

1 AN ACT concerning procurement.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Legislative Audit Commission Act is
5 amended by changing Section 3 as follows:

6 (25 ILCS 150/3) (from Ch. 63, par. 106)

7 Sec. 3. The Commission shall receive the reports of the
8 Auditor General and other financial statements and shall
9 determine what remedial measures, if any, are needed, and
10 whether special studies and investigations are necessary. If
11 the Commission shall deem such studies and investigations to
12 be necessary, the Commission may direct the Auditor General
13 to undertake such studies or investigations.

14 The Commission may review procurements made by any State
15 agency. The Commission or a member of the Commission may, if
16 necessary, direct the Auditor General to undertake an
17 investigation of the procurement practices of a State agency.

18 When a disagreement between the Audit Commission and an
19 agency under the Governor's jurisdiction arises in the
20 process of the Audit Commission's review of audit reports
21 relating to such agency, the Audit Commission shall promptly
22 advise the Governor of such areas of disagreement. The
23 Governor shall respond to the Audit Commission within a
24 reasonable period of time, and in no event later than 60
25 days, expressing his views concerning such areas of
26 disagreement and indicating the corrective action taken by
27 his office with reference thereto or, if no action is taken,
28 indicating the reasons therefor.

29 The Audit Commission also promptly shall advise all other
30 responsible officials of the Executive, Judicial and
31 Legislative branches of the State government of areas of

1 disagreement arising in the process of the Commission's
2 review of their respective audit reports. With reference to
3 his particular office, each such responsible official shall
4 respond to the Audit Commission within a reasonable period of
5 time, and in no event later than 60 days, expressing his view
6 concerning such areas of disagreement and indicating the
7 corrective action taken with reference thereto or stating the
8 reasons that no action has been taken.

9 The Commission shall report its activities to the General
10 Assembly including such remedial measures as it deems to be
11 necessary. The report of the Commission shall be made to the
12 General Assembly not less often than annually and not later
13 than March 1 in each year.

14 The requirement for reporting to the General Assembly
15 shall be satisfied by filing copies of the report with the
16 Speaker, the Minority Leader and the Clerk of the House of
17 Representatives and the President, the Minority Leader and
18 the Secretary of the Senate and the Legislative Research
19 Unit, as required by Section 3.1 of "An Act to revise the law
20 in relation to the General Assembly", approved February 25,
21 1874, as amended, and filing such additional copies with the
22 State Government Report Distribution Center for the General
23 Assembly as is required under paragraph (t) of Section 7 of
24 the State Library Act.

25 In addition, the Commission has the powers and duties
26 provided for in the "Illinois State Auditing Act", enacted by
27 the 78th General Assembly, and, if the provisions of that Act
28 are conflict with those of this Act, that Act prevails.

29 (Source: P.A. 84-1438.)

30 Section 10. The Illinois Procurement Code is amended by
31 changing Sections 20-10 and 30-15 and by adding Section 30-16
32 as follows:

1 (30 ILCS 500/20-10)

2 Sec. 20-10. Competitive sealed bidding.

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

6 (b) Invitation for bids. An invitation for bids shall
7 be issued and shall include a purchase description and the
8 material contractual terms and conditions applicable to the
9 procurement. Each invitation for sealed bids shall at a
10 minimum include:

11 (1) a statement of:

12 (A) all significant factors and significant
13 subfactors that the purchasing agency reasonably
14 expects to consider in evaluating sealed bids
15 (including cost or price, cost-related or
16 price-related factors and subfactors, and
17 noncost-related or nonprice-related factors and
18 subfactors); and

19 (B) the relative importance assigned to each
20 of those factors and subfactors.

21 (c) Public notice. Public notice of the invitation for
22 bids shall be published in the Illinois Procurement Bulletin
23 at least 14 days before the date set in the invitation for
24 the opening of bids.

