

HB3777



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3777

by Rep. Juliana Stratton

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-85 new

Amends the Illinois Procurement Code. Creates a bid incentive program for State-based manufacturers. Sets forth requirements needed to access the program and the bid incentive amount for the total dollar value of locally manufactured goods. Sets forth exemptions to the incentive program. Requires the maintenance of records and provides for penalties in the event a manufacturer fails to meet projected amounts of locally-manufactured goods. Allows the Department of Central Management Services to adopt rules to implement the program.

LRB100 10950 MLM 21187 b

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by
5 adding Section 45-85 as follows:

6 (30 ILCS 500/45-85 new)

7 Sec. 45-85. Bid incentive for certain State-based
8 manufacturers.

9 (a) As used in this Section:

10 "Contract for goods" means any contract, purchase order, or
11 agreement for the purchase of goods awarded by the State and
12 whose cost is to be paid from funds belonging to or
13 administered by the State; provided that a "contract" does not
14 include: (i) a delegate agency contract; (ii) a lease of real
15 property; (iii) a collective bargaining agreement; or (iv) a
16 contract for construction services under this Code.

17 "Locally-manufactured goods" means goods whose value,
18 either in whole or in part, is derived from growing, producing,
19 processing, assembling, or manufacturing activities that occur
20 within a State-based manufacturer's facility located within
21 the State.

22 "Manufacture" means to produce tangible goods for use from
23 raw or prepared materials by giving the materials new forms,

1 qualities, properties, or combinations, whether by hand-labor
 2 or machines.

3 "State-based manufacturer" means a person who: (i) holds
 4 any appropriate State license; (ii) is subject to applicable
 5 State taxes; and (iii) owns, operates, or leases a
 6 manufacturing facility within the State.

7 (b) Unless otherwise prohibited by any federal, State, or
 8 local law, for any contract for goods having an estimated
 9 contract value of \$100,000 or more advertised, or if not
 10 advertised awarded, after the effective date of this Section,
 11 the chief procurement officer shall allocate to any qualified
 12 bidder the following bid incentive:

13 <u>Total Dollar Value of</u>	
14 <u>Locally-Manufactured Goods</u>	
15 <u>Provided in the Contract</u>	<u>Bid Incentive</u>
16 <u>25% to 49%</u>	<u>1% of the contract base bid</u>
17 <u>50% to 74%</u>	<u>1.5% of the contract base bid</u>
18 <u>75% or greater</u>	<u>2% of the contract base bid</u>

19 for any contract subject to this Section, if a contractor
 20 is allocated a bid preference pursuant to another Section of
 21 this Code, the contractor shall not be eligible to receive the
 22 bid incentive allocated pursuant to this Section.

23 The bid incentive is used only to calculate an amount to be
 24 used in evaluating the bid to determine the low bidder, and it

1 does not affect the contract price.

2 (c) The applicable chief procurement officer may determine
3 not to allocate a bid incentive under this Section, under the
4 following conditions:

5 (i) the purchase of locally-manufactured goods is not
6 in the best interest of the State;

7 (ii) the locally-manufactured goods are not likely to
8 be available in sufficient supply and acceptable quality;

9 (iii) the purchase of locally-manufactured goods
10 conflicts with another State economic development program;

11 (iv) the purchase of locally-manufactured goods will
12 increase the cost of the goods by more than 5% over
13 non-locally manufactured goods;

14 (v) for cooperative purchasing contracts; or

15 (vi) an emergency exists.

16 (d) For all contracts advertised after the effective date
17 of this Section, the applicable chief procurement officer shall
18 include the bid incentive provision consistent with this
19 Section in all contract advertising.

20 (e) The contractor shall maintain records adequate to
21 monitor compliance with this section and shall submit such
22 reports as required by the applicable chief procurement
23 officer. Full access to the contractor's records shall be
24 granted to the applicable chief procurement officer, the
25 director of the contracting State agency, the executive
26 inspector general, or any duly authorized representative

1 thereof. The contractor and subcontractors shall maintain all
2 relevant records for a period of no less than 3 years after the
3 expiration of the contract.

4 (f) The applicable chief procurement officer may require,
5 at the time of submission of a bid or at any time during the
6 term of the contract, that the bidder or contractor submit an
7 affidavit and other supporting documents demonstrating that
8 the bid for which the bid incentive is being or was sought
9 satisfies all pertinent requirements, including documentation
10 that a specific good meets the criteria for a
11 locally-manufactured good. The documentation may include, but
12 is not limited to, a manufacturer's certification that the good
13 was manufactured at a facility located in the State and an
14 opinion from a certified public accountant that evidences the
15 amount of the value being added from the manufacturing activity
16 located in the State.

17 (g) Upon completion of the work, any contractor that has
18 failed to supply the required percentage of
19 locally-manufactured goods for which a bid incentive was
20 allocated shall be fined in an amount equal to 3 times the
21 amount of the difference between the bid incentive allocated
22 and the bid incentive that would have been allocated to that
23 contractor for the amount of locally-manufactured goods
24 actually supplied under the contract, unless the contractor can
25 demonstrate that due to circumstances beyond the contractor's
26 control, the contractor for good cause was unable to provide

1 the required percentage of locally manufactured goods.

2 (h) The Department of Central Management Services may adopt
3 reasonable rules pertaining to the administration and
4 enforcement of this Section.