

SB3047



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3047

Introduced 1/5/2022, by Sen. Patrick J. Joyce

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-35

Amends the Illinois Procurement Code. Removes requirement that a qualified not-for-profit agency for persons with significant disabilities be certified as a work center or be an accredited vocational program in order to be eligible to provide supplies and services under the Code without having to respond to advertising or a call for bids.

LRB102 22486 RJF 31626 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 changing Section 45-35 as follows:

6 (30 ILCS 500/45-35)

7 Sec. 45-35. Not-for-profit agencies for persons with
8 significant disabilities.

9 (a) Qualification. Supplies and services may be procured
10 without advertising or calling for bids from any qualified
11 not-for-profit agency for persons with significant
12 disabilities that:

13 (1) complies with Illinois laws governing private
14 not-for-profit organizations;

15 (2) (blank); and ~~is certified as a work center by the~~
16 ~~Wage and Hour Division of the United States Department of~~
17 ~~Labor or is an accredited vocational program that provides~~
18 ~~transition services to youth between the ages of 14 1/2~~
19 ~~and 22 in accordance with individualized education plans~~
20 ~~under Section 14-8.03 of the School Code and that provides~~
21 ~~residential services at a child care institution, as~~
22 ~~defined under Section 2.06 of the Child Care Act of 1969,~~
23 ~~or at a group home, as defined under Section 2.16 of the~~

1 ~~Child Care Act of 1969; and~~

2 (3) is accredited by a nationally-recognized
3 accrediting organization or certified as a developmental
4 training provider by the Department of Human Services.

5 (b) Participation. To participate, the not-for-profit
6 agency must have indicated an interest in providing the
7 supplies and services, must meet the specifications and needs
8 of the using agency, and must set a fair and reasonable price.

9 (c) Committee. There is created within the Department of
10 Central Management Services a committee to facilitate the
11 purchase of products and services from not-for-profit agencies
12 that provide employment opportunities to persons with physical
13 disabilities, intellectual or developmental disabilities,
14 mental illnesses, or any combination thereof. This committee
15 is called the State Use Committee. The State Use Committee
16 shall consist of the Director of the Department of Central
17 Management Services or his or her designee, the Secretary of
18 the Department of Human Services or his or her designee, the
19 Director of Commerce and Economic Opportunity or his or her
20 designee, one public member representing private business who
21 is knowledgeable of the employment needs and concerns of
22 persons with developmental disabilities, one public member
23 representing private business who is knowledgeable of the
24 needs and concerns of rehabilitation facilities, one public
25 member who is knowledgeable of the employment needs and
26 concerns of persons with developmental disabilities, one

1 public member who is knowledgeable of the needs and concerns
2 of rehabilitation facilities, 2 members who have a disability,
3 2 public members from a statewide association that represents
4 community-based rehabilitation facilities serving or
5 supporting individuals with intellectual or developmental
6 disabilities, and one public member from a disability-focused
7 statewide advocacy group, all appointed by the Governor. The
8 public members shall serve 2 year terms, commencing upon
9 appointment and every 2 years thereafter. A public member may
10 be reappointed, and vacancies shall be filled by appointment
11 for the completion of the term. In the event there is a vacancy
12 on the State Use Committee, the Governor must make an
13 appointment to fill that vacancy within 30 calendar days after
14 the notice of vacancy. The members shall serve without
15 compensation but shall be reimbursed for expenses at a rate
16 equal to that of State employees on a per diem basis by the
17 Department of Central Management Services. All members shall
18 be entitled to vote on issues before the State Use Committee.

19 The State Use Committee shall have the following powers
20 and duties:

21 (1) To request from any State agency information as to
22 product specification and service requirements in order to
23 carry out its purpose.

24 (2) To meet quarterly or more often as necessary to
25 carry out its purposes.

26 (3) To request a quarterly report from each

1 participating qualified not-for-profit agency for persons
2 with significant disabilities describing the volume of
3 sales for each product or service sold under this Section.

4 (4) To prepare a report for the Governor and General
5 Assembly no later than December 31 of each year. The
6 requirement for reporting to the General Assembly shall be
7 satisfied by following the procedures set forth in Section
8 3.1 of the General Assembly Organization Act.

