

SB3731



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3731

Introduced 2/9/2024, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-45
30 ILCS 500/45-46 new

Amends the Illinois Procurement Code. Provides that a construction business with annual sales and receipts in excess of \$45,000,000 but not over \$67,500,000.00 is a mid-size business. Provides that each chief procurement officer has authority to designate a fair proportion of construction, supply, and service contracts as mid-size business set-asides for award to mid-size businesses in Illinois. Requires advertisements for bids or offers for those contracts to specify designation as mid-size business set-asides. Provides that, in awarding the contracts, only bids or offers from qualified mid-size businesses shall be considered.

LRB103 38346 MXP 68481 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 45-45 and by adding Section 45-46 as follows:

6 (30 ILCS 500/45-45)

7 Sec. 45-45. Small businesses.

8 (a) Set-asides. Each chief procurement officer has
9 authority to designate as small business set-asides a fair
10 proportion of construction, supply, and service contracts for
11 award to small businesses in Illinois. Advertisements for bids
12 or offers for those contracts shall specify designation as
13 small business set-asides. In awarding the contracts, only
14 bids or offers from qualified small businesses shall be
15 considered.

16 (b) Small business. "Small business" means a business that
17 is independently owned and operated and that is not dominant
18 in its field of operation. The chief procurement officer shall
19 establish a detailed definition by rule, using in addition to
20 the foregoing criteria other criteria, including the number of
21 employees and the dollar volume of business. When computing
22 the size status of a potential contractor, annual sales and
23 receipts of the potential contractor and all of its affiliates

1 shall be included. The maximum number of employees and the
2 maximum dollar volume that a small business may have under the
3 rules promulgated by the chief procurement officer may vary
4 from industry to industry to the extent necessary to reflect
5 differing characteristics of those industries, subject to the
6 following limitations:

7 (1) No wholesale business is a small business if its
8 annual sales for its most recently completed fiscal year
9 exceed \$13,000,000.

10 (2) No retail business or business selling services is
11 a small business if its annual sales and receipts exceed
12 \$8,000,000.

13 (3) No manufacturing business is a small business if
14 it employs more than 250 persons.

15 (4) No construction business is a small business if
16 its annual sales and receipts exceed \$45,000,000
17 ~~\$14,000,000~~.

18 (c) Fair proportion. For the purpose of subsection (a),
19 for State agencies of the executive branch, a fair proportion
20 of construction contracts shall be no less than 25% nor more
21 than 40% of the annual total contracts for construction.

22 (d) Withdrawal of designation. A small business set-aside
23 designation may be withdrawn by the purchasing agency when
24 deemed in the best interests of the State. Upon withdrawal,
25 all bids or offers shall be rejected, and the bidders or
26 offerors shall be notified of the reason for rejection. The

1 contract shall then be awarded in accordance with this Code
2 without the designation of small business set-aside. Each
3 chief procurement officer shall make the annual report
4 available on his or her official website. Each chief
5 procurement officer shall also issue a press release in
6 conjunction with the small business annual report that
7 includes an executive summary of the annual report and a link
8 to the annual report on the chief procurement officer's
9 website.

10 (e) Small business specialist. Each chief procurement
11 officer shall designate one or more individuals to serve as
12 its small business specialist. The small business specialists
13 shall collectively work together to accomplish the following
14 duties:

15 (1) Compiling and maintaining a comprehensive list of
16 potential small contractors. In this duty, he or she shall
17 cooperate with the Federal Small Business Administration
18 in locating potential sources for various products and
19 services.

20 (2) Assisting small businesses in complying with the
21 procedures for bidding on State contracts.

22 (3) Examining requests from State agencies for the
23 purchase of property or services to help determine which
24 invitations to bid are to be designated small business
25 set-asides.

26 (4) Making recommendations to the chief procurement

1 officer for the simplification of specifications and terms
2 in order to increase the opportunities for small business
3 participation.

4 (5) Assisting in investigations by purchasing agencies
5 to determine the responsibility of bidders or offerors on
6 small business set-asides.

7 (f) Small business annual report. Each small business
8 specialist designated under subsection (e) shall annually
9 before November 1 report in writing to the General Assembly
10 concerning the awarding of contracts to small businesses. The
11 report shall include the total value of awards made in the
12 preceding fiscal year under the designation of small business
13 set-aside. The report shall also include the total value of
14 awards made to businesses owned by minorities, women, and
15 persons with disabilities, as defined in the Business
16 Enterprise for Minorities, Women, and Persons with
17 Disabilities Act, in the preceding fiscal year under the
18 designation of small business set-aside.

19 The requirement for reporting to the General Assembly
20 shall be satisfied by filing copies of the report as required
21 by Section 3.1 of the General Assembly Organization Act.

22 (Source: P.A. 103-570, eff. 1-1-24.)

23 (30 ILCS 500/45-46 new)

24 Sec. 45-46. Mid-Size businesses.

25 (a) As used in the Section, "mid-size business" means a

1 business that is independently owned and operated and that is
2 not dominant in its field of operation. "Mid-size business"
3 includes a construction business with annual sales and
4 receipts in excess of \$45,000,000, but not over \$67,500,000.

5 (b) The chief procurement officer shall adopt rules to
6 establish additional criteria to designate mid-size businesses
7 for the purposes of the mid-size business set-asides described
8 in subsection (c), including the number of employees and
9 dollar volume of the business. When computing the size status
10 of a potential contractor, annual sales and receipts of the
11 potential contractor and all of its affiliates shall be
12 included. The maximum number of employees and the maximum
13 dollar volume that a mid-size business may have under the
14 rules adopted by the chief procurement officer may vary from
15 industry to industry, to the extent necessary to reflect
16 differing characteristics of those industries, subject to the
17 limitation that no business shall qualify as a mid-size
18 business if its annual sales and receipts exceed \$67,500,000.

19 (c) Each chief procurement officer shall designate a fair
20 proportion, as determined by each chief procurement officer,
21 of construction, supply, and service contracts as mid-size
22 business set-asides for award to mid-size businesses in
23 Illinois. Advertisements for bids or offers for these
24 contracts shall specify designation as mid-size business
25 set-asides. In awarding the contracts, only bids or offers
26 from qualified mid-size businesses shall be considered.