



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3737

Introduced 2/17/2023, by Rep. William "Will" Davis

SYNOPSIS AS INTRODUCED:

30 ILCS 500/20-10
30 ILCS 500/50-95 new
30 ILCS 500/50-100 new

Amends the Illinois Procurement Code. Requires State agencies to create an annual report detailing their procurement practices. Provides that, if a bidder has failed to be awarded a contract after 4 consecutive bids to provide the same services to a single agency, then the applicable chief procurement officer for that agency shall in writing detail why all 4 bids were rejected. Provides that the Department of Central Management Services shall, in consultation with State agencies, develop a scorecard for the assessment of bidders, which must include a line item for the ability of the bidder to meet the agency's DBE/BEP goals. Effective immediately.

LRB103 26826 HLH 53190 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 20-10 and by adding Sections 50-95 and 50-100
6 as follows:

7 (30 ILCS 500/20-10)

8 (Text of Section from P.A. 96-159, 96-588, 97-96, 97-895,
9 98-1076, 99-906, 100-43, 101-31, 101-657, and 102-29)

10 Sec. 20-10. Competitive sealed bidding; reverse auction.

11 (a) Conditions for use. All contracts shall be awarded by
12 competitive sealed bidding except as otherwise provided in
13 Section 20-5.

14 (b) Invitation for bids. An invitation for bids shall be
15 issued and shall include a purchase description and the
16 material contractual terms and conditions applicable to the
17 procurement.

18 (c) Public notice. Public notice of the invitation for
19 bids shall be published in the Illinois Procurement Bulletin
20 at least 14 calendar days before the date set in the invitation
21 for the opening of bids.

22 (d) Bid opening. Bids shall be opened publicly or through
23 an electronic procurement system in the presence of one or

1 more witnesses at the time and place designated in the
2 invitation for bids. The name of each bidder, including earned
3 and applied bid credit from the Illinois Works Jobs Program
4 Act, the amount of each bid, and other relevant information as
5 may be specified by rule shall be recorded. After the award of
6 the contract, the winning bid and the record of each
7 unsuccessful bid shall be open to public inspection.

8 (e) Bid acceptance and bid evaluation. Bids shall be
9 unconditionally accepted without alteration or correction,
10 except as authorized in this Code. Bids shall be evaluated
11 based on the requirements set forth in the invitation for
12 bids, which may include criteria to determine acceptability
13 such as inspection, testing, quality, workmanship, delivery,
14 and suitability for a particular purpose. Those criteria that
15 will affect the bid price and be considered in evaluation for
16 award, such as discounts, transportation costs, and total or
17 life cycle costs, shall be objectively measurable. The
18 invitation for bids shall set forth the evaluation criteria to
19 be used.

20 (f) Correction or withdrawal of bids. Correction or
21 withdrawal of inadvertently erroneous bids before or after
22 award, or cancellation of awards of contracts based on bid
23 mistakes, shall be permitted in accordance with rules. After
24 bid opening, no changes in bid prices or other provisions of
25 bids prejudicial to the interest of the State or fair
26 competition shall be permitted. All decisions to permit the

1 correction or withdrawal of bids based on bid mistakes shall
2 be supported by written determination made by a State
3 purchasing officer.

4 (g) Award. The contract shall be awarded with reasonable
5 promptness by written notice to the lowest responsible and
6 responsive bidder whose bid meets the requirements and
7 criteria set forth in the invitation for bids, except when a
8 State purchasing officer determines it is not in the best
9 interest of the State and by written explanation determines
10 another bidder shall receive the award. The explanation shall
11 appear in the appropriate volume of the Illinois Procurement
12 Bulletin. The written explanation must include:

- 13 (1) a description of the agency's needs;
- 14 (2) a determination that the anticipated cost will be
15 fair and reasonable;
- 16 (3) a listing of all responsible and responsive
17 bidders; and
- 18 (4) the name of the bidder selected, the total
19 contract price, and the reasons for selecting that bidder.

20 Each chief procurement officer may adopt guidelines to
21 implement the requirements of this subsection (g).

22 The written explanation shall be filed with the
23 Legislative Audit Commission, and the Commission on Equity and
24 Inclusion, and the Procurement Policy Board, and be made
25 available for inspection by the public, within 14 calendar
26 days after the agency's decision to award the contract.

1 (g-5) Failed bid notice. In addition to the requirements
2 of subsection (g), if a bidder has failed to be awarded a
3 contract after 4 consecutive bids to provide the same services
4 to a single agency, the applicable chief procurement officer
5 for that agency shall in writing detail why all 4 bids were
6 rejected. The chief procurement officer shall submit by
7 certified copy to the bidder the reasoning for the rejection
8 of the bid within 60 days after the 4th bid is rejected.

9 (h) Multi-step sealed bidding. When it is considered
10 impracticable to initially prepare a purchase description to
11 support an award based on price, an invitation for bids may be
12 issued requesting the submission of unpriced offers to be
13 followed by an invitation for bids limited to those bidders
14 whose offers have been qualified under the criteria set forth
15 in the first solicitation.

