

AN ACT concerning State government.

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

Section 5. The Department of Central Management Services Law of the Civil Administrative Code of Illinois is amended by changing and renumbering multiple versions of Section 405-535 (as added by Public Act 101-657) as follows:

(20 ILCS 405/405-535)

Sec. 405-535. Race and gender wage reports.

(a) Each State agency and public institution of higher education shall annually submit to the Commission on Equity and Inclusion ~~Department~~ a report, categorized by both race and gender, specifying the respective wage earnings of employees of that State agency or public institution of higher education.

(b) The Commission ~~Department~~ shall compile the information submitted under this Section and make that information available to the public on the Internet website of the Commission ~~Department~~.

(c) The Commission ~~Department~~ shall annually submit a report of the information compiled under this Section to the Governor and, ~~the General Assembly, and the Business Enterprise Council for Minorities, Women, and Persons with~~

~~Disabilities.~~

(d) As used in this Section:

"Public institution of higher education" has the meaning provided in Section 1 of the Board of Higher Education Act.

"State agency" has the meaning provided in subsection (b) of Section 405-5.

(Source: P.A. 101-657, Article 25, Section 25-5, eff. 3-23-21.)

(20 ILCS 405/405-540)

Sec. 405-540 ~~405-535~~. African Descent-Citizens Reparations Commission.

(a) The African Descent-Citizens Reparations Commission is hereby established within the Department of Central Management Services.

(b) The Commission shall include the following members:

(1) the Governor or his or her designee;

(2) one member of the House of Representatives appointed by the Speaker of the House of Representatives;

(3) one member of the Senate appointed by the President of the Senate;

(4) one member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

(5) one member of the Senate appointed by the Minority Leader of the Senate;

(6) three representatives of a national coalition that supports reparations for African Americans appointed by the Governor; and

(7) ten members of the public appointed by the Governor, at least 8 of whom are African American descendants of slavery.

(c) Appointment of members to the Commission shall be made within 60 days after the effective date of this amendatory Act of the 101st General Assembly, with the first meeting of the Commission to be held at a reasonable period of time thereafter. The Chairperson of the Commission shall be elected from among the members during the first meeting. Members of the Commission shall serve without compensation, but may be reimbursed for travel expenses. The 10 members of the public appointed by the Governor shall be from diverse backgrounds, including businesspersons and persons without high school diplomas.

(d) Administrative support and staffing for the Commission shall be provided by the Department of Central Management Services. Any State agency under the jurisdiction of the Governor shall provide testimony and documents as directed by the Department.

(e) The Commission shall perform the following duties:

(1) develop and implement measures to ensure equity, equality, and parity for African American descendants of slavery;

(2) hold hearings to discuss the implementation of measures to ensure equity, equality, and parity for African American descendants of slavery;

(3) educate the public on reparations for African American descendants of slavery;

(4) report to the General Assembly information and findings regarding the work of the Commission under this Section and the feasibility of reparations for Illinois African American descendants of slavery, including any recommendations on the subject; and

(5) discuss and perform actions regarding the following issues:

(i) Preservation of African American neighborhoods and communities through investment in business development, home ownership, and affordable housing at the median income of each neighborhood, with a full range of housing services and strengthening of institutions, which shall include, without limitation, schools, parks, and community centers.

(ii) Building and development of a Vocational Training Center for People of African Descent-Citizens, with satellite centers throughout the State, to address the racial disparity in the building trades and the de-skilling of African American labor through the historic discrimination in the building trade unions. The Center shall also have

departments for legitimate activities in the informal economy and apprenticeship.

(iii) Ensuring proportional economic representation in all State contracts, including reviews and recommendations for changes to ~~updates of~~ the State procurement and contracting requirements and procedures with the express goal of increasing the number of African American vendors and contracts for services to an equitable level reflecting their population in the State.

(iv) Creation and enforcement of an Illinois Slavery Era Disclosure Bill mandating that in addition to disclosure, an affidavit must be submitted entitled "Statement of Financial Reparations" that has been negotiated between the Commission established under this Section and a corporation or institution that disclosed ties to the enslavement or injury of people of African descent in the United States of America.

(f) Beginning January 1, 2022, and for each year thereafter, the Commission shall submit a report regarding its actions and any information as required under this Section to the Governor and the General Assembly. The report of the Commission shall also be made available to the public on the Internet website of the Department of Central Management Services.

(Source: P.A. 101-657, Article 15, Section 15-5, eff. 3-23-21;

revised 4-21-21.)

Section 10. The Illinois Procurement Code is amended by changing Sections 5-7, 20-10, 20-15, 20-30, 20-60, and 40-20 as follows:

(30 ILCS 500/5-7)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5-7. Commission on Equity and Inclusion; powers and duties.

(a) The Commission on Equity and Inclusion, as created under the Commission on Equity and Inclusion Act, shall have the powers and duties provided under this Section with respect to this Code. Nothing in this Section shall be construed as overriding the authority and duties of the Procurement Policy Board as provided under Section 5-5. The powers and duties of the Commission as provided under this Section shall be exercised alongside, but independent of, that of the Procurement Policy Board.

(b) The Commission on Equity and Inclusion shall have the authority and responsibility to review, comment upon, and recommend, consistent with this Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional or artistic services, construction, and real property and capital improvement leases

procured by the State for the purpose of diversity, equity, and inclusion. The Commission on Equity and Inclusion shall also have the authority to recommend a program for professional development and provide opportunities for training in equity and inclusion in procurement practices and policies to chief procurement officers and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.

(c) Upon a majority vote of its members, the Commission on Equity and Inclusion may review a contract for purposes of equity and inclusion. Upon a three-fifths vote of its members, the Commission may propose equity and inclusion in procurement rules for consideration by chief procurement officers. These proposals of equity and inclusion rules shall be published in each volume of the Procurement Bulletin. Except as otherwise provided by law, the Commission on Equity and Inclusion shall act upon the vote of a majority of its members who have been appointed and are serving.

(d) The Commission on Equity and Inclusion may review, study, and hold public hearings concerning the implementation and administration of this Code in regard to equity and inclusion in procurement. Each chief procurement officer, State purchasing officer, procurement compliance monitor, and State agency shall cooperate with ~~the Commission~~, provide information to ~~the Commission on Equity and Inclusion~~, and be responsive to the Commission on Equity and Inclusion in the

~~Commission's~~ conduct of its reviews, studies, and hearings for purposes of equity and inclusion in procurement.

(e) Upon a three-fifths vote of its members, the Commission on Equity and Inclusion shall review a proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any ~~conflict of interest or~~ violation of this Code in regard to equity and inclusion. A recommendation of the Commission shall be delivered to the appropriate chief procurement officer ~~and Executive Ethics Commission~~ within 7 calendar days after the proposal due date, bid opening date, or determination of a Code violation and must be published in the next volume of the Procurement Bulletin. The bidder, offeror, potential contractor, contractor, or subcontractor shall have 15 calendar days to provide a written response to the notice. A ~~, and a~~ hearing before the Commission on the ~~alleged conflict of interest or~~ violation of the Code in regard to equity and inclusion shall be held upon request by the bidder, offeror, potential contractor, contractor, or subcontractor. The requested hearing date and time shall be determined by the Commission on Equity and Inclusion, but in no event shall the hearing occur later than 15 calendar days after the date of the request. Within 7 days after the hearing, the Commission shall deliver a recommendation to the appropriate chief procurement officer whether to void the contract or reject the proposal or bid.

(Source: P.A. 101-657, eff. 1-1-22.)

(30 ILCS 500/20-10)

(Text of Section before amendment by P.A. 101-657)

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

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

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

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

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

(d) Bid opening. Bids shall be opened publicly or through an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, including earned and applied bid credit from the Illinois Works Jobs Program Act, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

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

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

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a

State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

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

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

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 14 ~~30~~ calendar days after the agency's decision to award the contract.

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

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

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

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

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

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

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

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

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

(Source: P.A. 100-43, eff. 8-9-17; 101-31, eff. 6-28-19.)

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

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

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

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

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

(d) Bid opening. Bids shall be opened publicly or through an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, including earned and applied bid credit from the Illinois Works Jobs Program Act, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability

such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

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

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

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

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

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 30 days after the agency's decision to award the contract.

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

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsections (a) and (c) of Section 1-75 and subsection (d) of Section 1-78 of the Illinois Power Agency Act and Section

16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

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

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

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices

during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

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

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

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

(Source: P.A. 100-43, eff. 8-9-17; 101-31, eff. 6-28-19.)

(Text of Section after amendment by P.A. 101-657)

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

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(b) Invitation for bids. An invitation for bids shall be

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

(d) Bid opening. Bids shall be opened publicly or through an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, including earned and applied bid credit from the Illinois Works Jobs Program Act, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

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

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

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

- (1) a description of the agency's needs;
- (2) a determination that the anticipated cost will be fair and reasonable;
- (3) a listing of all responsible and responsive bidders; and

(4) the name of the bidder selected, the total contract price, and the reasons for selecting that bidder.

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

The written explanation shall be filed with the Legislative Audit Commission, and the Commission on Equity and Inclusion, and the Procurement Policy Board, and be made available for inspection by the public, within 14 ~~30~~ calendar days after the agency's decision to award the contract.

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

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

invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

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

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

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

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

After the auction period has terminated, withdrawal of

bids shall be permitted as provided in subsection (f).

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

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

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

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

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(c) Public notice. Public notice of the invitation for

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(d) Bid opening. Bids shall be opened publicly or through an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, including earned and applied bid credit from the Illinois Works Jobs Program Act, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

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(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after

award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

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

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the

chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

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

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

The contract shall be awarded within 60 calendar days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise

provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

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

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

(30 ILCS 500/20-15)

Sec. 20-15. Competitive sealed proposals.

(a) Conditions for use. When provided under this Code or under rules, or when the purchasing agency determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposals.

(b) Request for proposals. Proposals shall be solicited through a request for proposals.

(c) Public notice. Public notice of the request for proposals shall be published in the Illinois Procurement Bulletin at least 14 calendar days before the date set in the invitation for the opening of proposals.

(d) Receipt of proposals. Proposals shall be opened publicly or via an electronic procurement system in the

presence of one or more witnesses at the time and place designated in the request for proposals, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after contract award.

