



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0950

Introduced 2/7/2017, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

30 ILCS 500/25-45

Amends the Illinois Procurement Code. Provides for executive agencies, the Department of Central Management Services, and the Capital Development Board to enter into guaranteed energy savings contracts. Requires the agencies to enter into a request for proposals before entering into a guaranteed energy savings contracts; sets forth requirements for the request for proposals. Sets forth provisions concerning the evaluation of proposals. Requires guaranteed energy savings contracts to result in energy or operational cost savings within 20 years. Requires contractors to reimburse the State for any shortfall of guaranteed energy savings projected in the contract. Sets forth other requirements, and provides that certain State laws apply to any contracts entered into under the provisions. Provides that no provision shall be interpreted to require the implementation of energy conservation measures that conflict with respect to any property eligible for, nominated to, or entered on the National Register of Historic Places or the Illinois Register of Historic Places. Removes prior provisions allowing the chief procurement officer to promulgate rules for entering into energy conservation program contracts.

LRB100 04372 MLM 14378 b

FISCAL NOTE ACT
MAY APPLY

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 changing Section 25-45 as follows:

6 (30 ILCS 500/25-45)

7 Sec. 25-45. Executive agency energy conservation and
8 saving measures ~~Energy conservation program.~~

9 (a) Definitions. As used in this Section:

10 "Board" means the Capital Development Board or its
11 successors.

12 "Contracting authority" means the Department, the Board,
13 or other such agencies as may be delegated to execute certain
14 of its statutory procurement functions through
15 intergovernmental agreements specifically developed for the
16 purpose of securing energy conservation services.

17 "Department" means the Department of Central Management
18 Services acting in its capacity as the statutory owner and
19 manager of all properties owned and operated by the State of
20 Illinois on behalf of agencies, boards, and commissions
21 functioning under the executive authority of the Governor.

22 "Energy conservation measure" means any improvement,
23 repair, alteration, or betterment of any executive agency

1 facility or any equipment, fixture, or furnishing to be added
2 to or used in an executive agency facility, that is designed to
3 reduce energy consumption or operating costs, and may include,
4 but is not limited to, one or more of the following:

5 (1) Insulation of the building structure or systems
6 within the building.

7 (2) Storm windows or doors, caulking or weather
8 stripping, multiglazed windows or doors, heat-absorbing or
9 heat-reflective glazed and coated window or door systems,
10 additional glazing, reductions in glass area, or other
11 window and door system modifications that reduce energy
12 consumption.

13 (3) Automated or computerized energy control systems.

14 (4) Heating, ventilating, or air conditioning system,
15 modifications, or replacements.

16 (5) Replacement or modification of lighting fixtures
17 to increase the energy efficiency of the lighting system
18 without increasing the overall illumination of a building,
19 unless an increase in illumination is necessary to conform
20 to the applicable State or local building code for the
21 lighting system after the proposed modifications are made.

22 (6) Energy recovery systems.

23 (7) Energy conservation measures that provide
24 long-term operating cost reductions.

25 "Executive agency facility" means a building owned and
26 operated by the State of Illinois through an agency, board, or

1 commission statutorily functioning under the executive
2 authority of the Governor or other constitutional officers.

3 "Guaranteed energy savings contract" means a contract for:
4 (i) the implementation of an energy audit, data collection, and
5 other related analyses preliminary to the undertaking of energy
6 conservation measures; (ii) the evaluation and recommendation
7 of energy conservation measures; (iii) the implementation of
8 one or more energy conservation measures; and (iv) the
9 implementation of project monitoring and data collection to
10 verify post installation energy consumption and energy related
11 operating costs. The contract shall provide that all payments,
12 except obligations on termination of the contract before its
13 expiration, are to be made over time and that the savings are
14 guaranteed to the extent necessary to pay the costs of the
15 energy conservation measures. "Energy savings" may include
16 energy reduction and offsetting sources of renewable energy
17 funds, including renewable energy credits and carbon credits.