9 (5) To prepare a publication that lists all supplies
10 and services currently available from any qualified
11 not-for-profit agency for persons with significant
12 disabilities. This list and any revisions shall be
13 distributed to all purchasing agencies.

14 (6) To encourage diversity in supplies and services
15 provided by qualified not-for-profit agencies for persons
16 with significant disabilities and discourage unnecessary
17 duplication or competition among not-for-profit agencies.

18 (7) To develop guidelines to be followed by qualifying
19 agencies for participation under the provisions of this
20 Section. Guidelines shall include a list of national
21 accrediting organizations which satisfy the requirements
22 of item (3) of subsection (a) of this Section. The
23 guidelines shall be developed within 6 months after the
24 effective date of this Code and made available on a
25 nondiscriminatory basis to all qualifying agencies. The
26 new guidelines required under this item (7) by Public Act

1 100-203 shall be developed within 6 months after August
2 18, 2017 (the effective date of Public Act 100-203) and
3 made available on a non-discriminatory basis to all
4 qualifying not-for-profit agencies.

5 (8) To review all pricing submitted under the
6 provisions of this Section and may approve a proposed
7 agreement for supplies or services where the price
8 submitted is fair and reasonable. Review of pricing under
9 this paragraph may include, but is not limited to:

10 (A) Amounts private businesses would pay for
11 similar products or services.

12 (B) Amounts the federal government would pay
13 contractors for similar products or services.

14 (C) The amount paid by the State for similar
15 products or services.

16 (D) The actual cost of manufacturing the product
17 or performing a service at a community rehabilitation
18 program offering employment services on or off
19 premises to persons with disabilities or mental
20 illnesses, with adequate consideration given to legal
21 and moral imperatives to pay workers with disabilities
22 equitable wages.

23 (E) The usual, customary, and reasonable costs of
24 manufacturing, marketing, and distribution.

25 (9) To, not less than every 3 years, adopt a strategic
26 plan for increasing the number of products and services

1 purchased from qualified not-for-profit agencies for
2 persons with disabilities or mental illnesses, including
3 the feasibility of developing mandatory set-aside
4 contracts.

5 (c-5) Conditions for Use. Each chief procurement officer
6 shall, in consultation with the State Use Committee, determine
7 which articles, materials, services, food stuffs, and supplies
8 that are produced, manufactured, or provided by persons with
9 significant disabilities in qualified not-for-profit agencies
10 shall be given preference by purchasing agencies procuring
11 those items.

12 (d) (Blank).

13 (e) Subcontracts. Subcontracts shall be permitted for
14 agreements authorized under this Section. For the purposes of
15 this subsection (e), "subcontract" means any acquisition from
16 another source of supplies, not including raw materials, or
17 services required by a qualified not-for-profit agency to
18 provide the supplies or services that are the subject of the
19 contract between the State and the qualified not-for-profit
20 agency.

21 The State Use Committee shall develop guidelines to be
22 followed by qualified not-for-profit agencies when seeking and
23 establishing subcontracts with other persons or not-for-profit
24 agencies in order to fulfill State contract requirements.
25 These guidelines shall include the following:

26 (i) The State Use Committee must approve all

1 subcontracts and substantive amendments to subcontracts
2 prior to execution or amendment of the subcontract.

3 (ii) A qualified not-for-profit agency shall not enter
4 into a subcontract, or any combination of subcontracts, to
5 fulfill an entire requirement, contract, or order without
6 written State Use Committee approval.

7 (iii) A qualified not-for-profit agency shall make
8 reasonable efforts to utilize subcontracts with other
9 not-for-profit agencies for persons with significant
10 disabilities.

11 (iv) For any subcontract not currently performed by a
12 qualified not-for-profit agency, the primary qualified
13 not-for-profit agency must provide to the State Use
14 Committee the following: (A) a written explanation as to
15 why the subcontract is not performed by a qualified
16 not-for-profit agency, and (B) a written plan to transfer
17 the subcontract to a qualified not-for-profit agency, as
18 reasonable.

19 (Source: P.A. 102-343, eff. 8-13-21; 102-558, eff. 8-20-21.)