(e) Evaluation factors. The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 3 parts: the first, price; ~~and~~ the second, commitment to diversity; and the third, all other items. Each part of all proposals shall be evaluated and ranked independently of the other parts of all proposals. The results of the evaluation of all 3 parts shall be used in ranking of proposals.

(e-5) Method of scoring.

(1) The point scoring methodology for competitive sealed proposals shall provide points for commitment to diversity. Those points shall be equivalent to 20% of the points assigned to the third part of the proposal, all other items.

(2) Factors to be considered in the award of ~~these~~ points for the commitment to diversity component shall be set by rule by the applicable chief procurement officer and may include, but are not limited to:

(A) whether or how well the offeror ~~respondent~~, on the solicitation being evaluated, met the goal of

contracting or subcontracting with businesses owned by women, minorities, or persons with disabilities;

(B) whether the offeror ~~respondent~~, on the solicitation being evaluated, assisted businesses owned by women, minorities, or persons with disabilities in obtaining lines of credit, insurance, necessary equipment, supplies, materials, or related assistance or services;

(C) the percentage of prior year revenues of the offeror ~~respondent~~ that involve businesses owned by women, minorities, or persons with disabilities;

(D) whether the offeror ~~respondent~~ has a written supplier diversity program, including, but not limited to, use of diverse ~~diversity~~ vendors in the supply chain and a training or mentoring program with businesses owned by women, minorities, or persons with disabilities; and

(E) the percentage of members of the offeror's ~~respondent's~~ governing board, senior executives, and managers who are women, minorities, or persons with disabilities.

(3) If any State agency or public institution of higher education contract is eligible to be paid for or reimbursed, in whole or in part, with federal-aid funds, grants, or loans, and the provisions of this subsection (e-5) would result in the loss of those federal-aid funds,

grants, or loans, then the contract is exempt from the provisions of this Section in order to remain eligible for those federal-aid funds, grants, or loans. For the purposes of this subsection (e-5):

"Manager" means a person who controls or administers all or part of a company or similar organization.

"Minorities" has the same meaning as "minority person" under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

"Persons with disabilities" has the same meaning as "person with a disability" under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

"Senior executive" means the chief executive officer, chief operating officer, chief financial officer, or anyone else in charge of a principal business unit or function.

"Women" has the same meaning as "woman" under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(f) Discussion with responsible offerors and revisions of offers or proposals. As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit offers or proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and

responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.

(g) Award. Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(Source: P.A. 100-43, eff. 8-9-17; 101-657, eff. 3-23-21.)

(30 ILCS 500/20-30)

(Text of Section before amendment by P.A. 101-657)

Sec. 20-30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage

to State property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however, that the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 calendar days. A contract may be extended beyond 90 calendar days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Notice of all emergency procurements shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 calendar days before the public hearing. Notice shall include at least a description of the need for the emergency

purchase, the contractor, and if applicable, the date, time, and location of the public hearing. A copy of this notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

(c) Statements. A chief procurement officer making a procurement under this Section shall file statements with the Procurement Policy Board and the Auditor General within 10 calendar days after the procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 calendar days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter. The Legislative Audit Commission shall

review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time.

(e) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to procurements executed on or after its effective date.

(Source: P.A. 100-43, eff. 8-9-17.)

(Text of Section after amendment by P.A. 101-657)

Sec. 20-30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however, that the term of the emergency purchase shall be limited to the time

reasonably needed for a competitive procurement, not to exceed 90 calendar days. A contract may be extended beyond 90 calendar days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony. Emergency procurements shall be made with as much competition as is practicable under the circumstances, and agencies shall utilize ~~shall include~~ best efforts to include contractors certified under the Business Enterprise Program in its emergency procurement process. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Notice of all emergency procurements shall be provided to the Procurement Policy Board and the Commission on Equity and Inclusion and published in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and the Commission on Equity and Inclusion and published in the online electronic Bulletin at least 14 calendar days before the public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor, and if

applicable, the date, time, and location of the public hearing. A copy of this notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

(c) Statements. A chief procurement officer making a procurement under this Section shall file statements with the Procurement Policy Board, the Commission on Equity and Inclusion, and the Auditor General within 10 calendar days after the procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 calendar days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter.

The Legislative Audit Commission shall review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time. ~~The chief procurement officer shall adopt rules regarding good faith and best efforts from contractors and companies certified under the Business Enterprise Program.~~

(d-5) The chief procurement officer shall adopt rules regarding the use of contractors certified in the Business Enterprise Program in emergency and quick purchase procurements.

(e) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to procurements executed on or after its effective date.

(Source: P.A. 100-43, eff. 8-9-17; 101-657, eff. 1-1-22.)

(30 ILCS 500/20-60)

(Text of Section before amendment by P.A. 101-657, Article 40, Section 40-125)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract may be entered into for

any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive, beginning January 1, 2010, of proposed contract renewals. Third parties may lease State-owned dark fiber networks for any period of time deemed to be in the best interest of the State, but not exceeding 20 years. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. The length of energy conservation program contracts or energy savings contracts or leases shall be in accordance with the provisions of Section 25-45. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(c) The chief procurement officer shall file a proposed extension or renewal of a contract with the Procurement Policy Board prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds \$249,999. The Procurement Policy Board may object to the proposed extension or renewal within 30 calendar days and

require a hearing before the Board prior to entering into the extension or renewal. If the Procurement Policy Board does not object within 30 calendar days or takes affirmative action to recommend the extension or renewal, the chief procurement officer may enter into the extension or renewal of a contract. This subsection does not apply to any emergency procurement, any procurement under Article 40, or any procurement exempted by Section 1-10(b) of this Code. If any State agency contract is paid for in whole or in part with federal-aid funds, grants, or loans and the provisions of this subsection would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this subsection in order to remain eligible for those federal-aid funds, grants, or loans, and the State agency shall file notice of this exemption with the Procurement Policy Board prior to entering into the proposed extension or renewal. Nothing in this subsection permits a chief procurement officer to enter into an extension or renewal in violation of subsection (a). By August 1 each year, the Procurement Policy Board shall file a report with the General Assembly identifying for the previous fiscal year (i) the proposed extensions or renewals that were filed with the Board and whether the Board objected and (ii) the contracts exempt from this subsection.

(d) Notwithstanding the provisions of subsection (a) of this Section, the Department of Innovation and Technology may enter into leases for dark fiber networks for any period of

time deemed to be in the best interests of the State but not exceeding 20 years inclusive. The Department of Innovation and Technology may lease dark fiber networks from third parties only for the primary purpose of providing services (i) to the offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer and State agencies, as defined under Section 5-15 of the Civil Administrative Code of Illinois or (ii) for anchor institutions, as defined in Section 7 of the Illinois Century Network Act. Dark fiber network lease contracts shall be subject to all other provisions of this Code and any applicable rules or requirements, including, but not limited to, publication of lease solicitations, use of standard State contracting terms and conditions, and approval of vendor certifications and financial disclosures.

(e) As used in this Section, "dark fiber network" means a network of fiber optic cables laid but currently unused by a third party that the third party is leasing for use as network infrastructure.

(f) No vendor shall be eligible for renewal of a contract when that vendor has failed to meet the goals agreed to in the vendor's utilization plan unless the State agency has determined that the vendor made good faith efforts toward meeting the contract goals and has issued a waiver or that vendor is not otherwise excused from compliance by the chief procurement officer in consultation with the purchasing State

agency. The form and content of the waiver shall be prescribed by each chief procurement officer who shall maintain on his or her official website a database of waivers granted under this Section with respect to contracts under his or her jurisdiction. The database shall be updated periodically and shall be searchable by contractor name and by contracting State agency or public institution of higher education.

(Source: P.A. 100-23, eff. 7-6-17; 100-611, eff. 7-20-18; 101-81, eff. 7-12-19; 101-657, Article 5, Section 5-5, eff. 3-23-21.)

(Text of Section after amendment by P.A. 101-657, Article 40, Section 40-125)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive, beginning January 1, 2010, of proposed contract renewals. Third parties may lease State-owned dark fiber networks for any period of time deemed to be in the best interest of the State, but not exceeding 20 years. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. The length of energy conservation program contracts or energy savings contracts or leases shall be in accordance with the provisions of Section 25-45. A contract for bond or mortgage insurance awarded by the

Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(c) The chief procurement officer shall file a proposed extension or renewal of a contract with the Procurement Policy Board and the Commission on Equity and Inclusion prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds \$249,999. The Procurement Policy Board or the Commission on Equity and Inclusion may object to the proposed extension or renewal within 30 calendar days and require a hearing before the Board or the Commission on Equity and Inclusion prior to entering into the extension or renewal. If the Procurement Policy Board or the Commission on Equity and Inclusion does not object within 30 calendar days or takes affirmative action to recommend the extension or renewal, the chief procurement officer may enter into the extension or renewal of a contract. This subsection does not apply to any emergency procurement, any procurement under Article 40, or any procurement exempted by Section 1-10(b) of this Code. If any State agency contract

is paid for in whole or in part with federal-aid funds, grants, or loans and the provisions of this subsection would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this subsection in order to remain eligible for those federal-aid funds, grants, or loans, and the State agency shall file notice of this exemption with the Procurement Policy Board or the Commission on Equity and Inclusion prior to entering into the proposed extension or renewal. Nothing in this subsection permits a chief procurement officer to enter into an extension or renewal in violation of subsection (a). By August 1 each year, the Procurement Policy Board and the Commission on Equity and Inclusion shall each file a report with the General Assembly identifying for the previous fiscal year (i) the proposed extensions or renewals that were filed and whether such extensions and renewals were objected to and (ii) the contracts exempt from this subsection.

(d) Notwithstanding the provisions of subsection (a) of this Section, the Department of Innovation and Technology may enter into leases for dark fiber networks for any period of time deemed to be in the best interests of the State but not exceeding 20 years inclusive. The Department of Innovation and Technology may lease dark fiber networks from third parties only for the primary purpose of providing services (i) to the offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer and State

agencies, as defined under Section 5-15 of the Civil Administrative Code of Illinois or (ii) for anchor institutions, as defined in Section 7 of the Illinois Century Network Act. Dark fiber network lease contracts shall be subject to all other provisions of this Code and any applicable rules or requirements, including, but not limited to, publication of lease solicitations, use of standard State contracting terms and conditions, and approval of vendor certifications and financial disclosures.

(e) As used in this Section, "dark fiber network" means a network of fiber optic cables laid but currently unused by a third party that the third party is leasing for use as network infrastructure.

