



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2770

Introduced 2/19/2021, by Rep. Dave Vella

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-57

Amends the Illinois Procurement Code. Provides that each chief procurement officer has authority to designate as veteran small business set-asides a fair proportion of construction, supply, and service contracts for awards to qualified service-disabled veteran-owned small businesses or veteran-owned small businesses. Provides further requirements concerning veteran small business set-aside designations. Requires each chief procurement officer to report to the General Assembly (currently, Department of Central Management Services) on specified information concerning qualified service-disabled veteran-owned small businesses and veteran-owned small businesses, and requires that the number of bids or offers will be delineated between contracts that were designated as set-aside and those that were not designated as set-aside. Makes other changes.

LRB102 12716 RJF 18055 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 Illinois Procurement Code is amended by
5 changing Section 45-57 as follows:

6 (30 ILCS 500/45-57)

7 Sec. 45-57. Veterans.

8 (a) Goal ~~Set-aside goal~~. It is the goal of the State to
9 promote and encourage the continued economic development of
10 small businesses owned and controlled by qualified veterans
11 and that qualified service-disabled veteran-owned small
12 businesses (referred to as SDVOSB) and veteran-owned small
13 businesses (referred to as VOSB) participate in the State's
14 procurement process as both prime contractors and
15 subcontractors. Not less than 3% of the total dollar amount of
16 State contracts, as defined by the Director of Central
17 Management Services, shall be established as a goal to be
18 awarded to SDVOSB and VOSB. That portion of a contract under
19 which the contractor subcontracts with a SDVOSB or VOSB may be
20 counted toward the goal of this subsection. The Department of
21 Central Management Services shall adopt rules to implement
22 compliance with this subsection by all State agencies.

23 (a-5) Set-asides. Each chief procurement officer has

1 authority to designate as veteran small business set-asides a
2 fair proportion of construction, supply, and service contracts
3 for awards to qualified service-disabled veteran-owned small
4 businesses or veteran-owned small businesses. Advertisements
5 for bids or offers for such contracts shall specify
6 designation as veteran small business set-asides. In awarding
7 the contracts, only bids or offers from qualified
8 service-disabled veteran-owned small businesses or
9 veteran-owned small businesses shall be considered.

10 (1) A veteran small business set-aside designation may
11 be withdrawn by the purchasing agency when deemed in the
12 best interests of the State. Upon withdrawal, all bids or
13 offers shall be rejected, and the bidders or offerors
14 shall be notified of the reason for rejection. The
15 contract shall then be awarded in accordance with this
16 Code without the designation of veteran small business
17 set-aside.

18 (2) Each chief procurement officer may adopt rules to
19 implement and administer the use of set-asides.

20 (b) Fiscal year reports. By each November 1, each chief
21 procurement officer shall report to the General Assembly
22 ~~Department of Central Management Services~~ on all of the
23 following for the immediately preceding fiscal year, ~~and by~~
24 ~~each March 1 the Department of Central Management Services~~
25 ~~shall compile and report that information to the General~~
26 ~~Assembly:~~

1 (1) The total number of VOSB, and the number of
2 SDVOSB, who submitted bids or offers for contracts under
3 this Code. The number of bids or offers will be delineated
4 between contracts that were set-aside under subsection
5 (a-5) and those that were not set-aside.

6 (2) The total number of VOSB, and the number of
7 SDVOSB, who entered into contracts with the State under
8 this Code and the total value of those contracts. The
9 number of contracts and the value of contracts will be
10 delineated between contracts that were awarded as
11 set-asides under subsection (a-5) and those that were not
12 set-aside.

13 The requirement for reporting to the General Assembly
14 under this subsection (b) shall be satisfied by filing copies
15 of the report as required by Section 3.1 of the General
16 Assembly Organization Act.

