

# Bidding Processes & Procedures: Best Practices in a Changing Environment

**May 4, 2022**



 #iasboAC22

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# Introductions

Thomas Parrillo, Moderator  
- *Assistant Superintendent of Finance and Operations,  
Ridgewood High School District 234*

Howard Metz, Speaker  
- *Attorney, Robbins Schwartz*

Joel Finfer, Speaker  
- *Board Member, Hawthorn School District 73*  
- *Vice Chairman, Ed-RED*  
- *Consultant, School District Procurement Practices*



Robbins Schwartz

# The Duty to Publicly Bid

- Section 10-20.21 of *The School Code*, 105 ILCS 5/10-20.21, provides school districts with the authority:
  - To award **all** contracts for purchase of supplies, materials or work or contracts with private carriers for transportation of pupils involving expenditures in excess of \$25,000 or a lower amount as required by board policy to the lowest responsible bidder considering conformity with specifications, terms of delivery, quality, and serviceability,...except the following:
    - Contracts for the services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important role;
    - Contracts for the printing of finance committee reports and departmental reports;
    - Contracts for the printing or engraving of bonds, tax warrants and other evidences of indebtedness;
    - Contracts for the purchase of perishable foods and beverages;

# The Duty to Publicly Bid

- Contracts for materials and work which have been awarded to the lowest responsible bidder after due advertisement, but due to unforeseen revisions, not the fault of the contractor for materials and work, must be revised causing expenditures not in excess of 10% of the contract price;
- Contracts for the maintenance or servicing of, or provision of repair parts for, equipment which are made with manufacturer or authorized service agent of that equipment where the provision of parts, maintenance or servicing can best be performed by the manufacturer or authorized service agent;
- Purchases and contracts for the use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and interconnect equipment, software, and services;
- Contracts for the purchase of fuel, including diesel, gasoline, oil, aviation, natural gas, or propane, lubricants, or other petroleum products
- Contracts for duplicating machines and supplies;
- Contracts for the purchase of natural gas when the cost is less than that offered by a public utility;
- Purchases of equipment previously owned by some entity other than the district itself;

# The Duty to Publicly Bid

- Contracts for repair, maintenance, remodeling, renovation or construction, or a single project involving an expenditure not to exceed \$50,000 and not involving a change or increase in the size, type or extent of an existing facility;
- Contracts for goods or services procured from another governmental agency;
- Contracts for goods or services which are economically procurable from only one source such as the purchase of magazines, books, periodicals, pamphlets and reports, and for utility services such as water, light, heat, telephone or telegraph;
- Where funds are expended in an emergency and such emergency expenditure is approved by  $\frac{3}{4}$  of the members of the board;
- State master contracts authorized under Article 28A of the School Code;

# The Duty to Publicly Bid

- Contracts providing for the transportation of pupils, which contracts must be advertised in the same manner as competitive bids and awarded by first considering the bidder or bidders most able to provide safety and comfort for the pupils, stability of service, and any other factors set forth in the request for proposal regarding quality of service, and then price. However, at no time shall a cause of action lie against a school board for awarding a pupil transportation contract per the standards set forth in this subsection (a) unless the cause of action is based on fraudulent conduct.

# To Bid Or Not To Bid

- The following are a list of various types of contracts. For each example, the question is “to bid or not to bid?”  
In other words, are these contracts required to be publicly bid pursuant to Section 10-20.21 of the School Code?

# To Bid Or Not To Bid

1. A contract for the purchase of paper goods and supplies totaling \$24,000?
2. A service contract totaling \$50,000 for the following individuals:
  - a. A CPA retained to audit the district's financial records?
  - b. A local artist retained to paint a mural in the district cafeteria?
  - c. A local painter hired to paint all the district's lockers?

# To Bid Or Not To Bid

3. A \$60,000 annual contract for milk?
4. During a large construction project, a change order totaling \$75,000?
5. A \$150,000 annual maintenance contract for the district's HVAC system?

# To Bid Or Not To Bid

6. A \$500,000 contract for the purchase and installation of “smart” boards in all district classrooms?
7. A \$300,000 contract for the installation of a district-wide security system?
8. A \$300,000 contract for the purchase of copying machines for the district office and resource centers?

