

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.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

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

# A Bill

SENATE BILL 1164

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

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

### Subtitle

12 AN ACT CONCERNING ETHICS IN THE PUBLIC  
13 SCHOOL PROCUREMENT PROCESS.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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*  
36 *less restrictive procedure.*



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

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

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

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

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

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

20  
21 "NAME OF SCHOOL DISTRICT

22  
23 NAME OF COUNTY

24  
25 I, \_\_\_\_\_, hereby state:

26  
27 (1) I am the duly authorized agent of \_\_\_\_\_,  
28 the bidder submitting the competitive bid which is attached to this  
29 statement, for the purpose of certifying the facts pertaining to the  
30 existence of collusion among and between bidders and state officials, as well  
31 as facts pertaining to the giving or offering of things of value to  
32 government personnel in return for special consideration in the awarding of  
33 any contract pursuant to the bid to which this statement is attached.

34 (2) I am fully aware of the facts and circumstances surrounding the  
35 making of the bid to which this statement is attached and have been  
36 personally and directly involved in the proceedings leading to the submission

1 of the bid.

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

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

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

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

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

16  
17 \_\_\_\_\_  
18  
19 Signature

20  
21 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
22 \_\_\_\_\_  
23

24 Notary Public"

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

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

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

36 (i) The superintendent's authority to settle and

1 resolve a protest of an aggrieved person concerning the solicitation or award  
2 of a contract;

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

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

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

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

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

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

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20 /s/ Altes  
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