



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4630

Introduced 2/5/2020, by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

30 ILCS 575/7

from Ch. 127, par. 132.607

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that the Business Enterprise Council for Minorities, Women, and Persons with Disabilities shall collaborate with each chief procurement officer to create a unified, searchable, statewide online database incorporating specified information. Requires the Council to annually report on trends and identify areas of State contracting for outreach to businesses owned by minorities, women, and persons with disabilities. Makes conforming changes.

LRB101 17968 RJF 67404 b

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 Business Enterprise for Minorities, Women,
5 and Persons with Disabilities Act is amended by changing
6 Section 7 as follows:

7 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

8 (Section scheduled to be repealed on June 30, 2024)

9 Sec. 7. Exemptions; waivers; publication of data.

10 (1) Individual contract exemptions. The Council, at the
11 written request of the affected agency, public institution of
12 higher education, or recipient of a grant or loan of State
13 funds of \$250,000 or more complying with Section 45 of the
14 State Finance Act, may permit an individual contract or
15 contract package, (related contracts being bid or awarded
16 simultaneously for the same project or improvements) be made
17 wholly or partially exempt from State contracting goals for
18 businesses owned by minorities, women, and persons with
19 disabilities prior to the advertisement for bids or
20 solicitation of proposals whenever there has been a
21 determination, reduced to writing and based on the best
22 information available at the time of the determination, that
23 there is an insufficient number of businesses owned by

1 minorities, women, and persons with disabilities to ensure
2 adequate competition and an expectation of reasonable prices on
3 bids or proposals solicited for the individual contract or
4 contract package in question. Any such exemptions shall be
5 given by the Council to the Bureau on Apprenticeship Programs.

6 (a) Written request for contract exemption. A written
7 request for an individual contract exemption must include,
8 but is not limited to, the following:

9 (i) a list of eligible businesses owned by
10 minorities, women, and persons with disabilities;

11 (ii) a clear demonstration that the number of
12 eligible businesses identified in subparagraph (i)
13 above is insufficient to ensure adequate competition;

14 (iii) the difference in cost between the contract
15 proposals being offered by businesses owned by
16 minorities, women, and persons with disabilities and
17 the agency or public institution of higher education's
18 expectations of reasonable prices on bids or proposals
19 within that class; and

20 (iv) a list of eligible businesses owned by
21 minorities, women, and persons with disabilities that
22 the contractor has used in the current and prior fiscal
23 years.

24 (b) Determination. The Council's determination
25 concerning an individual contract exemption must consider,
26 at a minimum, the following:

1 (i) the justification for the requested exemption,
2 including whether diligent efforts were undertaken to
3 identify and solicit eligible businesses owned by
4 minorities, women, and persons with disabilities;

5 (ii) the total number of exemptions granted to the
6 affected agency, public institution of higher
7 education, or recipient of a grant or loan of State
8 funds of \$250,000 or more complying with Section 45 of
9 the State Finance Act that have been granted by the
10 Council in the current and prior fiscal years; and

11 (iii) the percentage of contracts awarded by the
12 agency or public institution of higher education to
13 eligible businesses owned by minorities, women, and
14 persons with disabilities in the current and prior
15 fiscal years.

16 (2) Class exemptions.

17 (a) Creation. The Council, at the written request of
18 the affected agency or public institution of higher
19 education, may permit an entire class of contracts be made
20 exempt from State contracting goals for businesses owned by
21 minorities, women, and persons with disabilities whenever
22 there has been a determination, reduced to writing and
23 based on the best information available at the time of the
24 determination, that there is an insufficient number of
25 qualified businesses owned by minorities, women, and
26 persons with disabilities to ensure adequate competition

1 and an expectation of reasonable prices on bids or
2 proposals within that class. Any such exemption shall be
3 given by the Council to the Bureau on Apprenticeship
4 Programs.

5 (a-1) Written request for class exemption. A written
6 request for a class exemption must include, but is not
7 limited to, the following:

8 (i) a list of eligible businesses owned by
9 minorities, women, and persons with disabilities;

10 (ii) a clear demonstration that the number of
11 eligible businesses identified in subparagraph (i)
12 above is insufficient to ensure adequate competition;

13 (iii) the difference in cost between the contract
14 proposals being offered by eligible businesses owned
15 by minorities, women, and persons with disabilities
16 and the agency or public institution of higher
17 education's expectations of reasonable prices on bids
18 or proposals within that class; and

19 (iv) the number of class exemptions the affected
20 agency or public institution of higher education
21 requested in the current and prior fiscal years.