# To Bid Or Not To Bid

9. A three-year contract for the purchase of electricity totaling over \$100,000 per year?
10. A contract for \$500,000 to purchase a used mobile classroom?
11. A \$48,000 contract for the renovation of the stage in the district auditorium?

# To Bid Or Not To Bid

12. A \$75,000 contract for repair work to the roof which was severely damaged during a recent storm?
13. A contract for both regular and special education transportation services?

# Local Government Professional Services Selection Act - 50 ILCS 510/0.01

- RFP/RFQ process required for the selection of Architects, Engineers & Land Surveyors
- RFP can be solicited by either publication or sending notice to firms who have a current statement of qualifications with the public body
- RFP not required if the public body has a previous satisfactory relationship with the firm
- RFP not required for contracts less than \$40,000 or in emergency situations.

# The Bidding Process

- Bid Specifications
  - Certainty Required
  - Sole Sourcing
  - Bid Addendum & Questions
  - Pre-Bid Meeting

# The Bidding Process

- **Bid Submittals**
  - Sealed Bids
  - Electronic Bids
  - Timeliness of Bids
  - Modification, Withdrawal or Re-submittal of Bids Before Bid Opening
- **Public Opening and Reading of the Bids**
  - Withdrawal or Modification after the Bids Are Received

# The Bidding Process

## Awarding the Bid – Criteria

- Lowest
  - Alternate Bids
- Responsive
  - Material Defects – Nonwaivable
  - Minor Variances – Waivable
- Responsible
  - Pre-qualification of Bidders
- Post-Bid Pre-Award Negotiations

# The Bidding Process

- **Rejecting the Bid**
  - Discretion “to reject any and all bids.”
  - Documenting the Basis for Awarding/Rejecting Bid

# The Bidding Process

- **Bid Mistakes - Circumstances Warranting Judicial Relief from a Bid Mistake**
  - Material Feature of the Contract
  - Neglect in the Preparation of the Bid
  - Maintaining the *Status Quo*
  - The Owner's Knowledge of the Mistake
  - Unconscionability

# Let's get this out of the way...

## **This represents only 15% of my budget.**

- It is the part of your budget where you exercise the most control.
  - The cost of payroll and benefit increase annually.
  - You can't stop it. You can only hope to contain it.
- People spend dollars not percentages.
- What does 15% of your budget equate to in dollars?
- Residents of your district expect you to pay attention to that much money.

# Key Terms

## Acquisition Cost

Acquisition cost refers to the total of all the expenses associated with placing an asset into service. In other words the total acquisition cost of a toner cartridge includes the process of purchasing, storing, replacing an empty cartridge, and disposing of the old cartridge.

## Procurement

Procurement involves the process of selecting suppliers, establishing payment terms, strategic vetting, the negotiation of contracts and actual purchasing of goods.

Procurement is concerned with acquiring (procuring) all of the goods, services, and work that is vital to an organization. Procurement is, essentially, the overarching or umbrella term within which purchasing can be found.

# “The fundamental purpose of school is learning.”

- Richard DuFour

- *Schools should focus on their core competencies.*
  - Product permitting identify the appropriate supplier partner(s).
  - The right supplier partner will already have the appropriate infrastructure in place.
  - Ask the supplier “how will you verify we have a competitive unit price?”
  - The right supplier helps your District focus on its core purpose.

# Recommendations

- Include supplier performance metrics in your bid specifications (Howard said this was OK).
- Create a supplier “report card” that includes uniform expectations and metrics for any and all district suppliers (see Appendix).
- Develop a presentation that explains the expectations of a supplier. What do you want your suppliers to know?
- Institute a process for supplier selection and termination.
- Procurement is more than just buying a product. Related services are a critical piece. What can the supplier do to make you life easier?
- The goal is to create a centralized system that allows supplier and/or product selection at the end user level.

# Conclusion

- School purchasing historically is designed to look for the lowest unit price rather than the lowest total cost of acquisition. Interviews have revealed that:
- Metrics for identifying a quality supplier are non-existent.
- Terminating a relationship with an existing supplier is based on a loose definition of bad service.
- There is a need for a supplier measurement index that would facilitate the termination of an underperforming supplier or a non-qualified bidder.
- The procurement practices of elementary and secondary schools, with their primary focus on lowest unit cost, have taught their suppliers that quality and service does not matter.