(f) No vendor shall be eligible for renewal of a contract when that vendor has failed to meet the goals agreed to in the vendor's utilization plan, as defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, unless the State agency has determined that the vendor made good faith efforts toward meeting the contract goals. If the State agency determines that the vendor made good faith efforts, the agency may issue a waiver after concurrence by the chief procurement officer ~~and has issued a waiver or that vendor is not otherwise excused from compliance by the chief procurement officer in consultation with the purchasing State agency.~~ The form and content of the waiver shall be prescribed by each chief procurement officer who

shall maintain on his or her official website a database of waivers granted under this Section with respect to contracts under his or her jurisdiction. The database shall be updated periodically and shall be searchable by contractor name and by contracting State agency or public institution of higher education.

(Source: P.A. 100-23, eff. 7-6-17; 100-611, eff. 7-20-18; 101-81, eff. 7-12-19; 101-657, Article 5, Section 5-5, eff. 3-23-21; 101-657, Article 40, Section 40-125, eff. 1-1-22; revised 5-18-21.)

(30 ILCS 500/40-20)

(Text of Section before amendment by P.A. 101-657)

Sec. 40-20. Request for information.

(a) Conditions for use. Leases shall be procured by request for information except as otherwise provided in Section 40-15.

(b) Form. A request for information shall be issued and shall include:

- (1) the type of property to be leased;
- (2) the proposed uses of the property;
- (3) the duration of the lease;
- (4) the preferred location of the property; and
- (5) a general description of the configuration desired.

(c) Public notice. Public notice of the request for

information for the availability of real property to lease shall be published in the appropriate volume of the Illinois Procurement Bulletin at least 14 calendar days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the using agency is seeking space.

(d) Response. The request for information response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the request. State purchasing officers may enter into discussions with respondents for the purpose of clarifying State needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, a State purchasing officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the request for information. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State. A written report of the negotiations shall be retained in the lease files and shall include the reasons for the final selection. All leases shall be reduced to writing; one copy shall be filed with the Comptroller in accordance with the provisions of Section 20-80, and one copy shall be filed with the Board.

When the lowest response by price is not selected, the

State purchasing officer shall forward to the chief procurement officer, along with the lease, notice of the identity of the lowest respondent by price and written reasons for the selection of a different response. The chief procurement officer shall publish the written reasons in the next volume of the Illinois Procurement Bulletin.

(e) Board review. Upon receipt of (1) any proposed lease of real property of 10,000 or more square feet or (2) any proposed lease of real property with annual rent payments of \$100,000 or more, the Procurement Policy Board shall have 30 calendar days to review the proposed lease. If the Board does not object in writing within 30 calendar days, then the proposed lease shall become effective according to its terms as submitted. The leasing agency shall make any and all materials available to the Board to assist in the review process.

(Source: P.A. 98-1076, eff. 1-1-15.)

(Text of Section after amendment by P.A. 101-657)

Sec. 40-20. Request for information.

(a) Conditions for use. Leases shall be procured by request for information except as otherwise provided in Section 40-15.

(b) Form. A request for information shall be issued and shall include:

(1) the type of property to be leased;

- (2) the proposed uses of the property;
- (3) the duration of the lease;
- (4) the preferred location of the property; and
- (5) a general description of the configuration desired.

(c) Public notice. Public notice of the request for information for the availability of real property to lease shall be published in the appropriate volume of the Illinois Procurement Bulletin at least 14 calendar days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the using agency is seeking space.

(d) Response. The request for information response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the request. State purchasing officers may enter into discussions with respondents for the purpose of clarifying State needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, a State purchasing officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the request for information. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State. A written report of the negotiations shall be retained in the

lease files and shall include the reasons for the final selection. All leases shall be reduced to writing; one copy shall be filed with the Comptroller in accordance with the provisions of Section 20-80, and one copy each shall be filed with the Board and the Commission on Equity and Inclusion.

When the lowest response by price is not selected, the State purchasing officer shall forward to the chief procurement officer, along with the lease, notice of the identity of the lowest respondent by price and written reasons for the selection of a different response. The chief procurement officer shall publish the written reasons in the next volume of the Illinois Procurement Bulletin.

(e) Board and Commission on Equity and Inclusion review. Upon receipt of (1) any proposed lease of real property of 10,000 or more square feet or (2) any proposed lease of real property with annual rent payments of \$100,000 or more, the Procurement Policy Board and the Commission on Equity and Inclusion shall jointly have 30 calendar days to review the proposed lease. The Board and Commission have 30 calendar days to submit a joint objection. If no joint objection is submitted ~~If neither the Board nor the Commission on Equity and Inclusion object in writing within 30 calendar days,~~ then the proposed lease shall become effective according to its terms as submitted. The leasing agency shall make any and all materials available to the Board and the Commission on Equity and Inclusion to assist in the review process.

(Source: P.A. 101-657, eff. 1-1-22.)

Section 15. The Commission on Equity and Inclusion Act is amended by changing Section 40-10 as follows:

(30 ILCS 574/40-10)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 40-10. Powers and duties. In addition to the other powers and duties which may be prescribed in this Act or elsewhere, the Commission shall have the following powers and duties:

(1) The Commission shall have a role in all State and university procurement by facilitating and streamlining communications between the Business Enterprise Council for Minorities, Women, and Persons with Disabilities, the purchasing entities, the Chief Procurement Officers, and others.

(2) The Commission may create a scoring evaluation for State agency directors, public university presidents and chancellors, and public community college presidents. The scoring shall be based on the following 3 principles: (i) increasing capacity; (ii) growing revenue; and (iii) enhancing credentials. These principles should be the foundation of the agency compliance plan required under Section 6 of the Business Enterprise for Minorities,

Women, and Persons with Disabilities Act.

(3) ~~(4)~~ The Commission shall exercise the authority ~~oversight powers~~ and duties provided to it under Section 5-7 of the Illinois Procurement Code.

(4) ~~(5)~~ The Commission, working with State agencies, shall provide support for diversity in State hiring.

(5) ~~(6)~~ The Commission shall oversee the implementation of diversity training of the State workforce.

(6) ~~(7)~~ Each January, and as otherwise frequently as may be deemed necessary and appropriate by the Commission, the Commission shall propose and submit to the Governor and the General Assembly legislative changes to increase inclusion and diversity in State government.

(7) ~~(8)~~ The Commission shall have oversight over the following entities:

(A) the Illinois African-American Family Commission;

(B) the Illinois Latino Family Commission;

(C) the Asian American Family Commission;

(D) the Illinois Muslim American Advisory Council;

(E) the Illinois African-American Fair Contracting Commission created under Executive Order 2018-07; and

(F) the Business Enterprise Council for Minorities, Women, and Persons with Disabilities.

(8) ~~(9)~~ The Commission shall adopt any rules necessary

for the implementation and administration of the requirements of this Act.

(Source: P.A. 101-657, eff. 1-1-22.)

Section 20. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Sections 2, 4, 4f, 5, 5.5, 7, 8, and 8k as follows:

(30 ILCS 575/2)

(Text of Section before amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:

(a) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).

(b) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and

Vietnam).

(c) Black or African American (a person having origins in any of the black racial groups of Africa).

(d) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).

(e) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).

(2) "Woman" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as a person with a disability under subdivision (2.1) of this subsection (A).

(2.1) "Person with a disability" means a person with a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,

blindness,

burn injury,

cancer,

cerebral palsy,

Crohn's disease,
cystic fibrosis,
deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
an intellectual disability,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and
epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
ulcerative colitis,
specific learning disabilities, or
end stage renal failure disease; and
(b) substantially limits one or more of the
person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined

by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority-owned business" means a business which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Women-owned business" means a business which is at least 51% owned by one or more women, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more women; and the management and daily business operations of which are controlled by one or more of the women who own it.

(4.1) "Business owned by a person with a disability" means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Women, and Persons with Disabilities created under Section 5 of this Act.

(5) "State contracts" means all contracts entered into by the State, any agency or department thereof, or any public institution of higher education, including community college districts, regardless of the source of the funds with which the contracts are paid, which are not subject to federal reimbursement. "State contracts" does not include contracts awarded by a retirement system, pension fund, or investment board subject to Section 1-109.1 of the Illinois Pension Code. This definition shall control over any existing definition under this Act or applicable administrative rule.

"State construction contracts" means all State contracts entered into by a State agency or public institution of higher education for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board

of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "Public institutions of higher education" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the public community colleges of the State, and any other public universities, colleges, and community colleges now or hereafter established or authorized by the General Assembly.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, or person with a disability for whatever purpose. A business owned and controlled by women shall be certified as a "woman-owned business". A business owned and controlled by

women who are also minorities shall be certified as both a "women-owned business" and a "minority-owned business".

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business" means a business that has annual gross sales of less than \$75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, women, or

persons with disabilities as suppliers or subcontractors or in employment of minorities, women, or persons with disabilities.

(11) "Utilization plan" means a form and additional documentations included in all bids or proposals that demonstrates a vendor's proposed utilization of vendors certified by the Business Enterprise Program to meet the targeted goal. The utilization plan shall demonstrate that the Vendor has either: (1) met the entire contract goal or (2) requested a full or partial waiver and made good faith efforts towards meeting the goal.

(12) "Business Enterprise Program" means the Business Enterprise Program of the Department of Central Management Services.

(B) When a business is owned at least 51% by any combination of minority persons, women, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business.

(Source: P.A. 100-391, eff. 8-25-17; 101-601, eff. 1-1-20.)

(Text of Section after amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:

(a) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).

(b) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).

(c) Black or African American (a person having origins in any of the black racial groups of Africa).

(d) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).

(e) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).

(2) "Woman" shall mean a person who is a citizen or

lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as a person with a disability under subdivision (2.1) of this subsection (A).

(2.1) "Person with a disability" means a person with a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,

blindness,

burn injury,

cancer,

cerebral palsy,

Crohn's disease,

cystic fibrosis,

deafness,

head injury,

heart disease,

hemiplegia,

hemophilia,

respiratory or pulmonary dysfunction,

an intellectual disability,

mental illness,

multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and
epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
ulcerative colitis,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the
person's major life activities.

Another disability or combination of disabilities may
also be considered as a severe disability for the purposes
of item (a) of this subdivision (2.1) if it is determined
by an evaluation of rehabilitation potential to cause a
comparable degree of substantial functional limitation
similar to the specific list of disabilities listed in
item (a) of this subdivision (2.1).