25 (d) Bid opening. Bids shall be opened publicly in the
26 presence of one or more witnesses at the time and place
27 designated in the invitation for bids. The name of each
28 bidder, the amount of each bid, and other relevant
29 information as may be specified by rule shall be recorded.
30 After the award of the contract, the winning bid and the
31 record of each unsuccessful bid shall be open to public
32 inspection.

33 (e) Bid acceptance and bid evaluation. Bids shall be
34 unconditionally accepted without alteration or correction,

1 except as authorized in this Code. Bids shall be evaluated
2 based on the requirements set forth in the invitation for
3 bids, which may include criteria to determine acceptability
4 such as inspection, testing, quality, workmanship, delivery,
5 and suitability for a particular purpose. Those criteria
6 that will affect the bid price and be considered in
7 evaluation for award, such as discounts, transportation
8 costs, and total or life cycle costs, shall be objectively
9 measurable. The invitation for bids shall set forth the
10 evaluation criteria to be used. In prescribing the evaluation
11 factors to be included in each invitation for sealed bids, a
12 purchasing agency shall include cost or price to the State as
13 an evaluation factor that must be considered in the
14 evaluation of proposals.

15 (f) Correction or withdrawal of bids. Correction or
16 withdrawal of inadvertently erroneous bids before or after
17 award, or cancellation of awards of contracts based on bid
18 mistakes, shall be permitted in accordance with rules. After
19 bid opening, no changes in bid prices or other provisions of
20 bids prejudicial to the interest of the State or fair
21 competition shall be permitted. All decisions to permit the
22 correction or withdrawal of bids based on bid mistakes shall
23 be supported by written determination made by a State
24 purchasing officer.

25 (g) Award. The contract shall be awarded with
26 reasonable promptness by written notice to the lowest
27 responsible and responsive bidder whose bid meets the
28 requirements and criteria set forth in the invitation for
29 bids, except when a State purchasing officer determines it is
30 not in the best interest of the State and by written
31 explanation determines another bidder shall receive the
32 award. The explanation shall appear in the appropriate
33 volume of the Illinois Procurement Bulletin.

34 (h) Multi-step sealed bidding. When it is considered

1 impracticable to initially prepare a purchase description to
2 support an award based on price, an invitation for bids may
3 be issued requesting the submission of unpriced offers to be
4 followed by an invitation for bids limited to those bidders
5 whose offers have been qualified under the criteria set forth
6 in the first solicitation.

7 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

8 (30 ILCS 500/30-15)

9 Sec. 30-15. Method of source selection.

10 (a) Competitive sealed bidding. Except as provided in
11 subsections (b), (c), and (d) and Sections 20-20, 20-25, and
12 20-30, and 30-16, all State construction contracts shall be
13 procured by competitive sealed bidding in accordance with
14 Section 20-10.

15 (b) Other methods.

16 (1) Construction Manager Services. Procurement of
17 a construction manager for project services, which may
18 include, but are not limited to, scheduling, contractor
19 coordination, and administration of pay requests, but not
20 including design services, shall be made in accordance
21 with Section 20-15 providing for competitive sealed
22 proposals and Central Management Services procurement
23 rules that establish procedures for competitive sealed
24 proposals.

25 (2) Illinois Correctional Industries. Procurement
26 from Illinois Correctional Industries constitutes
27 contracting between State governmental bodies, exempt
28 from Procurement Code requirements, and shall be done in
29 accordance with Section 45-30, Central Management
30 Services rules, and the procurement practices provisions
31 of the Capital Development Board as established by rule.
32 Such procurements may utilize an annual master contract
33 with agreed-upon unit prices for construction services,

1 against which sub-orders may be placed for specific
2 Capital Development Board projects.

3 (3) Art-in-Architecture Program Procurement. Works
4 of art procured for Capital Development Board
5 construction projects pursuant to Section 14 of the
6 Capital Development Board Act shall be in accordance with
7 selection procedures developed by the Fine Arts Review
8 Committee and Capital Development Board, in consultation
9 with the Public Arts Advisory Committee. The-Capital
10 Development-Board-shall-establish--by--rule--construction
11 purchases--that--may--be--made-without-competitive-sealed
12 bidding-and-the--most--competitive--alternate--method--of
13 source-selection-that-shall-be-used.

