



Sen. Martin A. Sandoval

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LRB097 06276 PJG 52656 a

1 AMENDMENT TO SENATE BILL 133

2 AMENDMENT NO. _____. Amend Senate Bill 133 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 changing Section 20-120 as follows:

6 (30 ILCS 500/20-120)

7 Sec. 20-120. Subcontractors.

8 (a) Any contract granted under this Code shall state
9 whether the services of a subcontractor will or may be used.
10 The contract shall include the names and addresses of all known
11 subcontractors with subcontracts with an annual value of more
12 than \$25,000 and the expected amount of money each will receive
13 under the contract. For procurements subject to the authority
14 of the chief procurement officer appointed pursuant to
15 subsection (a)(2) of Section 10-20, the contract shall include
16 only the names and addresses of all known subcontractors of the

1 primary contractor with subcontracts with an annual value of
2 more than \$25,000. The contractor shall provide the chief
3 procurement officer or State purchasing officer a copy of any
4 subcontract with an annual value of more than \$25,000 so
5 identified within 20 days after the execution of the State
6 contract or after execution of the subcontract, whichever is
7 later. A subcontractor, or contractor on behalf of a
8 subcontractor, may identify information that is deemed
9 proprietary or confidential. If the chief procurement officer
10 determines the information is not relevant to the primary
11 contract, the chief procurement officer may excuse the
12 inclusion of the information. If the chief procurement officer
13 determines the information is proprietary or could harm the
14 business interest of the subcontractor, the chief procurement
15 officer may, in his or her discretion, redact the information.
16 Redacted information shall not become part of the public
17 record.

18 (b) If at any time during the term of a contract, a
19 contractor adds or changes any subcontractors, he or she shall
20 promptly notify, in writing, the chief procurement officer,
21 State purchasing officer, or their designee of the names and
22 addresses and the expected amount of money each new or replaced
23 subcontractor will receive. The contractor shall provide to the
24 responsible chief procurement officer a copy of the subcontract
25 within 20 days after the execution of the subcontract.

26 (c) In addition to any other requirements of this Code, a

1 subcontract subject to this Section must include all of the
2 subcontractor's certifications required by Article 50 of the
3 Code.

4 (c-5) The Capital Development Board and the Department of
5 Transportation may each, by rule, implement a pilot program
6 under which select construction contracts granted under this
7 Code and all subcontracts pursuant to those contracts shall
8 contain provisions that if a subcontractor has performed in
9 accordance with the provisions of his or her subcontract and
10 the work has been accepted by the appropriate State agency, the
11 State agency shall pay the amount due the subcontractor
12 directly to the subcontractor pursuant to the proper bill or
13 invoice provided by the contractor to the State agency in
14 accordance with the provisions of the State Prompt Payment Act.
15 If a construction contract granted under this Code contains a
16 provision that the State agency shall pay the subcontractor
17 directly, the contractor shall deliver to the State agency a
18 proper bill or invoice, as defined in the State Prompt Payment
19 Act, for each subcontractor with whom the contractor has a
20 subcontract.

21 (d) This Section applies to procurements solicited on or
22 after the effective date of this amendatory Act of the 96th
23 General Assembly.

24 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
25 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

1 Section 10. The State Prompt Payment Act is amended by
2 changing Section 7 as follows:

3 (30 ILCS 540/7) (from Ch. 127, par. 132.407)

4 Sec. 7. Payments to subcontractors and material suppliers.

5 (a) When a State official or agency responsible for
6 administering a contract submits a voucher to the Comptroller
7 for payment to a contractor, that State official or agency
8 shall promptly make available electronically the voucher
9 number, the date of the voucher, and the amount of the voucher.
10 The State official or agency responsible for administering the
11 contract shall provide subcontractors and material suppliers,
12 known to the State official or agency, with instructions on how
13 to access the electronic information. When a contractor
14 receives any payment, the contractor shall pay each
15 subcontractor and material supplier in proportion to the work
16 completed by each subcontractor and material supplier their
17 application, plus interest received under this Act, less any
18 retention. If the contractor receives less than the full
19 payment due under the public construction contract, the
20 contractor shall be obligated to disburse on a pro rata basis
21 those funds received, plus interest received under this Act,
22 with the contractor, subcontractors and material suppliers
23 each receiving a prorated portion based on the amount of
24 payment. When, however, the public owner does not release the
25 full payment due under the contract because there are specific

1 areas of work or materials the contractor is rejecting or
2 because the contractor has otherwise determined such areas are
3 not suitable for payment, then those specific subcontractors or
4 suppliers involved shall not be paid for that portion of work
5 rejected or deemed not suitable for payment and all other
6 subcontractors and suppliers shall be paid in full, plus
7 interest received under this Act.

8 (b) If the contractor, without reasonable cause, fails to
9 make full payment of amounts due under subsection (a) to his
10 subcontractors and material suppliers within 15 days after
11 receipt of payment under the public construction contract, the
12 contractor shall pay to his subcontractors and material
13 suppliers, in addition to the payment due them, interest in the
14 amount of 2% per month, calculated from the expiration of the
15 15-day period until fully paid. This subsection shall also
16 apply to any payments made by subcontractors and material
17 suppliers to their subcontractors and material suppliers and to
18 all payments made to lower tier subcontractors and material
19 suppliers throughout the contracting chain.

20 (1) If a contractor, without reasonable cause, fails to
21 make payment in full as provided in subsection (a) within
22 15 days after receipt of payment under the public
23 construction contract, any subcontractor or material
24 supplier to whom payments are owed may file a written
25 notice with the State official or agency setting forth the
26 amount owed by the contractor and the contractor's failure

1 to timely pay the amount owed.

2 (2) The State official or agency, within 15 days after
3 receipt of a subcontractor's or material supplier's
4 written notice of the failure to receive payment from the
5 contractor, shall hold a hearing convened by an
6 administrative law judge to determine whether the
7 contractor withheld payment, without reasonable cause,
8 from the subcontractors and material suppliers and what
9 amount, if any, is due to the subcontractors and material
10 suppliers. The State official or agency shall provide
11 appropriate notice to the parties of the date, time, and
12 location of the hearing. Each contractor, subcontractor,
13 and material supplier has the right to be represented by
14 counsel at the hearing and to cross-examine witnesses and
15 challenge documents.

16 (3) If there is a finding by the administrative law
17 judge that the contractor failed to make payment in full,
18 without reasonable cause, as provided in subsection (a),
19 then the administrative law judge shall, in writing, direct
20 the contractor to pay the amount owed to the subcontractors
21 and material suppliers plus interest within 15 days after
22 the finding.

23 (4) If a contractor fails to make full payment within
24 15 days after the administrative law judge's finding, then
25 the contractor shall be barred from entering into a State
26 public construction contract for a period of one year

1 beginning on the date of the administrative law judge's
2 finding.

3 (c) The provisions of this Section do not apply to payments
4 to a subcontractor for work performed under a subcontract
5 entered into with a construction contractor if the contract
6 contains a provision that the State agency shall pay the
7 subcontractor directly as required under a pilot program
8 implemented by the Capital Development Board or the Department
9 of Transportation.

10 (Source: P.A. 94-672, eff. 1-1-06; 94-972, eff. 7-1-07.)".