(3) "Minority-owned business" means a business which
is at least 51% owned by one or more minority persons, or
in the case of a corporation, at least 51% of the stock in
which is owned by one or more minority persons; and the
management and daily business operations of which are
controlled by one or more of the minority individuals who

own it.

(4) "Women-owned business" means a business which is at least 51% owned by one or more women, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more women; and the management and daily business operations of which are controlled by one or more of the women who own it.

(4.1) "Business owned by a person with a disability" means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Women, and Persons with Disabilities created under Section 5 of this Act.

(4.3) "Commission" means, unless the context clearly indicates otherwise, the Commission on Equity and Inclusion created under the Commission on Equity and Inclusion Act.

(5) "State contracts" means all contracts entered into by the State, any agency or department thereof, or any public institution of higher education, including

community college districts, regardless of the source of the funds with which the contracts are paid, which are not subject to federal reimbursement. "State contracts" does not include contracts awarded by a retirement system, pension fund, or investment board subject to Section 1-109.1 of the Illinois Pension Code. This definition shall control over any existing definition under this Act or applicable administrative rule.

"State construction contracts" means all State contracts entered into by a State agency or public institution of higher education for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or

other local governmental units, or other State constitutional officers.

(7) "Public institutions of higher education" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the public community colleges of the State, and any other public universities, colleges, and community colleges now or hereafter established or authorized by the General Assembly.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, or person with a disability for whatever purpose. A business owned and controlled by women shall be certified as a "woman-owned business". A business owned and controlled by women who are also minorities shall be certified as both a "women-owned business" and a "minority-owned business".

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal

matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business" means a business that has annual gross sales of less than \$75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, women, or persons with disabilities as suppliers or subcontractors or in employment of minorities, women, or persons with disabilities.

(11) "Utilization plan" means a form and additional documentations included in all bids or proposals that demonstrates a vendor's proposed utilization of vendors

certified by the Business Enterprise Program to meet the targeted goal. The utilization plan shall demonstrate that the Vendor has either: (1) met the entire contract goal or (2) requested a full or partial waiver and made good faith efforts towards meeting the goal.

(12) "Business Enterprise Program" means the Business Enterprise Program of the Commission on Equity and Inclusion ~~Department of Central Management Services~~.

(B) When a business is owned at least 51% by any combination of minority persons, women, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met ~~or in excess of the entire contract goal~~. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business.

(Source: P.A. 100-391, eff. 8-25-17; 101-601, eff. 1-1-20; 101-657, eff. 1-1-22.)

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Text of Section before amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4. Award of State contracts.

(a) Except as provided in subsection (b), not less than

20% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as an aspirational goal to be awarded to businesses owned by minorities, women, and persons with disabilities; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities, women, and persons with disabilities pursuant to this Section, contracts representing at least 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to women-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by persons with disabilities.

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or public institutions of higher education which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, women, and persons with disabilities on such contracts shall be included. State contracts subject to the requirements of this Act shall include the requirement that only expenditures to businesses owned by minorities, women, and persons with disabilities that perform a commercially useful function may be counted toward the goals set forth by this Act. Contracts shall include a definition of "commercially useful function" that is consistent with 49 CFR

26.55(c).

(b) Not less than 20% of the total dollar amount of State construction contracts is established as an aspirational goal to be awarded to businesses owned by minorities, women, and persons with disabilities; provided that, contracts representing at least 11% of the total dollar amount of State construction contracts shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total dollar amount of State construction contracts shall be awarded to women-owned businesses; and contracts representing at least 2% of the total dollar amount of State construction contracts shall be awarded to businesses owned by persons with disabilities.

(c) (Blank).

(d) Within one year after April 28, 2009 (the effective date of Public Act 96-8), the Department of Central Management Services shall conduct a social scientific study that measures the impact of discrimination on minority and women business development in Illinois. Within 18 months after April 28, 2009 (the effective date of Public Act 96-8), the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and women participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly.

By December 1, 2020, the Department of Central Management

Services shall conduct a new social scientific study that measures the impact of discrimination on minority and women business development in Illinois. By June 1, 2022, the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and women participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor, the Advisory Board, and the General Assembly. By December 1, 2022, the Department of Central Management Services Business Enterprise Program shall develop a model for social scientific disparity study sourcing for local governmental units to adapt and implement to address regional disparities in public procurement.

(e) Except as permitted under this Act or as otherwise mandated by federal law or regulation, those who submit bids or proposals for State contracts subject to the provisions of this Act, whose bids or proposals are successful and include a utilization plan but that fail to meet the goals set forth in subsection (b) of this Section, shall be notified of that deficiency and shall be afforded a period not to exceed 10 calendar days from the date of notification to cure that deficiency in the bid or proposal. The deficiency in the bid or proposal may only be cured by contracting with additional subcontractors who are owned by minorities or women. Any increase in cost to a contract for the addition of a subcontractor to cure a bid's deficiency shall not affect the

bid price, shall not be used in the request for an exemption in this Act, and in no case shall an identified subcontractor with a certification made pursuant to this Act be terminated from the contract without the written consent of the State agency or public institution of higher education entering into the contract.

(f) Non-construction solicitations that include Business Enterprise Program participation goals shall require bidders and offerors to include utilization plans. Utilization plans are due at the time of bid or offer submission. Failure to complete and include a utilization plan, including documentation demonstrating good faith effort when requesting a waiver, shall render the bid or offer non-responsive.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; 101-601, eff. 1-1-20.)

(Text of Section after amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4. Award of State contracts.

(a) Except as provided in subsection (b), not less than 30% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as an aspirational goal to be awarded to businesses owned by minorities, women, and persons with disabilities; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities,

women, and persons with disabilities pursuant to this Section, contracts representing at least 16% shall be awarded to businesses owned by minorities, contracts representing at least 10% shall be awarded to women-owned businesses, and contracts representing at least 4% shall be awarded to businesses owned by persons with disabilities.

(a-5) In addition to the aspirational goals in awarding State contracts set under subsection (a), the Commission ~~Department of Central Management Services~~ shall by rule further establish targeted efforts to encourage the participation of businesses owned by minorities, women, and persons with disabilities on State contracts ~~committed diversity aspirational goals for State contracts awarded to businesses owned by minorities, women, and persons with disabilities~~. Such efforts shall include, but not be limited to, further concerted outreach efforts to businesses owned by minorities, women, and persons with disabilities.

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or public institutions of higher education which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, women, and persons with disabilities on such contracts shall be included. State contracts subject to the requirements of this Act shall include the requirement that

only expenditures to businesses owned by minorities, women, and persons with disabilities that perform a commercially useful function may be counted toward the goals set forth by this Act. Contracts shall include a definition of "commercially useful function" that is consistent with 49 CFR 26.55(c).

(b) Not less than 20% of the total dollar amount of State construction contracts is established as an aspirational goal to be awarded to businesses owned by minorities, women, and persons with disabilities; provided that, contracts representing at least 11% of the total dollar amount of State construction contracts shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total dollar amount of State construction contracts shall be awarded to women-owned businesses; and contracts representing at least 2% of the total dollar amount of State construction contracts shall be awarded to businesses owned by persons with disabilities.

(c) (Blank).

(c-5) All goals established under this Section shall be contingent upon the results of the most recent disparity study conducted by the State.

(d) Within one year after April 28, 2009 (the effective date of Public Act 96-8), the Department of Central Management Services shall conduct a social scientific study that measures the impact of discrimination on minority and women business

development in Illinois. Within 18 months after April 28, 2009 (the effective date of Public Act 96-8), the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and women participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly.

By December 1, 2020, the Department of Central Management Services shall conduct a new social scientific study that measures the impact of discrimination on minority and women business development in Illinois. By June 1, 2022, the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and women participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly. By December 1, 2022, the Commission on Equity and Inclusion ~~Department of Central Management Services~~ Business Enterprise Program shall develop a model for social scientific disparity study sourcing for local governmental units to adapt and implement to address regional disparities in public procurement.

(e) All State contract solicitations that include Business Enterprise Program participation goals shall require bidders or offerors to include utilization plans. Utilization plans are due at the time of bid or offer submission. Failure to complete and include a utilization plan, including

documentation demonstrating good faith efforts when requesting a waiver, shall render the bid or offer non-responsive.

Except as permitted under this Act or as otherwise mandated by federal law or regulation, in response those who submit bids or proposals for State contracts subject to the provisions of this Act, whose bids or proposals are successful but ~~and~~ include a utilization plan ~~but~~ that fails to demonstrate good faith efforts ~~fail~~ to meet the goals set forth in the solicitation subsection (b) of this Section, ~~shall be notified~~ of that deficiency and may allow the bidder or offeror ~~shall be afforded~~ a period not to exceed 10 calendar days from the date of notification to cure that deficiency in the bid or proposal. The deficiency in the bid or proposal may only be cured by contracting with additional subcontractors who are certified by the Business Enterprise Program at the time of bid submission ~~owned by minorities or women~~. Any increase in cost to a contract for the addition of a subcontractor to cure a bid's deficiency or to ensure diversity participation on the contract shall not affect the bid price, shall not be used in the request for an exemption in this Act, and in no case shall an identified subcontractor with a certification made pursuant to this Act be terminated from the contract without the written consent of the State agency or public institution of higher education entering into the contract. Submission of a blank utilization plan renders a bid or offer non-responsive and is not curable. The Commission

~~on Equity and Inclusion shall be notified of all bids or offers that fail to include a utilization plan or that include a utilization plan with deficiencies. The Commission on Equity and Inclusion shall be notified of all utilization plan deficiencies on submitted bids or proposals for State contracts under this subsection (e).~~

(f) (Blank). ~~Non construction solicitations that include Business Enterprise Program participation goals shall require bidders and offerors to include utilization plans. Utilization plans are due at the time of bid or offer submission. Failure to complete and include a utilization plan, including documentation demonstrating good faith effort when requesting a waiver, shall render the bid or offer non responsive. The Commission on Equity and Inclusion shall be notified of all bids and offers that fail to include a utilization plan as required under this subsection (f).~~

(g) (Blank). ~~Bids or proposals for State contracts shall be examined to determine if the bid or proposal is responsible, competitive, and whether the services to be provided are likely to be completed based upon the pricing. If the bid or proposal is responsible, competitive, and the services to be provided are likely to be completed based on the prices listed, then the bid is deemed responsive. If the bid or proposal is not responsible, competitive, and the services to be provided are not likely to be completed based on the prices listed, then the entire bid is deemed non responsive. The~~

~~Commission on Equity and Inclusion shall be notified of all non-responsive bids or proposals for State contracts under this subsection (g).~~

(h) State agencies and public institutions of higher education shall notify the Commission on Equity and Inclusion of all non-responsive bids or proposals for State contracts.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; 101-601, eff. 1-1-20; 101-657, Article 1, Section 1-5, eff. 1-1-22; 101-657, Article 40, Section 40-130, eff. 1-1-22; revised 4-15-21.)

