



EDUCATION

# ALERT

## CONTRACTING FOR PROFESSIONAL SERVICES UNDER PENNSYLVANIA LAW

Recently, our office has gotten many more questions regarding the legal requirements for contracting with custodial service, security service, and maintenance service firms under Pennsylvania law.

### Custodial Services and Security Services.

Pennsylvania public school districts are not required to competitively bid, nor solicit quotes for, custodial services or security services. Accordingly, school districts in Pennsylvania would not be required to solicit bids or quotes. However, as a practical matter, a school district may want to know whether or not Marsden rates are competitive. So, a school district may decide to solicit bids or quotes periodically to make sure that the rates are competitive for their geographic area.

Although custodial and security services do not need to be competitively bid or solicited via quotes, the services offered must be purely services and not cross over into the realm of the provision of supplies or the provision of construction services (as the purchase of supplies needs to be competitively bid/quoted under Section 8-801.1 of the School Code and construction needs to be competitively bid/quoted under Section 7-751 of the School Code). For example, the custodial service agreement should not include the purchase of toilet paper, paper towels, cleaning supplies, and so on; and the security service agreement should not include the purchase or installation of security equipment; and so on.

Maintenance Services. Pennsylvania public school districts are required to competitively bid and solicit quotes for maintenance work under Section 7-751 of the School Code. Competitive bids are required for maintenance work greater than or equal to \$10,000 (threshold will be increased to \$18,500 effective January 1, 2013), and quotations are required for maintenance work greater than or equal to \$4,000 but below \$10,000 (threshold will be increased to \$10,000 effective January 1, 2013). There is an exception for maintenance performed by school personnel under Section 7-751(d) of the School Code, and such work does not need to be bid/quoted regardless of value.

The Pennsylvania Department of Education has provided some guidance on this issue, by posting a table of action required for non-reimbursable projects. PDE has indicated that "MAINTENANCE BY DISTRICT PERSONNEL: Care, cleaning, servicing, and refinishing surfaces, equipment, and property" does not require the solicitation of quotes or competitive bids. PDE has indicated that "MAINTENANCE BY CONTRACTORS: Care, cleaning, servicing, and refinishing surfaces, equipment, and property" does require the solicitation of quotes or competitive bids. Finally, PDE has indicated that "SERVICE CONTRACTS: Equipment operation, normal maintenance does not require the solicitation of quotes or competitive bids. Thus, certain equipment, usually specialized equipment (e.g.

elevators, HVAC systems, etc.) are often serviced by a third party contractor who specializes in their upkeep, and such preventative maintenance contracts do not need to be solicited by quote or competitively bid – but repair/replacement of such equipment would need to be solicited via quotes or competitively bid. Also, some public school districts do not solicit bids for groundskeeping or snow removal, as they view this

purely as a service, and not maintenance work. Most, do, however, voluntarily solicit quotes to make sure they are receiving competitive pricing for groundskeeping and snow removal.

If you have questions about this Alert, please contact Jeffrey T. Sultanik at 610.397.6515 or [jsultanik@foxrothschild.com](mailto:jsultanik@foxrothschild.com) or any member of Fox Rothschild's [Education Practice](#).

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