

CHAPTER 84

AN ACT concerning pupil transportation contracts and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:39-11.2 Bidding requirements for certain pupil transportation contracts.

1. a. Except as provided in subsection g. of this section, the provision of transportation services to a local school district by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity, other than a local school district using school buses it owns or leases, shall be subject to the bidding requirements and requirements concerning the renewal of transportation contracts set forth in chapter 39 of Title 18A of the New Jersey Statutes, including the requirements concerning the advertisement for bids, the submission of quotations and the renewal of contracts.

b. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall adhere to every substantial bid specification for a pupil transportation contract, including bonding requirements.

c. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district that is intending to bid for transportation services shall be precluded from preparing specifications. Specifications shall be prepared by the local school district seeking transportation services or by any other cooperative transportation services agency, as designated by the Commissioner of Education, that is not bidding.

d. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall not charge any fee above the bid price.

e. A local school district may negotiate and award a contract for transportation services with a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district if the provisions of subsection c. of N.J.S.18A:18A-5 have been met.

f. The following forms, prescribed by the Commissioner of Education, shall be included in any bid submitted by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district to provide transportation services:

(1) if applicable, a membership form for the cooperative transportation services agency, educational services commission, county special services school district or jointure commission indicating each member school district and the name of each member school district's superintendent;

(2) a form indicating the transportation experience of the bidder;

(3) a non-collusion form indicating that the bidder has not drafted specifications or route descriptions for the local board of education that is seeking transportation services;

(4) an affirmative action statement; and

(5) a bidder's guarantee in an amount required pursuant to statute and regulation.

g. The provisions of this section shall not apply to:

(1) an educational services commission or a jointure commission for the provision of transportation services to pupils who reside in school districts which, as of January 1, 2004, are members of the educational services commission or jointure commission, if, as of that date, the commission owns or leases school buses and is providing pupil transportation;

(2) an educational services commission or jointure commission for the provision of transportation services to pupils who reside in school districts which are located in a county of the first class and which are not members of the educational services commission or jointure commission and which, as of January 1, 1999, have been receiving pupil transportation from that commission with buses the commission owns or leases;

(3) a county special services school district for the provision of transportation services to pupils who are enrolled in the county special services school district or pupils enrolled in nonpublic schools who reside within the county, if, as of January 1, 2004, the district owns or leases school buses and is providing pupil transportation ; and

(4) a county special services school district for the provision of special education transportation for pupils residing within that county or within a contiguous county, if, as of January 1, 2004, the county special services school district is located in a county of the fifth class, and has been providing special education transportation with buses it owns or leases.

C.18A:39-11.3 Disqualification of bidder; "prior negative experience" defined.

2. a. A board of education may, by resolution approved by a majority of the board of education and subject to the provisions of subsection b. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder for a pupil transportation contract, if the board of education finds that it has had prior negative experience with the bidder. The disqualification shall be for a reasonable, defined period of time which shall not exceed three years.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been determined to be "nonperforming" under a pupil transportation contract after a hearing which shall include the bidder, the superintendent of schools, and the county superintendent of schools. The county superintendent of schools shall make the determination as to nonperformance and this determination may be appealed to Commissioner of Education and the State Board of Education, as provided by law;

(2) the bidder defaulted on a transportation contract thereby requiring the board of education to utilize the services of another contractor to complete the contract;

(3) the bidder defaulted on a transportation contract thereby requiring the board of education to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder has at least a 10% ownership in any contractor that had prior negative experience with the board of education as described in paragraphs (1) through (3) of this subsection.

C.18A:39-11.4 Continuation of prior agreement in violation of act.

3. A joint transportation agreement entered into by a local school district and a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity prior to the effective date of P.L.2005, c.84 (C.18A:39-11.2 et seq.) which violates the provisions of this act may continue in effect for the remainder of the school year in which the agreement was made.

4. This act shall take effect immediately and shall first apply to the 2004-2005 school year.

Approved May 4, 2005.