(30 ILCS 575/4f)

(Text of Section before amendment by P.A. 101-657, Article 40, Section 40-130)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4f. Award of State contracts.

(1) It is hereby declared to be the public policy of the State of Illinois to promote and encourage each State agency and public institution of higher education to use businesses owned by minorities, women, and persons with disabilities in the area of goods and services, including, but not limited to, insurance services, investment management services, information technology services, accounting services, architectural and engineering services, and legal services. Furthermore, each State agency and public institution of higher education shall utilize such firms to the greatest

extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded.

(a) When a State agency or public institution of higher education, other than a community college, awards a contract for insurance services, for each State agency or public institution of higher education, it shall be the aspirational goal to use insurance brokers owned by minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total annual premiums or fees; provided that, contracts representing at least 11% of the total annual premiums or fees shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total annual premiums or fees shall be awarded to women-owned businesses; and contracts representing at least 2% of the total annual premiums or fees shall be awarded to businesses owned by persons with disabilities.

(b) When a State agency or public institution of higher education, other than a community college, awards a contract for investment services, for each State agency or public institution of higher education, it shall be the aspirational goal to use emerging investment managers owned by minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total

funds under management; provided that, contracts representing at least 11% of the total funds under management shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total funds under management shall be awarded to women-owned businesses; and contracts representing at least 2% of the total funds under management shall be awarded to businesses owned by persons with disabilities. Furthermore, it is the aspirational goal that not less than 20% of the direct asset managers of the State funds be minorities, women, and persons with disabilities.

(c) When a State agency or public institution of higher education, other than a community college, awards contracts for information technology services, accounting services, architectural and engineering services, and legal services, for each State agency and public institution of higher education, it shall be the aspirational goal to use such firms owned by minorities, women, and persons with disabilities as defined by this Act and lawyers who are minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total dollar amount of State contracts; provided that, contracts representing at least 11% of the total dollar amount of State contracts shall be awarded to businesses owned by minorities or minority lawyers; contracts representing at least 7% of the total dollar

amount of State contracts shall be awarded to women-owned businesses or women who are lawyers; and contracts representing at least 2% of the total dollar amount of State contracts shall be awarded to businesses owned by persons with disabilities or persons with disabilities who are lawyers.

(d) When a community college awards a contract for insurance services, investment services, information technology services, accounting services, architectural and engineering services, and legal services, it shall be the aspirational goal of each community college to use businesses owned by minorities, women, and persons with disabilities as defined in this Act for not less than 20% of the total amount spent on contracts for these services collectively; provided that, contracts representing at least 11% of the total amount spent on contracts for these services shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total amount spent on contracts for these services shall be awarded to women-owned businesses; and contracts representing at least 2% of the total amount spent on contracts for these services shall be awarded to businesses owned by persons with disabilities. When a community college awards contracts for investment services, contracts awarded to investment managers who are not emerging investment managers as defined in this Act

shall not be considered businesses owned by minorities, women, or persons with disabilities for the purposes of this Section.

(e) When a State agency or public institution of higher education issues competitive solicitations and the award history for a service or supply category shows awards to a class of business owners that are underrepresented, the Council shall determine the reason for the disparity and shall identify potential and appropriate methods to minimize or eliminate the cause for the disparity.

If any State agency or public institution of higher education contract is eligible to be paid for or reimbursed, in whole or in part, with federal-aid funds, grants, or loans, and the provisions of this paragraph (e) would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this paragraph (e) in order to remain eligible for those federal-aid funds, grants, or loans.

(2) As used in this Section:

"Accounting services" means the measurement, processing and communication of financial information about economic entities including, but is not limited to, financial accounting, management accounting, auditing, cost containment and auditing services, taxation and accounting information systems.

"Architectural and engineering services" means professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions, and individuals in their employ, may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

"Emerging investment manager" means an investment manager or claims consultant having assets under management below \$10 billion or otherwise adjudicating claims.

"Information technology services" means, but is not limited to, specialized technology-oriented solutions by combining the processes and functions of software, hardware, networks, telecommunications, web designers, cloud developing resellers, and electronics.

"Insurance broker" means an insurance brokerage firm, claims administrator, or both, that procures, places all lines of insurance, or administers claims with annual premiums or fees of at least \$5,000,000 but not more than \$10,000,000.

"Legal services" means work performed by a lawyer including, but not limited to, contracts in anticipation of litigation, enforcement actions, or investigations.

(3) Each State agency and public institution of higher education shall adopt policies that identify its plan and implementation procedures for increasing the use of service firms owned by minorities, women, and persons with disabilities.

(4) Except as provided in subsection (5), the Council shall file no later than March 1 of each year an annual report to the Governor, the Bureau on Apprenticeship Programs, and the General Assembly. The report filed with the General Assembly shall be filed as required in Section 3.1 of the General Assembly Organization Act. This report shall: (i) identify the service firms used by each State agency and public institution of higher education, (ii) identify the actions it has undertaken to increase the use of service firms owned by minorities, women, and persons with disabilities, including encouraging non-minority-owned firms to use other service firms owned by minorities, women, and persons with disabilities as subcontractors when the opportunities arise, (iii) state any recommendations made by the Council to each State agency and public institution of higher education to increase participation by the use of service firms owned by minorities, women, and persons with disabilities, and (iv) include the following:

(A) For insurance services: the names of the insurance brokers or claims consultants used, the total of risk managed by each State agency and public institution of higher education by insurance brokers, the total commissions, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed; and the percentage of the risk managed by insurance brokers, the percentage of total commission, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed with each by the insurance brokers owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(B) For investment management services: the names of the investment managers used, the total funds under management of investment managers; the total commissions, fees paid, or both; the total and percentage of funds under management of emerging investment managers owned by minorities, women, and persons with disabilities, including the total and percentage of total commissions, fees paid, or both by each State agency and public institution of higher education.

(C) The names of service firms, the percentage and total dollar amount paid for professional services by category by each State agency and public institution of higher education.

(D) The names of service firms, the percentage and total dollar amount paid for services by category to firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(E) The total number of contracts awarded for services by category and the total number of contracts awarded to firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(5) For community college districts, the Business Enterprise Council shall only report the following information for each community college district: (i) the name of the community colleges in the district, (ii) the name and contact information of a person at each community college appointed to be the single point of contact for vendors owned by minorities, women, or persons with disabilities, (iii) the policy of the community college district concerning certified vendors, (iv) the certifications recognized by the community college district for determining whether a business is owned or controlled by a minority, woman, or person with a disability, (v) outreach efforts conducted by the community college district to increase the use of certified vendors, (vi) the total expenditures by the community college district in the prior fiscal year in the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section

and the amount paid to certified vendors in those divisions of work, and (vii) the total number of contracts entered into for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the total number of contracts awarded to certified vendors providing these services to the community college district. The Business Enterprise Council shall not make any utilization reports under this Act for community college districts for Fiscal Year 2015 and Fiscal Year 2016, but shall make the report required by this subsection for Fiscal Year 2017 and for each fiscal year thereafter. The Business Enterprise Council shall report the information in items (i), (ii), (iii), and (iv) of this subsection beginning in September of 2016. The Business Enterprise Council may collect the data needed to make its report from the Illinois Community College Board.

(6) The status of the utilization of services shall be discussed at each of the regularly scheduled Business Enterprise Council meetings. Time shall be allotted for the Council to receive, review, and discuss the progress of the use of service firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education; and any evidence regarding past or present racial, ethnic, or gender-based discrimination which directly impacts a State agency or public institution of higher education contracting with such firms. If after reviewing such evidence the Council finds that there is or has

been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; 101-657, Article 5, Section 5-10, eff. 3-23-21.)

(Text of Section after amendment by P.A. 101-657, Article 40, Section 40-130)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4f. Award of State contracts.

(1) It is hereby declared to be the public policy of the State of Illinois to promote and encourage each State agency and public institution of higher education to use businesses owned by minorities, women, and persons with disabilities in the area of goods and services, including, but not limited to, insurance services, investment management services, information technology services, accounting services, architectural and engineering services, and legal services. Furthermore, each State agency and public institution of higher education shall utilize such firms to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and

contracting opportunities afforded.

(a) When a State agency or public institution of higher education, other than a community college, awards a contract for insurance services, for each State agency or public institution of higher education, it shall be the aspirational goal to use insurance brokers owned by minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total annual premiums or fees; provided that, contracts representing at least 11% of the total annual premiums or fees shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total annual premiums or fees shall be awarded to women-owned businesses; and contracts representing at least 2% of the total annual premiums or fees shall be awarded to businesses owned by persons with disabilities.

(b) When a State agency or public institution of higher education, other than a community college, awards a contract for investment services, for each State agency or public institution of higher education, it shall be the aspirational goal to use emerging investment managers owned by minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total funds under management; provided that, contracts representing at least 11% of the total funds under management shall be awarded to businesses owned by

minorities; contracts representing at least 7% of the total funds under management shall be awarded to women-owned businesses; and contracts representing at least 2% of the total funds under management shall be awarded to businesses owned by persons with disabilities. Furthermore, it is the aspirational goal that not less than 20% of the direct asset managers of the State funds be minorities, women, and persons with disabilities.

(c) When a State agency or public institution of higher education, other than a community college, awards contracts for information technology services, accounting services, architectural and engineering services, and legal services, for each State agency and public institution of higher education, it shall be the aspirational goal to use such firms owned by minorities, women, and persons with disabilities as defined by this Act and lawyers who are minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total dollar amount of State contracts; provided that, contracts representing at least 11% of the total dollar amount of State contracts shall be awarded to businesses owned by minorities or minority lawyers; contracts representing at least 7% of the total dollar amount of State contracts shall be awarded to women-owned businesses or women who are lawyers; and contracts representing at least 2% of the total dollar amount of

State contracts shall be awarded to businesses owned by persons with disabilities or persons with disabilities who are lawyers.

