 of the bid.

3 (3) Neither the bidder nor anyone subject to the bidder's direction or
4 control has been a party:

5 (A) To any collusion among bidders in restraint of freedom of
6 competition by agreement to bid at a fixed price or to refrain from bidding;

7 (B) To any collusion with any state official or employee as to
8 quantity, quality or price in the prospective contract, or as to any other
9 terms of the prospective contract; or

10 (C) In any discussions between bidders and any state official
11 concerning exchange of money or other thing of value for special
12 consideration in the awarding of a contract.

13 (4) I hereby guarantee that the specifications outlined in the bid
14 shall be followed as specified and that deviations from the specifications
15 shall occur only as part of a formal change process approved by the Board of
16 Directors of the school district.

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18
19
20 Signature

21
22 Subscribed and sworn to before me this _____ day of _____, 20__.
23
24

25 Notary Public"

26 (B) Any person determined to have made a false statement
27 on the form prescribed by subdivision (a)(4)(A) of this section or any bidder
28 who acts contrary to the provisions of the form after its agent has executed
29 the form shall be guilty of a Class C misdemeanor.

30 (5)(A) Any actual or prospective bidder, offeror, or contractor
31 who is aggrieved in connection with the solicitation or award of a school
32 district contract may protest to the superintendent of the school district in
33 accordance with procedures established by the board of directors of the
34 school district.

35 (B) Protest procedures shall include, at a minimum,
36 provisions addressing the following:

1 (i) The superintendent's authority to settle and
2 resolve a protest of an aggrieved person concerning the solicitation or award
3 of a contract;

4 (ii) Submission of a protest in writing within seven
5 (7) calendar days after the aggrieved person knows or should have known of
6 the facts giving rise to the protest;

7 (iii) The provision of reasonable notice to all
8 persons involved and reasonable opportunity for those persons to respond to
9 the protest issues;

10 (iv) The issuance of a prompt decision in writing
11 that states the reasons for the action taken and is provided to all
12 interested parties;

13 (v) The impact of a protest on continuing with the
14 solicitation or award of the school district contact pending the resolution
15 of the protest; and

16 (vi) The award of costs with regard to successful
17 protests.

18 (C) A decision on a protest under this section shall be
19 final and conclusive.

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21 /s/ Altes
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24 APPROVED: 4/13/2005
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