# Best Value Bidder

**HB4393** Amends the Township Code, Illinois Municipal Code, Downstate Forest Preserve District Act, Park District Code, Illinois Local Library Act, Public Library District Act of 1991, School Code, and Illinois Highway Code. Provides that specified contracts may be let to the lowest responsible bidder or the best value bidder (rather than to the lowest responsible bidder). Provides that "best value" means the result determined by a procurement method that considers price and other criteria reflecting an objective and quantifiable analysis. Includes examples of such analysis.

- Passed the House unanimously.
- Language tweaks in the Senate should result in passage during the veto session.

Supplier Report Card		Supplier Name			ABC Co	PERIOD	2018			
		LY Gross Purchases		\$0.00	Category Type					
Supplier Profile		Actual	Desired	Weight	Specify Product Category					
Current Performance Rating	B	A	4	3.0	Supplier Support					
Current Supplier Type	Strategic	Strategic	4	4.0	Actual	Desired	Weight	Earned		
Projected Purchases-XXXX	0	0	7	4.0	Customer Service	Very Good	Excellent	2	2.0	
Financial Strength			6	3.0	Sales Support & Training	Excellent	Excellent	4		
(Years in business, profitable, D&B)					Communication	Good	Excellent	3	2.0	
Minority Owned			2	0.0	Return Flexibility	Excellent	Excellent	3	3.0	
District Business/Resident					Product & Market Expertise	Very Good	Excellent	3	3.0	
Projected Growth \$ and %	\$0	#DIV/0!			Price & Product Accuracy	Excellent	Excellent	3	3.0	
Total Points			23	14.0	Product Innovation	Excellent	Excellent	3	3.0	
Program Terms		Actual	Desired	Weight	Earned	Total Points				
Pay Terms	1%-15/30	2%/15-30	4	3.0	Product Performance					
Freight Policy	Delivered	Delivered	4	4.0	Actual	Desired	Weight	Earned		
Growth Rebate	0.0%	2.0%	2	0.0	On-Time	94.50%	98.00%	5	4.0	
Marketing Funds	2.0%	2.0%	3	3.0	Line Item Complete	90.25%	98.00%	5	3.0	
Flat Rebate-Mfg Direct-	0.00%	3.0%	4	4.0	Orders Complete	97.95%	98.00%	5	5.0	
Periodic Funding (Dispensers)	Yes	Yes	4	4.0	Turns	9.2	8	5	5.0	
Sample-Promo Investment	Yes	Yes	3	3.0	Quality	Damage	No Issues	5	2.5	
Contract Price Support	Yes	Yes	1	1.0	Total Points					
Total Points			25	22.0	25					
Performance Matrix		Max Points	Earned	Performance Rating		Rating			Grade	Value
Supplier Profile	23	14.0	60.9%		0 to 65%	F		Providing no value or alignment		
Program Terms	25	22.0	88.0%		66% to 72%	D		Providing minimal value or alignment		
Supplier Support	21	16.0	76.2%		73% to 79%	C		Providing average value & alignment		
Product Performance	25	19.5	78.0%		80% to 89%	B		Providing good value & alignment		
Total Performance Rating	94	71.5	76.1%		90% to 100%	A		Providing excellent value & alignment		
				Overall Performance Rating		76.1%	Grade	B		
Purchases Portfolio		Gross Purchases	LY Gross Purchases	Forecasted Purchases	Purchases (rebate based)					
ABC Co		0	0	0	0					
Qualified Purchase Calculator		AMOUNT	Description of Unqualified		GIP					
Unqualified Purchases					LY \$		0.00			
Unqualified Purchases					CY \$		0.00			
Total Purchases		\$0					0.00			
Qualified Purchases (Rebate Based)		\$0	Growth Rebate Qualified \$				\$0.00			
Usage of this Report Card matrix is confidential. Users should only change areas shaded in Grey for purposes of updating. All results are automatically updated. Weight and description of each component is up to the individual department. This tool is used for feedback and negotiating better programs and potential disciplines.										

## Sample Supplier Report Card



# Questions and Answers

*We thank you for your time!*

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