(d) When a community college awards a contract for insurance services, investment services, information technology services, accounting services, architectural and engineering services, and legal services, it shall be the aspirational goal of each community college to use businesses owned by minorities, women, and persons with disabilities as defined in this Act for not less than 20% of the total amount spent on contracts for these services collectively; provided that, contracts representing at least 11% of the total amount spent on contracts for these services shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total amount spent on contracts for these services shall be awarded to women-owned businesses; and contracts representing at least 2% of the total amount spent on contracts for these services shall be awarded to businesses owned by persons with disabilities. When a community college awards contracts for investment services, contracts awarded to investment managers who are not emerging investment managers as defined in this Act shall not be considered businesses owned by minorities, women, or persons with disabilities for the purposes of this Section.

~~(e) When a State agency or public institution of higher education issues competitive solicitations and the award history for a service or supply category shows awards to a class of business owners that are underrepresented, the Council shall determine the reason for the disparity and shall identify potential and appropriate methods to minimize or eliminate the cause for the disparity.~~

~~If any State agency or public institution of higher education contract is eligible to be paid for or reimbursed, in whole or in part, with federal aid funds, grants, or loans, and the provisions of this paragraph (e) would result in the loss of those federal aid funds, grants, or loans, then the contract is exempt from the provisions of this paragraph (e) in order to remain eligible for those federal aid funds, grants, or loans.~~

(2) As used in this Section:

"Accounting services" means the measurement, processing and communication of financial information about economic entities including, but is not limited to, financial accounting, management accounting, auditing, cost containment and auditing services, taxation and accounting information systems.

"Architectural and engineering services" means professional services of an architectural or engineering nature, or incidental services, that members of the

architectural and engineering professions, and individuals in their employ, may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

"Emerging investment manager" means an investment manager or claims consultant having assets under management below \$10 billion or otherwise adjudicating claims.

"Information technology services" means, but is not limited to, specialized technology-oriented solutions by combining the processes and functions of software, hardware, networks, telecommunications, web designers, cloud developing resellers, and electronics.

"Insurance broker" means an insurance brokerage firm, claims administrator, or both, that procures, places all lines of insurance, or administers claims with annual premiums or fees of at least \$5,000,000 but not more than \$10,000,000.

"Legal services" means work performed by a lawyer including, but not limited to, contracts in anticipation of litigation, enforcement actions, or investigations.

(3) Each State agency and public institution of higher education shall adopt policies that identify its plan and implementation procedures for increasing the use of service firms owned by minorities, women, and persons with disabilities. All plan and implementation procedures for increasing the use of service firms owned by minorities, women, and persons with disabilities must be submitted to and approved by the Commission on Equity and Inclusion on an annual basis.

(4) Except as provided in subsection (5), the Council shall file no later than March 1 of each year an annual report to the Governor, the Bureau on Apprenticeship Programs, and the General Assembly. The report filed with the General Assembly shall be filed as required in Section 3.1 of the General Assembly Organization Act. This report shall: (i) identify the service firms used by each State agency and public institution of higher education, (ii) identify the actions it has undertaken to increase the use of service firms owned by minorities, women, and persons with disabilities, including encouraging non-minority-owned firms to use other service firms owned by minorities, women, and persons with disabilities as subcontractors when the opportunities arise, (iii) state any recommendations made by the Council to each State agency and public institution of higher education to increase participation by the use of service firms owned by minorities, women, and persons with disabilities, and (iv)

include the following:

(A) For insurance services: the names of the insurance brokers or claims consultants used, the total of risk managed by each State agency and public institution of higher education by insurance brokers, the total commissions, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed; and the percentage of the risk managed by insurance brokers, the percentage of total commission, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed with each by the insurance brokers owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(B) For investment management services: the names of the investment managers used, the total funds under management of investment managers; the total commissions, fees paid, or both; the total and percentage of funds under management of emerging investment managers owned by minorities, women, and persons with disabilities, including the total and percentage of total commissions, fees paid, or both by each State agency and public institution of higher education.

(C) The names of service firms, the percentage and total dollar amount paid for professional services by category by each State agency and public institution of

higher education.

(D) The names of service firms, the percentage and total dollar amount paid for services by category to firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(E) The total number of contracts awarded for services by category and the total number of contracts awarded to firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(5) For community college districts, the Business Enterprise Council shall only report the following information for each community college district: (i) the name of the community colleges in the district, (ii) the name and contact information of a person at each community college appointed to be the single point of contact for vendors owned by minorities, women, or persons with disabilities, (iii) the policy of the community college district concerning certified vendors, (iv) the certifications recognized by the community college district for determining whether a business is owned or controlled by a minority, woman, or person with a disability, (v) outreach efforts conducted by the community college district to increase the use of certified vendors, (vi) the total expenditures by the community college district in the prior fiscal year in the divisions of work specified in

paragraphs (a), (b), and (c) of subsection (1) of this Section and the amount paid to certified vendors in those divisions of work, and (vii) the total number of contracts entered into for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the total number of contracts awarded to certified vendors providing these services to the community college district. The Business Enterprise Council shall not make any utilization reports under this Act for community college districts for Fiscal Year 2015 and Fiscal Year 2016, but shall make the report required by this subsection for Fiscal Year 2017 and for each fiscal year thereafter. The Business Enterprise Council shall report the information in items (i), (ii), (iii), and (iv) of this subsection beginning in September of 2016. The Business Enterprise Council may collect the data needed to make its report from the Illinois Community College Board.

(6) The status of the utilization of services shall be discussed at each of the regularly scheduled Business Enterprise Council meetings. Time shall be allotted for the Council to receive, review, and discuss the progress of the use of service firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education; and any evidence regarding past or present racial, ethnic, or gender-based discrimination which directly impacts a State agency or public institution of higher education contracting with such firms. If after

reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; 101-657, Article 5, Section 5-10, eff. 3-23-21; 101-657, Article 40, Section 40-130, eff. 1-1-22; revised 5-18-21.)

(30 ILCS 575/5) (from Ch. 127, par. 132.605)

(Text of Section before amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 5. Business Enterprise Council.

(1) To help implement, monitor and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Women, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Secretary of Human Services and the Directors of the Department of Human Rights, the Department of Commerce and Economic Opportunity, the Department of Central Management Services, the Department of Transportation and the Capital Development Board, or their duly appointed representatives, with the Comptroller, or his or her designee, serving as an advisory member of the Council. Ten individuals representing businesses that are

minority-owned or women-owned or owned by persons with disabilities, 2 individuals representing the business community, and a representative of public institutions of higher education shall be appointed by the Governor. These members shall serve 2 year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

The Director of the Department of Central Management Services shall serve as the Council chairperson and shall select, subject to approval of the council, a Secretary responsible for the operation of the program who shall serve as the Division Manager of the Business Enterprise for Minorities, Women, and Persons with Disabilities Division of the Department of Central Management Services.

The Director of each State agency and the chief executive officer of each public institutions of higher education shall appoint a liaison to the Council. The liaison shall be responsible for submitting to the Council any reports and documents necessary under this Act.

(2) The Council's authority and responsibility shall be

to:

(a) Devise a certification procedure to assure that businesses taking advantage of this Act are legitimately classified as businesses owned by minorities, women, or persons with disabilities and a registration procedure to recognize, without additional evidence of Business Enterprise Program eligibility, the certification of businesses owned by minorities, women, or persons with disabilities certified by the City of Chicago, Cook County, or other jurisdictional programs with requirements and procedures equaling or exceeding those in this Act.

(b) Maintain a list of all businesses legitimately classified as businesses owned by minorities, women, or persons with disabilities to provide to State agencies and public institutions of higher education.

(c) Review rules and regulations for the implementation of the program for businesses owned by minorities, women, and persons with disabilities.

(d) Review compliance plans submitted by each State agency and public institutions of higher education pursuant to this Act.

(e) Make annual reports as provided in Section 8f to the Governor and the General Assembly on the status of the program.

(f) Serve as a central clearinghouse for information on State contracts, including the maintenance of a list of

all pending State contracts upon which businesses owned by minorities, women, and persons with disabilities may bid. At the Council's discretion, maintenance of the list may include 24-hour electronic access to the list along with the bid and application information.

(g) Establish a toll free telephone number to facilitate information requests concerning the certification process and pending contracts.

(3) No premium bond rate of a surety company for a bond required of a business owned by a minority, woman, or person with a disability bidding for a State contract shall be higher than the lowest rate charged by that surety company for a similar bond in the same classification of work that would be written for a business not owned by a minority, woman, or person with a disability.

(4) Any Council member who has direct financial or personal interest in any measure pending before the Council shall disclose this fact to the Council and refrain from participating in the determination upon such measure.

(5) The Secretary shall have the following duties and responsibilities:

(a) To be responsible for the day-to-day operation of the Council.

(b) To serve as a coordinator for all of the State's programs for businesses owned by minorities, women, and persons with disabilities and as the information and

referral center for all State initiatives for businesses owned by minorities, women, and persons with disabilities.

(c) To establish an enforcement procedure whereby the Council may recommend to the appropriate State legal officer that the State exercise its legal remedies which shall include (1) termination of the contract involved, (2) prohibition of participation by the respondent in public contracts for a period not to exceed 3 years, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof. Such procedures shall require prior approval by Council. All funds collected as penalties under this subsection shall be used exclusively for maintenance and further development of the Business Enterprise Program and encouragement of participation in State procurement by minorities, women, and persons with disabilities.

(d) To devise appropriate policies, regulations and procedures for including participation by businesses owned by minorities, women, and persons with disabilities as prime contractors including, but not limited to, (i) encouraging the inclusions of qualified businesses owned by minorities, women, and persons with disabilities on solicitation lists, (ii) investigating the potential of blanket bonding programs for small construction jobs, (iii) investigating and making recommendations concerning the use of the sheltered market process.

(e) To devise procedures for the waiver of the participation goals in appropriate circumstances.

(f) To accept donations and, with the approval of the Council or the Director of Central Management Services, grants related to the purposes of this Act; to conduct seminars related to the purpose of this Act and to charge reasonable registration fees; and to sell directories, vendor lists and other such information to interested parties, except that forms necessary to become eligible for the program shall be provided free of charge to a business or individual applying for the program.