17 (c) Yearly review and recommendations. Each year, each
18 chief procurement officer shall review the progress of all
19 State agencies under its jurisdiction in meeting the goal
20 described in subsection (a), with input from statewide
21 veterans' service organizations and from the business
22 community, including businesses owned by qualified veterans,
23 and shall make recommendations to be included in the
24 Department of Central Management Services' report to the
25 General Assembly regarding continuation, increases, or
26 decreases of the percentage goal. The recommendations shall be

1 based upon the number of businesses that are owned by
2 qualified veterans and on the continued need to encourage and
3 promote businesses owned by qualified veterans.

4 (d) Governor's recommendations. To assist the State in
5 reaching the goal described in subsection (a), the Governor
6 shall recommend to the General Assembly changes in programs to
7 assist businesses owned by qualified veterans.

8 (e) Definitions. As used in this Section:

9 "Armed forces of the United States" means the United
10 States Army, Navy, Air Force, Marine Corps, Coast Guard, or
11 service in active duty as defined under 38 U.S.C. Section 101.
12 Service in the Merchant Marine that constitutes active duty
13 under Section 401 of federal Public Act 95-202 shall also be
14 considered service in the armed forces for purposes of this
15 Section.

16 "Certification" means a determination made by the Illinois
17 Department of Veterans' Affairs and the Department of Central
18 Management Services that a business entity is a qualified
19 service-disabled veteran-owned small business or a qualified
20 veteran-owned small business for whatever purpose. A SDVOSB or
21 VOSB owned and controlled by women, minorities, or persons
22 with disabilities, as those terms are defined in Section 2 of
23 the Business Enterprise for Minorities, Women, and Persons
24 with Disabilities Act, may also select and designate whether
25 that business is to be certified as a "women-owned business",
26 "minority-owned business", or "business owned by a person with

1 a disability", as defined in Section 2 of the Business
2 Enterprise for Minorities, Women, and Persons with
3 Disabilities Act.

4 "Control" means the exclusive, ultimate, majority, or sole
5 control of the business, including but not limited to capital
6 investment and all other financial matters, property,
7 acquisitions, contract negotiations, legal matters,
8 officer-director-employee selection and comprehensive hiring,
9 operation responsibilities, cost-control matters, income and
10 dividend matters, financial transactions, and rights of other
11 shareholders or joint partners. Control shall be real,
12 substantial, and continuing, not pro forma. Control shall
13 include the power to direct or cause the direction of the
14 management and policies of the business and to make the
15 day-to-day as well as major decisions in matters of policy,
16 management, and operations. Control shall be exemplified by
17 possessing the requisite knowledge and expertise to run the
18 particular business, and control shall not include simple
19 majority or absentee ownership.

20 "Qualified service-disabled veteran" means a veteran who
21 has been found to have 10% or more service-connected
22 disability by the United States Department of Veterans Affairs
23 or the United States Department of Defense.

24 "Qualified service-disabled veteran-owned small business"
25 or "SDVOSB" means a small business (i) that is at least 51%
26 owned by one or more qualified service-disabled veterans

1 living in Illinois or, in the case of a corporation, at least
2 51% of the stock of which is owned by one or more qualified
3 service-disabled veterans living in Illinois; (ii) that has
4 its home office in Illinois; and (iii) for which items (i) and
5 (ii) are factually verified annually by the Department of
6 Central Management Services.

7 "Qualified veteran-owned small business" or "VOSB" means a
8 small business (i) that is at least 51% owned by one or more
9 qualified veterans living in Illinois or, in the case of a
10 corporation, at least 51% of the stock of which is owned by one
11 or more qualified veterans living in Illinois; (ii) that has
12 its home office in Illinois; and (iii) for which items (i) and
13 (ii) are factually verified annually by the Department of
14 Central Management Services.

15 "Service-connected disability" means a disability incurred
16 in the line of duty in the active military, naval, or air
17 service as described in 38 U.S.C. 101(16).

18 "Small business" means a business that has annual gross
19 sales of less than \$75,000,000 as evidenced by the federal
20 income tax return of the business. A firm with gross sales in
21 excess of this cap may apply to the Department of Central
22 Management Services for certification for a particular
23 contract if the firm can demonstrate that the contract would
24 have significant impact on SDVOSB or VOSB as suppliers or
25 subcontractors or in employment of veterans or
26 service-disabled veterans.

