

**PUBLIC ACT 095-0241**  
**Third Party Contracting for**  
**Non-Instructional Services Summary**

Public Act 095–0241, signed into law on August 17, 2007, outlines additional requirements for school districts that choose to contract with a third party for non-instructional services. If your school district employs staff to perform various services such as, but not limited to, school meal service-related tasks, custodial services, and/or pupil transportation services, and the school district wishes to consider contracting those services out to a third party contractor, the school district is required to implement the following procedures as part of the contract solicitation and award process.

**A school district must adhere to the following requirements:**

- Prior to entering into a third-party contract, provide 90 days notice to all affected employees currently performing non-instructional services to be covered by a third party contract. All affected employees include, but are not limited to, employees that will be laid-off.
- A third party contract for non-instructional services cannot be entered into or become effective during the term of a collective bargaining agreement covering any employees who perform the non-instructional services.
- The contract may only take effect upon the expiration of an existing collective bargaining agreement.

**The Invitation for Bid and Contract must contain the following provisions:**

- The contractor shall offer available employee positions pursuant to the contract to qualified school district employees whose employment is terminated because of the contract.
- The contractor shall comply with a policy of nondiscrimination and equal employment opportunity for all persons and take affirmative steps to provide equal opportunity for all persons.
- The contractor must include the following documentation with the bid submission:
  - Evidence of liability insurance in scope and amount equivalent to the liability insurance provided by the school board;\*
  - Description of the benefits package for the third party's employees who will perform the non-instructional services comparable to the benefits package provided to school board employees who perform those services;\*
  - List of the number of employees who will provide the non-instructional services, the job classifications of those employees, and the wages the third party will pay those employees;
  - Minimum three-year cost projection, using Generally Accepted Accounting Principles and which the third party is prohibited from increasing if the bid is accepted by the school board, for each and every expenditure category and account for performing the non-instructional services;
  - Affidavit, notarized by the president or chief executive officer of the third party, that each of its employees has completed a criminal background check as required by Section 10-21.9 of The School Code of Illinois within three months prior to submission of the bid. The results of the background checks need not be provided with the submission of the bid, but must be made available upon request of the school board; and

- Composite information about the criminal and disciplinary records of employees who may perform the non-instructional services; individual names and other identifying information need not be provided with the submission of the bid, but must be made available upon request of the school board. Such records must include, but are not limited to:
  - Alcohol or other substance abuse;
  - Department of Children and Family Services complaints and investigations; and
  - Traffic violations, license revocations, and any other licensure problems.

*\*In order for potential contractors to meet the first two document submission requirements, the school district must include the following in the Invitation for Bid and Contract specifications:*

- ◆ Detailed description of the liability insurance provided by the school board, and
- ◆ Detailed description of the benefits package provided to the school board employees who perform those services.

**Prior to awarding a contract to the third party, the school board/district must:**

- Conduct a minimum of one public hearing prior to a regularly scheduled school board meeting to discuss the school board's proposal to contract with a third party to perform the non-instructional services. The school board must provide public notice of the date, time, and location of the first public hearing within whichever timeframe listed below provides the greater period of notice.
  - On or before the initial date that bids are solicited, or
  - A minimum of 30 days prior to entering into a contract with a third party for non-instructional services.
- Using Generally Accepted Accounting Principles, provide a cost comparison of each and every expenditure category and account that the school board projects it will incur over the term of the contract if it continues to perform the non-instructional services using its own employees with each and every expenditure category and account that is projected a third party would incur if a third party performed the non-instructional services.
- During open session of a regularly scheduled school board meeting, conduct a review of all third party bids to perform the non-instructional services. This review may take place in open session at a "specially" scheduled school board meeting, only if the exclusive bargaining representative of employees who perform the non-instructional services, if such representative exists, agrees in writing that such review can take place in open session at a specially scheduled school board meeting.

**Additional provisions:**

- A board of education may enter into a contract, of no longer than three (3) months in duration, with a third party for non-instructional services currently performed by an employee or bargaining unit member for the purpose of augmenting the current workforce in an emergency situation that threatens the safety or health of the school district's students or staff, provided the school board meets all of its obligations under the Illinois Educational Labor Relations Act.
- The changes to Section 10-22.34c of the Illinois School Code made by Public Act 095-0241 are not applicable to non-instructional services of a school district that on August 17, 2007, are performed for the school district by a third party.