(Source: P.A. 100-391, eff. 8-25-17; 100-801, eff. 8-10-18; 101-601, eff. 1-1-20.)

(Text of Section after amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 5. Business Enterprise Council.

(1) To help implement, monitor, and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Women, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Chairperson of the Commission on Equity and Inclusion, the Secretary of Human Services and the Directors of the Department of Human Rights, the Department of Commerce and Economic Opportunity, the Department of Central Management Services, the Department of Transportation and the Capital Development Board, or their

duly appointed representatives, with the Comptroller, or his or her designee, serving as an advisory member of the Council. Ten individuals representing businesses that are minority-owned, women-owned, or owned by persons with disabilities, 2 individuals representing the business community, and a representative of public institutions of higher education shall be appointed by the Governor. These members shall serve 2-year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

The Chairperson of the Commission shall serve as the Council chairperson and shall select, subject to approval of the Council ~~council~~, a Secretary responsible for the operation of the program who shall serve as the Division Manager of the Business Enterprise for Minorities, Women, and Persons with Disabilities Division of the Commission on Equity and Inclusion ~~Department of Central Management Services~~.

The Director of each State agency and the chief executive officer of each public institution of higher education shall appoint a liaison to the Council. The liaison shall be

responsible for submitting to the Council any reports and documents necessary under this Act.

(2) The Council's authority and responsibility shall be to:

(a) Devise a certification procedure to assure that businesses taking advantage of this Act are legitimately classified as businesses owned by minorities, women, or persons with disabilities and a registration procedure to recognize, without additional evidence of Business Enterprise Program eligibility, the certification of businesses owned by minorities, women, or persons with disabilities certified by the City of Chicago, Cook County, or other jurisdictional programs with requirements and procedures equaling or exceeding those in this Act.

(b) Maintain a list of all businesses legitimately classified as businesses owned by minorities, women, or persons with disabilities to provide to State agencies and public institutions of higher education.

(c) Review rules and regulations for the implementation of the program for businesses owned by minorities, women, and persons with disabilities.

(d) Review compliance plans submitted by each State agency and public institution of higher education pursuant to this Act.

(e) Make annual reports as provided in Section 8f to the Governor and the General Assembly on the status of the

program.

(f) Serve as a central clearinghouse for information on State contracts, including the maintenance of a list of all pending State contracts upon which businesses owned by minorities, women, and persons with disabilities may bid. At the Council's discretion, maintenance of the list may include 24-hour electronic access to the list along with the bid and application information.

(g) Establish a toll-free telephone number to facilitate information requests concerning the certification process and pending contracts.

(3) No premium bond rate of a surety company for a bond required of a business owned by a minority, woman, or person with a disability bidding for a State contract shall be higher than the lowest rate charged by that surety company for a similar bond in the same classification of work that would be written for a business not owned by a minority, woman, or person with a disability.

(4) Any Council member who has direct financial or personal interest in any measure pending before the Council shall disclose this fact to the Council and refrain from participating in the determination upon such measure.

(5) The Secretary shall have the following duties and responsibilities:

(a) To be responsible for the day-to-day operation of the Council.

(b) To serve as a coordinator for all of the State's programs for businesses owned by minorities, women, and persons with disabilities and as the information and referral center for all State initiatives for businesses owned by minorities, women, and persons with disabilities.

(c) To establish an enforcement procedure whereby the Council may recommend to the appropriate State legal officer that the State exercise its legal remedies which shall include (1) termination of the contract involved, (2) prohibition of participation by the respondent in public contracts for a period not to exceed 3 years, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof. Such procedures shall require prior approval by Council. All funds collected as penalties under this subsection shall be used exclusively for maintenance and further development of the Business Enterprise Program and encouragement of participation in State procurement by minorities, women, and persons with disabilities.

(d) To devise appropriate policies, regulations, and procedures for including participation by businesses owned by minorities, women, and persons with disabilities as prime contractors, including, but not limited to: (i) encouraging the inclusions of qualified businesses owned by minorities, women, and persons with disabilities on solicitation lists, (ii) investigating the potential of

blanket bonding programs for small construction jobs, and (iii) investigating and making recommendations concerning the use of the sheltered market process.

(e) To devise procedures for the waiver of the participation goals in appropriate circumstances.

(f) To accept donations and, with the approval of the Council or the Chairperson of the Commission on Equity and Inclusion, grants related to the purposes of this Act; to conduct seminars related to the purpose of this Act and to charge reasonable registration fees; and to sell directories, vendor lists, and other such information to interested parties, except that forms necessary to become eligible for the program shall be provided free of charge to a business or individual applying for the Business Enterprise Program ~~program~~.

(Source: P.A. 100-391, eff. 8-25-17; 100-801, eff. 8-10-18; 101-601, eff. 1-1-20; 101-657, eff. 1-1-22.)

(30 ILCS 575/5.5)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5.5. Transfer of Council and Business Enterprise Program functions.

(a) Notwithstanding any provision of law to the contrary, beginning on and after the effective date of this amendatory Act of the 101st General Assembly, the Commission on Equity

and Inclusion shall have jurisdiction over the functions of the Business Enterprise Council and the Business Enterprise Program.

(b) All powers, duties, rights, and responsibilities of the Department of Central Management Services relating to jurisdiction over the Council and the Business Enterprise Program are transferred to the Commission.

(c) All books, records, papers, documents, property, contracts, causes of action, and pending business pertaining to the powers, duties, rights, and responsibilities of the Department of Central Management Services relating to jurisdiction over the Council and the Business Enterprise Program are transferred to the Commission.

(d) On the effective date of this amendatory Act of the 102nd General Assembly, the personnel of the Department of Central Management Services Business Enterprise Program are transferred to the Commission on Equity and Inclusion. The status and rights of such personnel under the Personnel Code are not affected by the transfer. The rights of the employees and the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected by this amendatory Act of the 102nd General Assembly.

(e) Whenever reports or notices are required to be made or given or papers or documents furnished or served by any person to or upon the Business Enterprise Program in connection with

any of the powers, duties, rights, and responsibilities transferred by Public Act 101-0657, the Commission on Equity and Inclusion shall make, give, furnish, or serve them.

(f) The changes made to this Section by this amendatory Act of the 102nd General Assembly do not affect any act done, ratified, or canceled, any right occurring or established, or any action or proceeding had or commenced in an administrative, civil, or criminal cause by the Business Enterprise Program before the effective date of this amendatory Act of the 102nd General Assembly. Such actions or proceedings may be prosecuted and continued by the Commission on Equity and Inclusion.

(g) Any rules that relate to the powers, duties, rights, and responsibilities of the Business Enterprise Program and are in force on the effective date of this amendatory Act of the 102nd General Assembly become the rules of the Commission on Equity and Inclusion. The changes made to this Section by this amendatory Act of the 102nd General Assembly do not affect the legality of any such rules.

(h) Any proposed rules filed with the Secretary of State by the Business Enterprise Program that are pending in the rulemaking process on the effective date of this amendatory Act of the 102nd General Assembly and pertain to the transferred powers, duties, rights, and responsibilities under Public Act 101-0657 are deemed to have been filed by the Commission on Equity and Inclusion. As soon as practicable,

the Commission on Equity and Inclusion shall revise and clarify the rules transferred to it under this amendatory Act of the 102nd General Assembly to reflect the reorganization of powers, duties, rights, and responsibilities affected by Public Act 101-0657, using the procedures for recodification of rules available under the Illinois Administrative Procedure Act, except that existing title, part, and Section numbering for the affected rules may be retained. The Commission on Equity and Inclusion may propose and adopt under the Illinois Administrative Procedure Act other rules of the Business Enterprise Program pertaining to Public Act 101-0657 that are administered by the Department of Central Management Services.

(Source: P.A. 101-657, eff. 1-1-22.)

(30 ILCS 575/7) (from Ch. 127, par. 132.607)

(Text of Section before amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 7. Exemptions; waivers; publication of data.

(1) Individual contract exemptions. The Council, at the written request of the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of \$250,000 or more complying with Section 45 of the State Finance Act, may permit an individual contract or contract package, (related contracts being bid or awarded simultaneously for the same project or improvements) be made wholly or partially exempt from State contracting goals for

businesses owned by minorities, women, and persons with disabilities prior to the advertisement for bids or solicitation of proposals whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question. Any such exemptions shall be given by the Council to the Bureau on Apprenticeship Programs.

(a) Written request for contract exemption. A written request for an individual contract exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by businesses owned by minorities, women, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) a list of eligible businesses owned by

minorities, women, and persons with disabilities that the contractor has used in the current and prior fiscal years.

(b) Determination. The Council's determination concerning an individual contract exemption must consider, at a minimum, the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities;

(ii) the total number of exemptions granted to the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of \$250,000 or more complying with Section 45 of the State Finance Act that have been granted by the Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years.

(2) Class exemptions.

(a) Creation. The Council, at the written request of the affected agency or public institution of higher education, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned

by minorities, women, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of qualified businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class. Any such exemption shall be given by the Council to the Bureau on Apprenticeship Programs.

(a-1) Written request for class exemption. A written request for a class exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by eligible businesses owned by minorities, women, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) the number of class exemptions the affected agency or public institution of higher education

requested in the current and prior fiscal years.

(a-2) Determination. The Council's determination concerning class exemptions must consider, at a minimum, the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities;

(ii) the total number of class exemptions granted to the requesting agency or public institution of higher education that have been granted by the Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities the current and prior fiscal years.

(b) Limitation. Any such class exemption shall not be permitted for a period of more than one year at a time.

(3) Waivers. Where a particular contract requires a contractor to meet a goal established pursuant to this Act, the contractor shall have the right to request a waiver from such requirements. The Council shall grant the waiver where the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by businesses owned by minorities, women, and persons with

disabilities. Any such waiver shall also be transmitted in writing to the Bureau on Apprenticeship Programs.

(a) Request for waiver. A contractor's request for a waiver under this subsection (3) must include, but is not limited to, the following, if available:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities that pertain to the class of contracts in the requested waiver;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure competition;

(iii) the difference in cost between the contract proposals being offered by businesses owned by minorities, women, and persons with disabilities and the agency or the public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) a list of businesses owned by minorities, women, and persons with disabilities that the contractor has used in the current and prior fiscal years.