22 (a-2) Determination. The Council's determination
23 concerning class exemptions must consider, at a minimum,
24 the following:

25 (i) the justification for the requested exemption,
26 including whether diligent efforts were undertaken to

1 identify and solicit eligible businesses owned by
2 minorities, women, and persons with disabilities;

3 (ii) the total number of class exemptions granted
4 to the requesting agency or public institution of
5 higher education that have been granted by the Council
6 in the current and prior fiscal years; and

7 (iii) the percentage of contracts awarded by the
8 agency or public institution of higher education to
9 eligible businesses owned by minorities, women, and
10 persons with disabilities the current and prior fiscal
11 years.

12 (b) Limitation. Any such class exemption shall not be
13 permitted for a period of more than one year at a time.

14 (3) Waivers. Where a particular contract requires a
15 contractor to meet a goal established pursuant to this Act, the
16 contractor shall have the right to request a waiver from such
17 requirements. The Council shall grant the waiver where the
18 contractor demonstrates that there has been made a good faith
19 effort to comply with the goals for participation by businesses
20 owned by minorities, women, and persons with disabilities. Any
21 such waiver shall also be transmitted in writing to the Bureau
22 on Apprenticeship Programs.

23 (a) Request for waiver. A contractor's request for a
24 waiver under this subsection (3) must include, but is not
25 limited to, the following, if available:

26 (i) a list of eligible businesses owned by

1 minorities, women, and persons with disabilities that
2 pertain to the class of contracts in the requested
3 waiver;

4 (ii) a clear demonstration that the number of
5 eligible businesses identified in subparagraph (i)
6 above is insufficient to ensure competition;

7 (iii) the difference in cost between the contract
8 proposals being offered by businesses owned by
9 minorities, women, and persons with disabilities and
10 the agency or the public institution of higher
11 education's expectations of reasonable prices on bids
12 or proposals within that class; and

13 (iv) a list of businesses owned by minorities,
14 women, and persons with disabilities that the
15 contractor has used in the current and prior fiscal
16 years.

17 (b) Determination. The Council's determination
18 concerning waivers must include following:

19 (i) the justification for the requested waiver,
20 including whether the requesting contractor made a
21 good faith effort to identify and solicit eligible
22 businesses owned by minorities, women, and persons
23 with disabilities;

24 (ii) the total number of waivers the contractor has
25 been granted by the Council in the current and prior
26 fiscal years;

1 (iii) the percentage of contracts awarded by the
2 agency or public institution of higher education to
3 eligible businesses owned by minorities, women, and
4 persons with disabilities in the current and prior
5 fiscal years; and

6 (iv) the contractor's use of businesses owned by
7 minorities, women, and persons with disabilities in
8 the current and prior fiscal years.

9 (3.5) (Blank).

10 (4) Conflict with other laws. In the event that any State
11 contract, which otherwise would be subject to the provisions of
12 this Act, is or becomes subject to federal laws or regulations
13 which conflict with the provisions of this Act or actions of
14 the State taken pursuant hereto, the provisions of the federal
15 laws or regulations shall apply and the contract shall be
16 interpreted and enforced accordingly.

17 (5) Each chief procurement officer, as defined in the
18 Illinois Procurement Code, shall maintain on his or her
19 official Internet website a database of the following: (i)
20 waivers granted under this Section with respect to contracts
21 under his or her jurisdiction; (ii) a State agency or public
22 institution of higher education's written request for an
23 exemption of an individual contract or an entire class of
24 contracts; and (iii) the Council's written determination
25 granting or denying a request for an exemption of an individual
26 contract or an entire class of contracts. The database, which

1 shall be updated periodically as necessary, shall be searchable
2 by contractor name and by contracting State agency.

3 (6) Each chief procurement officer, as defined by the
4 Illinois Procurement Code, shall maintain on its website a list
5 of all firms that have been prohibited from bidding, offering,
6 or entering into a contract with the State of Illinois as a
7 result of violations of this Act.

8 (7) Each public notice required by law of the award of a
9 State contract shall include for each bid or offer submitted
10 for that contract the following: (i) the bidder's or offeror's
11 name, (ii) the bid amount, (iii) the name or names of the
12 certified firms identified in the bidder's or offeror's
13 submitted utilization plan, and (iv) the bid's amount and
14 percentage of the contract awarded to businesses owned by
15 minorities, women, and persons with disabilities identified in
16 the utilization plan.

17 (8) The Council shall collaborate with each chief
18 procurement officer, as defined in the Illinois Procurement
19 Code, to create a unified, searchable, statewide online
20 database incorporating all the information required in
21 subsections (5), (6), and (7), with the cooperation of the
22 Department of Central Management Services and other agencies
23 and public institutions of higher education as necessary. The
24 Council shall annually report on trends and identify areas of
25 State contracting for outreach to businesses owned by
26 minorities, women, and persons with disabilities.

1 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;
2 101-601, eff. 1-1-20.)