

SUBTITLE B

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND
PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER XIII: STATE BOARD OF EDUCATION

PART 1110

EDUCATION PURCHASING PROGRAM

Section

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AUTHORITY: Implementing Article 28A of the School Code [105 ILCS 5/Art. 28A] and authorized by Section 28A-20 of the School Code [105 ILCS 5/28A-20].

SOURCE: Adopted at 30 Ill. Reg. 8563, effective April 21, 2006; recodified Title of the Part at 39 Ill. Reg. 5903.

SUBTITLE B**Section 1110.10 Purpose and Scope**

The purpose of this Part is to create an education purchasing program and establish the process by which the State Board of Education (ISBE) will certify education purchasing contracts and identify and define key categories for such contracts in accordance with Section 28A-10 of the School Code [105 ILCS 5/28A-10].

SUBTITLE B**Section 1110.20 Definitions**

“Contracting entity” means a local government entity established pursuant to the laws of Illinois or another state, an agency of the State of Illinois or another state, a federal government entity, a not-for-profit entity established pursuant to the laws of Illinois or another state, a for-profit entity established pursuant to the laws of Illinois or another state, or a cooperative entity consisting of any two or more of the foregoing entities.

“Due advertisement” means public notice published at least 10 days before the bid date in a newspaper of general circulation in the locality of the contracting entity, or public notice otherwise determined by the State Superintendent of Education to provide notification of the bidding opportunity to a wide variety of potential vendors (e.g., on websites maintained by contracting entities or in trade magazines or other publications designed for targeted audiences).

“Educational entity” means a school district, cooperative entity made up of multiple school districts, regional office of education, or charter school.

“Education purchasing contract” means a contract that is procured and negotiated by a contracting entity or a statewide education master contract negotiated by the State Board of Education, certified pursuant to this Part, and made available by ISBE to educational entities.

“Services” means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

“Statewide education master contract” shall mean a contract that is procured and negotiated by ISBE and made available to educational entities.

“Supplies” means all personal property, including but not limited to equipment, materials, and printing, but excluding insurance, and the financing of those supplies.

SUBTITLE B**Section 1110.30 State Education Purchasing Entity**

ISBE shall act as the State education purchasing entity pursuant to Section 28A-10 of the School Code [105 ILCS 5/28A-10].

SUBTITLE B**Section 1110.35 Procurement of Statewide Education Master Contracts**

When ISBE procures a statewide education master contract, the procurement shall rely upon the Board's authority under its rules for Procurement by the State Board of Education (44 Ill. Adm. Code 1105) and shall be accomplished in accordance with the requirements of that Part.

SUBTITLE B**Section 1110.40 Certification of Education Purchasing Contracts**

The State Superintendent of Education shall review each potential education purchasing contract as described in this Section for the purpose of determining whether it was procured in a manner that is comparable in all material respects to the requirements of the Illinois Procurement Code [30 ILCS 500] and Section 10-20.21 of the School Code [105 ILCS 5/10-20.21], i.e., in a manner that makes the contract suitable for use by educational entities.

- a) Subject to the provisions of Section 1110.80 of this Part, an education purchasing contract for supplies may be certified if the State Superintendent determines that the contract was awarded by the contract entity:
 - 1) to the lowest responsible bidder;
 - 2) considering conformity with specifications, terms of delivery, quality and serviceability; and
 - 3) after due advertisement.
- b) Subject to the provisions of Section 1110.80 of this Part, an education purchasing contract for services may be certified either on the basis set forth in subsection (a) of this Section or if the State Superintendent determines that the contract was awarded by the contracting entity through a process consisting of all of the following elements:
 - 1) solicitation of proposals through a request for proposals setting forth evaluation factors and stating the relative importance of price and other evaluation factors;
 - 2) due advertisement of the solicitation;
 - 3) separate evaluation and ranking of the price and non-price items of the proposals; and
 - 4) award to the responsible offeror whose proposal is determined to be most advantageous to the contracting entity, taking into consideration price and the other evaluation factors set forth in the request for proposals.
- c) No contract shall be certified as an education purchasing contract or a statewide education master contract unless:

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- 1) the scope of the contract permits participation by governmental entities (including educational entities) beyond the original contracting entity;
- 2) the vendor consents; and
- 3) the terms of the contract can be extended to other governmental entities without substantially modifying the range of supplies or services offered through the contract.

SUBTITLE B**Section 1110.50 Participation by Educational Entities**

- a) An educational entity that elects to participate in one or more contracts pursuant to this Part shall be required to register with ISBE or a designee and agree to abide by all the terms of any contract joined. Before soliciting bids or awarding contracts for supplies, materials, equipment, or services, an educational entity may review education purchasing contracts and consider them as bids. The educational entity may, without soliciting additional bids, purchase supplies, materials, equipment, or services through a certified education purchasing contract or statewide education master contract by following the specific procedure established within each contract.
- b) Participation in contracts under this Part shall be at the sole option of educational entities, and educational entities shall be solely responsible for any obligations incurred as a result of their participation.

SUBTITLE B**Section 1110.60 Provision of Information and Definition of Key Categories**

ISBE shall provide contracting information and pricing for certified education purchasing contracts and statewide education master contracts on the agency's website and through additional means specifically designed to reach administrators of educational entities. On the agency's website, ISBE shall:

- a) identify and define the categories of certified education purchasing contracts and statewide education master contracts, which shall be based upon input received from school district business officials and regional offices of education and may include, but need not be limited to, office supplies, classroom furniture, maintenance services, and accounting services;
- b) describe the process for educational entities' participation in education purchasing contracts or statewide education master contracts; and
- c) indicate for each contract how the vendor may be contacted and provide other information relevant to participation in that contract, if any.