18 "Qualified provider" means a person whose employees are
19 experienced and trained in the design, implementation, or
20 installation of energy conservation measures. The minimum
21 training required for any person or employee under this Section
22 shall be the satisfactory completion of at least 40 hours of
23 course instruction dealing with energy conservation measures.
24 A qualified provider to whom the contract is awarded shall give
25 a sufficient bond to the executive agency or for its faithful
26 performance.

1 (b) Before entering into a guaranteed energy savings
2 contract, the contracting authority shall issue a request for
3 proposals in accordance with Article 30 of this Code requesting
4 competitive sealed offers for innovative solutions and
5 conservation measures. A request for proposals shall be
6 published in the volume of the Illinois Procurement Bulletin
7 under the authority of the chief procurement officer for the
8 Capital Development Board for at least 30 days before offers
9 are due. The request for proposals shall, at a minimum, include
10 all of the following:

11 (1) The name and address of the executive agency.

12 (2) The name, address, title, and phone number of an
13 executive agency contact person who will respond to
14 questions regarding the request for proposals.

15 (3) Notice indicating that the contracting authority
16 is requesting qualified providers to propose energy
17 conservation measures through a guaranteed energy savings
18 contract.

19 (4) The date, time, and place where offers must be
20 received.

21 (5) The evaluation criteria for evaluating offers.

22 (6) Any other stipulations and clarifications the
23 contracting authority or executive agency facility may
24 require.

25 (7) A written disclosure that identifies any energy
26 services contractor that participated in the preparation

1 of specifications. If no energy services contractor
2 participated in the preparation of specifications, then
3 the request for proposals must include a disclosure that no
4 energy services contractor participated in the preparation
5 of the specifications.

6 (c) The evaluation of offers shall analyze the estimates of
7 all costs of installations, modifications, or remodeling,
8 including, but not limited to, costs of a pre-installation
9 energy audit or analysis, design, engineering, installation,
10 maintenance, repairs, debt service, conversions to a different
11 energy or fuel source, or post-installation project
12 monitoring, data collection, and reporting. The evaluation
13 shall include a detailed analysis of whether either the energy
14 consumed or the operating costs, or both, will be reduced. If a
15 licensed architect or registered professional engineer on the
16 executive agency's or contracting authority's staff is
17 unavailable to serve as an evaluator, then the evaluation shall
18 include a registered professional engineer or architect, who is
19 retained by the executive agency or contracting authority. A
20 licensed architect or registered professional engineer
21 participating on an evaluation team under this Section must not
22 have any financial or contractual relationship with an offeror
23 or other source that would constitute a conflict of interest.
24 The contracting authority or executive agency facility may pay
25 a reasonable fee for evaluation of the proposal or include the
26 fee as part of the payments made under subsection (e) of this

1 Section. Any contracting agency shall coordinate with the Board
2 to ensure that there are no conflicts with the proposals and
3 current or upcoming Board projects.

4 (d) After evaluating the proposals, a contracting
5 authority for an executive agency facility may enter into a
6 guaranteed energy savings contract with the best-qualified
7 offeror if the contracting authority finds that the amount it
8 would spend on the energy conservation measures recommended in
9 the proposal would not exceed the amount to be saved in either
10 energy or operational costs, or both, within a 20-year period
11 from the date of installation if the recommendations in the
12 proposal are followed. Contracts let or awarded must be
13 published in the volume of the Illinois Procurement Bulletin
14 under the authority of the chief procurement officer for the
15 Capital Development Board or as otherwise prescribed by
16 agreement between the Capital Development Board and the
17 contracting authority.

18 (e) The guaranteed energy savings contract shall include
19 the contractor's guarantee that either the energy or
20 operational cost savings, or both, will meet or exceed within
21 20 years the costs of the energy conservation measures. The
22 contractor shall reimburse the State for any shortfall of
23 guaranteed energy savings projected in the contract. A
24 contractor shall provide a sufficient bond, as determined by
25 the State, to the contracting authority for the installation
26 and the faithful performance of all the measures included in

1 the contract. The guaranteed energy savings contract may
2 provide for payments over a period of time, not to exceed 20
3 years from the date of final installation of the energy
4 conservation measures.