1 "State agency" has the meaning provided in Section
2 1-15.100 of this Code.

3 "Time of hostilities with a foreign country" means any
4 period of time in the past, present, or future during which a
5 declaration of war by the United States Congress has been or is
6 in effect or during which an emergency condition has been or is
7 in effect that is recognized by the issuance of a Presidential
8 proclamation or a Presidential executive order and in which
9 the armed forces expeditionary medal or other campaign service
10 medals are awarded according to Presidential executive order.

11 "Veteran" means a person who (i) has been a member of the
12 armed forces of the United States or, while a citizen of the
13 United States, was a member of the armed forces of allies of
14 the United States in time of hostilities with a foreign
15 country and (ii) has served under one or more of the following
16 conditions: (a) the veteran served a total of at least 6
17 months; (b) the veteran served for the duration of hostilities
18 regardless of the length of the engagement; (c) the veteran
19 was discharged on the basis of hardship; or (d) the veteran was
20 released from active duty because of a service connected
21 disability and was discharged under honorable conditions.

22 (f) Certification program. The Illinois Department of
23 Veterans' Affairs and the Department of Central Management
24 Services shall work together to devise a certification
25 procedure to assure that businesses taking advantage of this
26 Section are legitimately classified as qualified

1 service-disabled veteran-owned small businesses or qualified
2 veteran-owned small businesses.

3 (g) Penalties.

4 (1) Administrative penalties. The chief procurement
5 officers appointed pursuant to Section 10-20 shall suspend
6 any person who commits a violation of Section 17-10.3 or
7 subsection (d) of Section 33E-6 of the Criminal Code of
8 2012 relating to this Section from bidding on, or
9 participating as a contractor, subcontractor, or supplier
10 in, any State contract or project for a period of not less
11 than 3 years, and, if the person is certified as a
12 service-disabled veteran-owned small business or a
13 veteran-owned small business, then the Department shall
14 revoke the business's certification for a period of not
15 less than 3 years. An additional or subsequent violation
16 shall extend the periods of suspension and revocation for
17 a period of not less than 5 years. The suspension and
18 revocation shall apply to the principals of the business
19 and any subsequent business formed or financed by, or
20 affiliated with, those principals.

21 (2) Reports of violations. Each State agency shall
22 report any alleged violation of Section 17-10.3 or
23 subsection (d) of Section 33E-6 of the Criminal Code of
24 2012 relating to this Section to the chief procurement
25 officers appointed pursuant to Section 10-20. The chief
26 procurement officers appointed pursuant to Section 10-20

1 shall subsequently report all such alleged violations to
2 the Attorney General, who shall determine whether to bring
3 a civil action against any person for the violation.

4 (3) List of suspended persons. The chief procurement
5 officers appointed pursuant to Section 10-20 shall monitor
6 the status of all reported violations of Section 17-10.3
7 or subsection (d) of Section 33E-6 of the Criminal Code of
8 1961 or the Criminal Code of 2012 relating to this Section
9 and shall maintain and make available to all State
10 agencies a central listing of all persons that committed
11 violations resulting in suspension.

12 (4) Use of suspended persons. During the period of a
13 person's suspension under paragraph (1) of this
14 subsection, a State agency shall not enter into any
15 contract with that person or with any contractor using the
16 services of that person as a subcontractor.

17 (5) Duty to check list. Each State agency shall check
18 the central listing provided by the chief procurement
19 officers appointed pursuant to Section 10-20 under
20 paragraph (3) of this subsection to verify that a person
21 being awarded a contract by that State agency, or to be
22 used as a subcontractor or supplier on a contract being
23 awarded by that State agency, is not under suspension
24 pursuant to paragraph (1) of this subsection.

25 (Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17;
26 100-863, eff. 8-14-18.)