

House Bill 4813 – A New Way to Bid for Food Services

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Problem Identified

Over the past decade or more, school districts have struggled to receive an adequate number of competitive, qualified and responsible bids for food service vendor contracts and/or food service management contracts while following the State of Illinois bidding guidelines as promulgated by the ISBE Nutrition Services Department. This issue only applies to school districts who contract with an outside vendor, not those running in-house programs.

While the process was somewhat cumbersome and involved, with a sample bid packet typically exceeding 100 pages, the biggest issue was a lack of flexibility in using various criteria to score and grade the proposals.

Illinois was one of only two States (New York is now the lone remaining state) who instituted more strict and rigid guidelines than was required by the US Department of Agriculture for bidding such contracts. We were required to use the strict low bid, unless you could disqualify a prospective bidder for some other reason and label their proposal as “not responsible” (a pretty high threshold and pretty hard to do without damning facts/evidence).

Resulting Conditions

Due to the strict low bid requirements, school districts could ask about, but not really consider, other factors as the low bid trumped everything. Therefore, bidders were looking to provide the lowest cost possible while short changing quality, variety, menu options, packaging, sanitation, safety, marketing and other components of a successful food service program. As Representative Jehan Gordon-Booth (the sponsor of this legislation and a great advocate for us and proponent for change) stated, there was a “race to the bottom” to provide the cheapest meals possible, as that was the determining factor when awarding contracts.

This environment discouraged many vendors from participating as they knew that they would not be the low price vendor, so why bother engaging in the bid process...so school districts often times only received one (or two to three, if they were lucky) proposals despite the fact that there were many qualified companies in their region that could service their school district.

The result for those completing bids and awarding contracts was to have very little choice or say so in selecting the “best” vendor for their school district. As a result the students often times suffered from poor quality food service programs run by low cost providers who cut corners or supplied only the minimally required nutrition in their meals.

Solution Proposed

A group of school district business managers proposed to try and change the law to require Illinois School Districts to simply meet the USDA Guidelines and allow for consideration of other factors and criteria when awarding contracts (like 48 other States do), as long as price is a primary consideration.

Price/low cost still must be a major component in the scoring matrix (ie, it has to be the biggest factor under consideration), but it does not have to equal 51% or more of the total scoring criteria, so a combination of other factors could add up to trump or override strict low price, if appropriate.

Things like safety, training, menu flexibility, food variety, student taste testing, local food-to-table programs and other criteria could be used and would have an actual impact on the bid evaluation.

The business managers worked with school district legal counsel to develop a simple, short, but hopefully effective, amendment to existing law that would solve the problem and allow this to happen.

They then worked to develop a network of various entities (not just other school districts) who would push for and support this change, and they also sought out legislative sponsors (like Rep. Gordon-Booth) to champion the cause and shepherd the bill through the General Assembly...but it was a slow and sometimes very frustrating process.

Historical Timeline

- Spring 2018 – Problem identified by CSBO's (presented to IASBO DAA for consideration)
- Summer/Fall 2018 – Solution proposed and amendment wording developed through legal counsel
- Spring 2018 to Spring 2019 – Worked to develop support network and constituency groups to push for change and also worked with unions and others to get their support...hoped to get a bill introduced in 2019, but it did not go anywhere due to timing, union involvement and others factors
- Fall 2019 – Secured Representative Gordon Booth as a chief sponsor of the bill
- Spring 2020 – Bill introduced with high prospects, but due to COVID shutdown was not called
- Spring 2021 – Bill reintroduced with high prospects, but due to COVID and other factors was not called
- Spring 2022 – Legislation introduced for a third time and this time gained traction, eventually passing on the last day of the Spring Session, with a slight modification/amendment included
- Summer 2022 – Governor will hopefully sign the bill into law and implementation and rule making will begin
- Fall 2022 to Spring 2023 – IASBO would work with ISBE to implement for 2023-2024 bidding/contracts

Factors to Consider and Discuss

- Development of alliances
- Involvement of unions
- Courting of legislators
- Creating positive publicity and traction
- Fine tuning the legislation at the 11th hour to get union approval (good faith effort language)
- Overcoming opposition and obstacles
- Keeping an eye on the big picture and the long game
- Involving ISBE going forward to properly implement and develop a new/revised bid document
- Developing a new/revised decision matrix and scoring criteria tool

- Now what...where do we go from here...how do we get this change implemented properly?

Sample Decision Matrix Data

- These are some of the things that might be considered (just an example...not law or all inclusive)
- Percentages can change and things can be added or deleted, as appropriate
- Potential Factors for Consideration => Low cost, menu variety, meal flexibility, safety, training, food quality, food taste, marketing, packaging, student taste testing, student involvement in future menu options, promotion of health and well being per USDA standards, State or Local suppliers and/or Food to Table participation, hormone free/pest free foods, animal welfare support, women owned/minority owned/veteran owned/disability owned companies, references, work history with other IL school districts...others? (total % must add up to 100%, with low cost being the largest of the scoring components, but not necessarily more than 50%)
- Will work with ISBE to develop samples and examples to help school districts implement

Stories and Examples

- Woodridge Bidding/Implementation Nightmare
- Price does not need to be the only thing to win a bid.
- Items to consider in your RFP
 - Scratch cooking
 - Use of local sourced food
 - Taste testing with students, staff and parents
 - Visit another district and taste food there. Use in scoring the bid
 - What are they doing to assist in education of students?
 - Food service programs
 - Health programming

Wrap Up

- Questions, but no answers yet...
- What impact will the new law have going forward on the quality of food being offered?
- What will rules promulgation look like and will we really have more flexibility in selecting contractors?
- Will the new law create more competition and lead to more prospective vendors participating/bidding?
- How will we measure some of these other criteria (especially some of the more qualitative factors)?
- Will we get a better product/solution for our students when all is said and done?

Questions and Answers

We thank you for your time!

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