16 (i) Alternative procedures. Notwithstanding any other
17 provision of this Act to the contrary, the Director of the
18 Illinois Power Agency may create alternative bidding
19 procedures to be used in procuring professional services under
20 Section 1-56, subsections (a) and (c) of Section 1-75 and
21 subsection (d) of Section 1-78 of the Illinois Power Agency
22 Act and Section 16-111.5(c) of the Public Utilities Act and to
23 procure renewable energy resources under Section 1-56 of the
24 Illinois Power Agency Act. These alternative procedures shall
25 be set forth together with the other criteria contained in the
26 invitation for bids, and shall appear in the appropriate

1 volume of the Illinois Procurement Bulletin.

2 (j) Reverse auction. Notwithstanding any other provision
3 of this Section and in accordance with rules adopted by the
4 chief procurement officer, that chief procurement officer may
5 procure supplies or services through a competitive electronic
6 auction bidding process after the chief procurement officer
7 determines that the use of such a process will be in the best
8 interest of the State. The chief procurement officer shall
9 publish that determination in his or her next volume of the
10 Illinois Procurement Bulletin.

11 An invitation for bids shall be issued and shall include
12 (i) a procurement description, (ii) all contractual terms,
13 whenever practical, and (iii) conditions applicable to the
14 procurement, including a notice that bids will be received in
15 an electronic auction manner.

16 Public notice of the invitation for bids shall be given in
17 the same manner as provided in subsection (c).

18 Bids shall be accepted electronically at the time and in
19 the manner designated in the invitation for bids. During the
20 auction, a bidder's price shall be disclosed to other bidders.
21 Bidders shall have the opportunity to reduce their bid prices
22 during the auction. At the conclusion of the auction, the
23 record of the bid prices received and the name of each bidder
24 shall be open to public inspection.

25 After the auction period has terminated, withdrawal of
26 bids shall be permitted as provided in subsection (f).

1 The contract shall be awarded within 60 calendar days
2 after the auction by written notice to the lowest responsible
3 bidder, or all bids shall be rejected except as otherwise
4 provided in this Code. Extensions of the date for the award may
5 be made by mutual written consent of the State purchasing
6 officer and the lowest responsible bidder.

7 This subsection does not apply to (i) procurements of
8 professional and artistic services, (ii) telecommunications
9 services, communication services, and information services,
10 and (iii) contracts for construction projects, including
11 design professional services.

12 (Source: P.A. 100-43, eff. 8-9-17; 101-31, eff. 6-28-19;
13 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

14 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,
15 98-1076, 99-906, 100-43, 101-31, 101-657, and 102-29)

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24 (c) Public notice. Public notice of the invitation for
25 bids shall be published in the Illinois Procurement Bulletin

1 at least 14 calendar days before the date set in the invitation
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3 (d) Bid opening. Bids shall be opened publicly or through
4 an electronic procurement system in the presence of one or
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23 procedures to be used in procuring professional services under
24 subsections (a) and (c) of Section 1-75 and subsection (d) of
25 Section 1-78 of the Illinois Power Agency Act and Section
26 16-111.5(c) of the Public Utilities Act and to procure

1 renewable energy resources under Section 1-56 of the Illinois
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13 services, communication services, and information services,
14 and (iii) contracts for construction projects, including
15 design professional services.

16 (Source: P.A. 101-31, eff. 6-28-19; 101-657, eff. 1-1-22;
17 102-29, eff. 6-25-21.)

18 (30 ILCS 500/50-95 new)

19 Sec. 50-95. Annual report.

20 (a) Each State agency shall create an annual report
21 detailing its procurement practices. Reports shall be due no
22 later than October 1 of each calendar year and shall cover the
23 State fiscal year ending on June 30 of that calendar year. The
24 first report shall be due no later than October 1, 2023 and
25 shall cover the State fiscal year ending on June 30, 2023. The

1 reports shall include the following:

2 (1) the total dollar amount awarded by the State
3 agency during the previous fiscal year for contracts that
4 are subject to this Code separated by (i) all services,
5 (ii) construction services, and (iii) professional
6 services;

7 (2) the total dollar amount actually expended by the
8 State agency under contracts that are subject to this Code
9 separated by (i) all services, (ii) construction services,
10 and (iii) professional services;

11 (3) a statement of the State agency's disadvantaged
12 business enterprise (DBE) program goal and whether or not
13 the agency met that goal;

14 (4) a statement of the State agency's small business
15 goal and whether or not the agency met that goal;

16 (5) a demographic breakdown of the State agency's
17 vendors and contractors;

18 (6) the top 5 prime contractors used by the agency and
19 the dollar amount awarded to each of those contractors;
20 and

21 (7) the top 5 DBE/BEP contractors used by the agency
22 and the dollar amount awarded to each of those
23 contractors.

24 (b) The report under this Section shall be publicly
25 accessible and shall be distributed to at least 10 television
26 news outlets in the State.

1 (30 ILCS 500/50-100 new)

2 Sec. 50-100. Scorecard. The Department of Central
3 Management Services shall, in consultation with State
4 agencies, develop a scorecard for the assessment of bidders,
5 which must include a line item for the ability of the bidder to
6 meet the agency's DBE/BEP goals.

7 Section 95. No acceleration or delay. Where this Act makes
8 changes in a statute that is represented in this Act by text
9 that is not yet or no longer in effect (for example, a Section
10 represented by multiple versions), the use of that text does
11 not accelerate or delay the taking effect of (i) the changes
12 made by this Act or (ii) provisions derived from any other
13 Public Act.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.