14 (c) Construction-related professional services. All
15 construction-related professional services contracts shall be
16 awarded in accordance with the provisions of the
17 Architectural, Engineering, and Land Surveying Qualifications
18 Based Selection Act. "Professional services" means those
19 services within the scope of the practice of architecture,
20 professional engineering, structural engineering, or
21 registered land surveying, as defined by the laws of this
22 State.

23 (d) Correctional facilities. Remodeling and
24 rehabilitation projects at correctional facilities under
25 \$25,000 funded from the General Revenue Fund are exempt from
26 the provisions of this Article. The Department of
27 Corrections may use inmate labor for the remodeling or
28 rehabilitation of correctional facilities on those projects
29 under \$25,000 funded from the General Revenue Fund.

30 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

31 (30 ILCS 500/30-16 new)

32 Sec. 30-16. Justification for use of noncompetitive
33 procedures.

1 (a) A purchasing agency may not award a contract using
2 procedures other than competitive procedures unless:

3 (1) the purchasing agency for the contract:

4 (A) justifies the use of such procedures in
5 writing and certifies the accuracy and completeness
6 of the justification; and

7 (B) publishes any required notice with respect
8 to such contract as provided for competitive sealed
9 bids in Section 20-10 and all bids or proposals
10 received in response to such notice have been
11 considered by the purchasing agency; or

12 (2) otherwise provided in Section 30-15.

13 (b) In the case of a procurement permitted by Section
14 20-30, the justification and approval required by subsection
15 (a) may be made after the contract is awarded. The
16 justification and approval required by subsection (a) is not
17 required:

18 (1) when a statute expressly requires that the
19 procurement be made from a specified source;

20 (2) when the agency's need is for a brand-name
21 commercial item for authorized resale; or

22 (3) in the case of a procurement in which the head
23 of the purchasing agency determines that it is necessary
24 in the public interest to use procedures other than
25 competitive procedures in the particular procurement
26 concerned, and notifies the Legislative Audit Commission
27 in writing of such determination not less than 30 days
28 before the award of the contract.

29 (c) The justification required by subdivision (a)(1)
30 shall include:

31 (1) a description of the agency's needs;

32 (2) an identification of the statutory exception
33 from the requirement to use competitive procedures and a
34 demonstration, based on the proposed contractor's

1 qualifications or the nature of the procurement, of the
2 reasons for using that exception;

3 (3) a determination that the anticipated cost will
4 be fair and reasonable;

5 (4) a description of the market survey conducted or
6 a statement of the reasons a market survey was not
7 conducted;

8 (5) a listing of the sources, if any, that
9 expressed in writing an interest in the procurement; and

10 (6) a statement of the actions, if any, the agency
11 may take to remove or overcome a barrier to competition
12 before a subsequent procurement for such needs.

13 (d) The justification required by subdivision (a)(1) and
14 any related information shall be filed with the Legislative
15 Audit Commission and made available for inspection by the
16 public. Any bidder or potential bidder on the contract may
17 appeal the decision by the agency to offer the contract in
18 other than a competitive process. The appeal shall be taken
19 first to the agency offering the contract. Final
20 administrative decisions of the agency are subject to review
21 under the provisions of the Administrative Review Law.

22 (e) In no case may a purchasing agency:

23 (1) enter into a contract for property or services
24 using procedures other than competitive procedures on the
25 basis of the lack of advance planning or concerns related
26 to the amount of funds available to the agency for
27 procurement functions; or

28 (2) procure property or services from another State
29 agency unless such other State agency complies fully with
30 the requirements of this Code in its procurement of such
31 property or services. The restriction set out in this
32 subdivision (e)(2) is in addition to, and not in lieu of,
33 any other restriction provided by law.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.