SUBTITLE B**Section 1110.70 Process for Submitting Contracts for Certification**

At least once each fiscal year, the State Superintendent shall identify the categories under consideration at that time and establish a timeframe during which applications for the certification of education purchasing contracts will be accepted. Any party to an education purchasing contract may submit the contract for review and consideration through this application process. In addition to a copy of the contract, the party making the submission shall provide:

- a) Evidence of consent by the other party to the contract for certification of the contract by ISBE;
- b) Sufficient information to demonstrate that the contract was awarded through a process meeting the criteria set forth in Section 1110.40(a) of this Part, which shall include, but need not be limited to:
 - 1) the request for proposals or invitation for bids that was used to procure the contract;
 - 2) evidence of due advertisement of the request for proposals or invitation for bids; and
 - 3) a certification from the procuring entity or other evidence that the contract was awarded to the lowest responsible bidder, considering conformity with specifications, terms of delivery, quality, and serviceability;
- c) A certification that the contract was procured in conformance with the requirements that apply in the locality of the contracting entity, including a specific statutory or regulatory citation to those requirements;
- d) An indication of the Illinois educational entities the vendor is able and willing to serve;
- e) A description of the range of supplies or services available through the contract;
- f) Information on the level of customer service that will be offered to educational entities participating in the contract;
- g) Evidence that the vendor has adequate financial, organizational, and technical resources to administer the contract;

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- h) A description of the process by which educational entities may participate in the contract; and
- i) Certifications, assurances, and/or additional information that the State Superintendent may require in order to verify any information reported by the applicant or to otherwise fulfill ISBE's duties with respect to administration of the education purchasing program.

SUBTITLE B**Section 1110.80 Selecting Contracts for Certification**

- a) The State Superintendent shall review each application received and determine whether each contract meets the criteria set forth in Section 1110.40 of this Part. Of those meeting the criteria, the State Superintendent may select one or more contracts for certification based upon the following factors:
- 1) The number of educational entities eligible to participate in the contracts that are eligible for certification;
 - 2) The qualifications of the vendors involved in the eligible contracts;
 - 3) The level of serviceability of the eligible contracts;
 - 4) The quality of the supplies or services offered through the eligible contracts and the extent to which the supplies or services are appropriate for use by educational entities;
 - 5) The comparative extent to which the costs of supplies or services are discounted, based on a standard index or other objectively verifiable criterion;
 - 6) The contracting entity's use of businesses owned by minorities, females, and persons with disabilities to provide supplies or services under the contract;
 - 7) The simplicity of the process for educational entities' participation in the contract; and
 - 8) The extent to which resources of ISBE would be needed for overseeing the administration of the contract through the education purchasing program.
- b) When choosing among two or more substantially similar contracts for certification, the State Superintendent shall give preference to contracts awarded to Illinois-based companies or, if no eligible contract involves an Illinois-based company, to the contract with the company employing the largest number of Illinois residents.
- c) The State Superintendent shall base the determination regarding the number of eligible contracts that will be certified in each category at any given time on adequate coverage of the various geographic areas of the State and the provision

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of an adequate range of supplies and services to meet the needs of Illinois educational entities.

SUBTITLE B**Section 1110.90 Certification of Other Governmental Entities' Cooperative Purchasing Programs**

The State Superintendent may at any time certify contracts offered through other cooperative purchasing programs developed by agencies of the State of Illinois, Illinois public universities, regional offices of education, or other governmental entities upon determining that the contracts offered through one or more of these cooperative purchasing programs meet the criteria for certification set forth in Section 1110.40 of this Part.

SUBTITLE B**Section 1110.100 Evaluation of Education Purchasing Contracts**

At least once every five years, the State Superintendent shall evaluate each education purchasing contract to determine whether the vendor's performance is consistent with the information and standards provided to ISBE at the time of certification. Based upon this determination, the State Superintendent shall either re-certify the education purchasing contract for a period of time not to exceed five years or withdraw the contract's certification and no longer allow participation in that contract through the education purchasing program.

SUBTITLE B**Section 1110.110 Withdrawal of Certification**

- a) In addition to the basis for withdrawing certification set forth in Section 1110.100 of this Part, the State Superintendent shall withdraw the certification of an education purchasing contract at any time if:
- 1) the vendor has failed to perform in accordance with the terms and provisions of the contract while providing supplies or services to Illinois educational entities;
 - 2) the contract has been terminated or has expired by its terms; or
 - 3) the State Superintendent determines, from the point of view of the contract's benefit to educational entities, that:
 - A) an amendment to the contract has substantially and negatively modified the contract's terms or the range of supplies or services offered through the contract; or
 - B) an amendment to the contract has substantially and negatively affected the terms of delivery, quality, or serviceability of the supplies or services offered through the contract.
- b) The State Superintendent shall use the web-based resources of ISBE and other means designed to reach educational entities to notify them when certification of a contract under this Part is withdrawn.
- 1) An educational entity that has commenced a transaction under an education purchasing contract may complete that transaction notwithstanding any action by the State Superintendent to remove the contract's certification.
 - 2) No new transactions may be commenced under a contract whose certification has been withdrawn.