

**ASSEMBLY BILL**

**No. 2504**

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**Introduced by Assembly Member Chau**

February 21, 2014

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An act to amend Section 20118.2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2504, as introduced, Chau. Public contracts: schools: cloud service providers.

Existing law sets forth the requirements for competitive bidding on various types of contracts awarded by state and local agencies. Existing law authorizes a school district to utilize alternative competitive negotiation methods for procuring bids for the acquisition of specified technological supplies and equipment.

This bill would require specified terms, related to data types and disclosure, to be included in a school district contract with a cloud service provider entered into on or after January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 20118.2 of the Public Contract Code is
- 2 amended to read:
- 3 20118.2. (a) Due to the highly specialized and unique nature
- 4 of technology, telecommunications, related equipment, software,
- 5 and services, because products and materials of that nature are
- 6 undergoing rapid technological changes, and in order to allow for

1 the introduction of new technological changes into the operations  
2 of the school district, it is in the public's best interest to allow a  
3 school district to consider, in addition to price, factors such as  
4 vendor financing, performance reliability, standardization,  
5 life-cycle costs, delivery timetables, support logistics, the broadest  
6 possible range of competing products and materials available,  
7 fitness of purchase, manufacturer's warranties, and similar factors  
8 in the award of contracts for technology, telecommunications,  
9 related equipment, software, and services.

10 (b) This section applies only to a school district's procurement  
11 of computers, software, telecommunications equipment, microwave  
12 equipment, and other related electronic equipment and apparatus.  
13 This section does not apply to contracts for construction or for the  
14 procurement of any product that is available in substantial  
15 quantities to the general public.

16 (c) Notwithstanding Section 20118.1, a school district may,  
17 after a finding is made by the governing board that a particular  
18 procurement qualifies under subdivision (b), authorize the  
19 procurement of the product through competitive negotiation as  
20 described in subdivision (d).

21 (d) For purposes of this section, competitive negotiation  
22 includes, but is not limited to, all of the following requirements:

23 (1) A request for proposals shall be prepared and submitted to  
24 an adequate number of qualified sources, as determined by the  
25 school district, to permit reasonable competition consistent with  
26 the nature and requirement of the procurement.

27 (2) Notice of the request for proposals shall be published at least  
28 twice in a newspaper of general circulation, at least 10 days before  
29 the date for receipt of the proposals.

30 (3) The school district shall make every effort to generate the  
31 maximum feasible number of proposals from qualified sources  
32 and shall make a finding to that effect before proceeding to  
33 negotiate if only a single response to the request for proposals is  
34 received.

35 (4) The request for proposals shall identify all significant  
36 evaluation factors, including price, and their relative importance.

37 (5) The school district shall provide reasonable procedures for  
38 the technical evaluation of the proposals received, the identification  
39 of qualified sources, and the selection for the award of the contract.

1 (6) Award shall be made to the qualified bidder whose proposal  
2 meets the evaluation standards and will be most advantageous to  
3 the school district with price and all other factors considered.

4 (7) If award is not made to the bidder whose proposal contains  
5 the lowest price, the school district shall make a finding setting  
6 forth the basis for the award.

7 (e) The school district, at its discretion, may reject all proposals  
8 and request new proposals.

9 (f) Provisions in any contract concerning utilization of small  
10 business enterprises, that are in accordance with the request for  
11 proposals, shall not be subject to negotiation with the successful  
12 proposer.

13 (g) *A school district contract with a cloud service provider*  
14 *entered into on or after January 1, 2015, shall include the following*  
15 *in the terms of the agreement:*

16 (1) *A specification of the types of data transferred or collected.*

17 (2) *A limit or prohibition on the redisclosure of student data.*