5 (f) The contracting authority may enter into an installment
6 payment contract or lease purchase agreement with a contractor
7 for services solicited under this Section or with a third
8 party, as authorized by law, for the funding or financing of
9 the purchase and installation of energy conservation measures.

10 The State of Illinois may issue certificates evidencing the
11 indebtedness incurred pursuant to the contracts. Each contract
12 or agreement entered into by a contracting authority pursuant
13 to this Section shall be authorized by official action of the
14 contracting authority. The authority granted in this Section is
15 in addition to any other authority granted by law. If an energy
16 audit is performed by an energy services contractor for an
17 executive agency facility within the 3 years immediately
18 preceding the request for proposals, then the contracting
19 authority must publish as a reference document in the
20 solicitation for energy conservation measures the following:

21 (1) an executive summary of the energy audit, provided
22 that the contracting authority and executive agency
23 facility may exclude any proprietary or trademarked
24 information or practices; or

25 (2) the energy audit, provided that the contracting
26 authority and executive agency facility may redact any

1 proprietary or trademarked information or practices.

2 An executive agency facility or contracting authority may
3 not withhold the disclosure of information related to: (i) the
4 executive agency facility's consumption of energy, (ii) the
5 physical condition of the executive agency's facilities, and
6 (iii) any limitations prescribed by the executive agency
7 facility or contracting authority.

8 (g) Guaranteed energy savings contracts may extend beyond
9 the fiscal year in which they become effective. The agency
10 responsible for payments under such a contract shall include in
11 its annual budget and appropriations measures for each
12 subsequent fiscal year any amounts payable under guaranteed
13 energy savings contracts during that fiscal year.

14 (h) In cooperation with the contracting authority, the
15 executive agency facility shall document the operational and
16 energy cost savings specified in the guaranteed energy savings
17 contract and designate and appropriate that amount for an
18 annual payment of the contract. If the annual energy savings
19 are less than projected under the guaranteed energy savings
20 contract the contractor shall pay the difference as provided in
21 subsection (e) of this Section.

22 (i) An executive agency facility or contracting authority
23 may use funds designated for operating or capital expenditures
24 for any guaranteed energy savings contract including purchases
25 using installment payment contracts or lease purchase
26 agreements. An executive agency facility or contracting

1 authority that enters into such a contract or agreement may
2 covenant in the contract or agreement that payments made under
3 the contract or agreement shall be payable from the first funds
4 legally available in each fiscal year.

5 (j) Operating and maintenance funds and other amounts
6 appropriated for distribution to or reimbursement of an
7 executive agency facility or contracting authority shall not be
8 reduced as a result of energy savings realized from a
9 guaranteed energy savings contract or a lease purchase
10 agreement for the purchase and installation of energy
11 conservation measures.

12 (k) Other State laws and related administrative
13 requirements apply to this Section, including, but not limited
14 to, the following laws and related administrative
15 requirements: the Illinois Human Rights Act, the Prevailing
16 Wage Act, the Public Construction Bond Act, the Employment of
17 Illinois Workers on Public Works Act, the Freedom of
18 Information Act, the Open Meetings Act, the Illinois
19 Architecture Practice Act of 1989, the Professional
20 Engineering Practice Act of 1989, the Structural Engineering
21 Practice Act of 1989, the Local Government Professional
22 Services Selection Act, and the Contractor Unified License and
23 Permit Bond Act.

24 (l) In order to protect the integrity of historic
25 buildings, no provision of this Section shall be interpreted to
26 require the implementation of energy conservation measures

1 that conflict with respect to any property eligible for,
2 nominated to, or entered on the National Register of Historic
3 Places, pursuant to the federal National Historic Preservation
4 Act of 1966, or the Illinois Register of Historic Places,
5 pursuant to the Illinois Historic Preservation Act.

6 ~~State purchasing officers may enter into energy conservation~~
7 ~~program contracts that provide for utility cost savings. The~~
8 ~~chief procurement officer shall promulgate and adopt rules for~~
9 ~~the implementation of this Section.~~

10 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)