(b) Determination. The Council's determination concerning waivers must include following:

(i) the justification for the requested waiver, including whether the requesting contractor made a

good faith effort to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities;

(ii) the total number of waivers the contractor has been granted by the Council in the current and prior fiscal years;

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years; and

(iv) the contractor's use of businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years.

(3.5) (Blank).

(4) Conflict with other laws. In the event that any State contract, which otherwise would be subject to the provisions of this Act, is or becomes subject to federal laws or regulations which conflict with the provisions of this Act or actions of the State taken pursuant hereto, the provisions of the federal laws or regulations shall apply and the contract shall be interpreted and enforced accordingly.

(5) Each chief procurement officer, as defined in the Illinois Procurement Code, shall maintain on his or her official Internet website a database of the following: (i) waivers granted under this Section with respect to contracts

under his or her jurisdiction; (ii) a State agency or public institution of higher education's written request for an exemption of an individual contract or an entire class of contracts; and (iii) the Council's written determination granting or denying a request for an exemption of an individual contract or an entire class of contracts. The database, which shall be updated periodically as necessary, shall be searchable by contractor name and by contracting State agency.

(6) Each chief procurement officer, as defined by the Illinois Procurement Code, shall maintain on its website a list of all firms that have been prohibited from bidding, offering, or entering into a contract with the State of Illinois as a result of violations of this Act.

Each public notice required by law of the award of a State contract shall include for each bid or offer submitted for that contract the following: (i) the bidder's or offeror's name, (ii) the bid amount, (iii) the name or names of the certified firms identified in the bidder's or offeror's submitted utilization plan, and (iv) the bid's amount and percentage of the contract awarded to businesses owned by minorities, women, and persons with disabilities identified in the utilization plan.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; 101-601, eff. 1-1-20.)

(Text of Section after amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 7. Exemptions; waivers; publication of data.

(1) Individual contract exemptions. The Council, at the written request of the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of \$250,000 or more complying with Section 45 of the State Finance Act, may permit an individual contract or contract package, (related contracts being bid or awarded simultaneously for the same project or improvements) be made wholly or partially exempt from State contracting goals for businesses owned by minorities, women, and persons with disabilities prior to the advertisement for bids or solicitation of proposals whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question. Any such exemptions shall be given by the Council to the Bureau on Apprenticeship Programs.

(a) Written request for contract exemption. A written request for an individual contract exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by

minorities, women, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by businesses owned by minorities, women, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) a list of eligible businesses owned by minorities, women, and persons with disabilities that the contractor has used in the current and prior fiscal years.

(b) Determination. The Council's determination concerning an individual contract exemption must consider, at a minimum, the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities;

(ii) the total number of exemptions granted to the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of \$250,000 or more complying with Section 45 of the State Finance Act that have been granted by the

Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years.

(2) Class exemptions.

(a) Creation. The Council, at the written request of the affected agency or public institution of higher education, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned by minorities, women, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of qualified businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class. Any such exemption shall be given by the Council to the Bureau on Apprenticeship Programs.

(a-1) Written request for class exemption. A written request for a class exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by eligible businesses owned by minorities, women, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) the number of class exemptions the affected agency or public institution of higher education requested in the current and prior fiscal years.

(a-2) Determination. The Council's determination concerning class exemptions must consider, at a minimum, the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities;

(ii) the total number of class exemptions granted to the requesting agency or public institution of higher education that have been granted by the Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and

persons with disabilities the current and prior fiscal years.

(b) Limitation. Any such class exemption shall not be permitted for a period of more than one year at a time.

(3) Waivers. Where a particular contract requires a contractor to meet a goal established pursuant to this Act, the contractor shall have the right to request ~~from the Council, in consultation with the Commission,~~ a waiver from such requirements prior to the contract award. The Council shall grant the waiver when the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by businesses owned by minorities, women, and persons with disabilities ~~may grant the waiver only upon a demonstration by the contractor of unreasonable responses to the request for proposals given the class of contract~~. Any such waiver shall also be transmitted in writing to the Bureau on Apprenticeship Programs.

(a) Request for waiver. A contractor's request for a waiver under this subsection (3) must include, but is not limited to, the following, if available:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities that pertain to the scope of work of the contract ~~class of contracts in the requested waiver~~. Eligible businesses are only eligible if the business is certified for the products or work advertised in the solicitation;

(ii) (blank);

(iia) a clear demonstration that the contractor selected portions of the work to be performed by eligible businesses owned by minorities, women, and persons with disabilities, solicited through all reasonable and available means eligible businesses, and negotiated in good faith with interested eligible businesses;

(iib) documentation demonstrating that businesses owned by minorities, women, and persons with disabilities are not rejected as being unqualified without sound reasons based on a thorough investigation of their capabilities;

(iii) documentation demonstrating that ~~the difference in cost between~~ the contract proposals being offered by businesses owned by minorities, women, and persons with disabilities are excessive or unreasonable ~~and the agency or the public institution of higher education's expectations of reasonable prices on bids or proposals within that class;~~ and

(iv) a list of businesses owned by minorities, women, and persons with disabilities that the contractor has used in the current and prior fiscal years.

(b) Determination. The Council's determination, ~~in consultation with the Commission,~~ concerning waivers must

include following:

(i) the justification for the requested waiver, including whether the requesting contractor made a good faith effort to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities ~~proper demonstration of unreasonable responses to the request for proposals given the class of contract;~~

(ii) the total number of waivers the contractor has been granted by the Council in the current and prior fiscal years;

(iii) (blank); and ~~the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years; and~~

(iv) the contractor's use of businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years.

(3.5) (Blank).

(4) Conflict with other laws. In the event that any State contract, which otherwise would be subject to the provisions of this Act, is or becomes subject to federal laws or regulations which conflict with the provisions of this Act or actions of the State taken pursuant hereto, the provisions of the federal laws or regulations shall apply and the contract

shall be interpreted and enforced accordingly.

(5) Each chief procurement officer, as defined in the Illinois Procurement Code, shall maintain on his or her official Internet website a database of the following: (i) waivers granted under this Section with respect to contracts under his or her jurisdiction; (ii) a State agency or public institution of higher education's written request for an exemption of an individual contract or an entire class of contracts; and (iii) the Council's written determination granting or denying a request for an exemption of an individual contract or an entire class of contracts. The database, which shall be updated periodically as necessary, shall be searchable by contractor name and by contracting State agency.

(6) Each chief procurement officer, as defined by the Illinois Procurement Code, shall maintain on its website a list of all firms that have been prohibited from bidding, offering, or entering into a contract with the State of Illinois as a result of violations of this Act.

Each public notice required by law of the award of a State contract shall include for each bid or offer submitted for that contract the following: (i) the bidder's or offeror's name, (ii) the bid amount, (iii) the name or names of the certified firms identified in the bidder's or offeror's submitted utilization plan, and (iv) the bid's amount and percentage of the contract awarded to businesses owned by

minorities, women, and persons with disabilities identified in the utilization plan.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; 101-601, eff. 1-1-20; 101-657, eff. 1-1-22.)

(30 ILCS 575/8) (from Ch. 127, par. 132.608)

(Text of Section before amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8. Enforcement.

(1) The Council shall make such findings, recommendations and proposals to the Governor as are necessary and appropriate to enforce this Act. If, as a result of its monitoring activities, the Council determines that its goals and policies are not being met by any State agency or public institution of higher education, the Council may recommend any or all of the following actions:

(a) Establish enforcement procedures whereby the Council may recommend to the appropriate State agency, public institutions of higher education, or law enforcement officer that legal or administrative remedies be initiated for violations of contract provisions or rules issued hereunder or by a contracting State agency or public institutions of higher education. State agencies and public institutions of higher education shall be authorized to adopt remedies for such violations which shall include (1) termination of the contract involved,

(2) prohibition of participation of the respondents in public contracts for a period not to exceed one year, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof.

(b) If the Council concludes that a compliance plan submitted under Section 6 is unlikely to produce the participation goals for businesses owned by minorities, women, and persons with disabilities within the then current fiscal year, the Council may recommend that the State agency or public institution of higher education revise its plan to provide additional opportunities for participation by businesses owned by minorities, women, and persons with disabilities. Such recommended revisions may include, but shall not be limited to, the following:

(i) assurances of stronger and better focused solicitation efforts to obtain more businesses owned by minorities, women, and persons with disabilities as potential sources of supply;

(ii) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of businesses owned by minorities, women, and persons with disabilities;

(iii) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of businesses owned by minorities, women, and persons with disabilities;

(iv) identification of specific proposed contracts as particularly attractive or appropriate for participation by businesses owned by minorities, women, and persons with disabilities, such identification to result from and be coupled with the efforts of subparagraphs (i) through (iii);

(v) implementation of those regulations established for the use of the sheltered market process.

(2) State agencies and public institutions of higher education shall review a vendor's compliance with its utilization plan and the terms of its contract. Without limitation, a vendor's failure to comply with its contractual commitments as contained in the utilization plan; failure to cooperate in providing information regarding its compliance with its utilization plan; or the provision of false or misleading information or statements concerning compliance, certification status, or eligibility of the Business Enterprise Program-certified vendor, good faith efforts, or any other material fact or representation shall constitute a material breach of the contract and entitle the State agency or public institution of higher education to declare a default, terminate the contract, or exercise those remedies provided for in the contract, at law, or in equity.

(3) A vendor shall be in breach of the contract and may be subject to penalties for failure to meet contract goals

established under this Act, unless the vendor can show that it made good faith efforts to meet the contract goals.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

(Text of Section after amendment by P.A. 101-657)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8. Enforcement.

(1) The Commission on Equity and Inclusion shall make such findings, recommendations and proposals to the Governor as are necessary and appropriate to enforce this Act. If, as a result of its monitoring activities, the Commission determines that its goals and policies are not being met by any State agency or public institution of higher education, the Commission may recommend any or all of the following actions:

(a) Establish enforcement procedures whereby the Commission may recommend to the appropriate State agency, public institutions of higher education, or law enforcement officer that legal or administrative remedies be initiated for violations of contract provisions or rules issued hereunder or by a contracting State agency or public institutions of higher education. State agencies and public institutions of higher education shall be authorized to adopt remedies for such violations which shall include (1) termination of the contract involved, (2) prohibition of participation of the respondents in public contracts for a period not to exceed one year, (3)

imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof.

(b) If the Commission concludes that a compliance plan submitted under Section 6 is unlikely to produce the participation goals for businesses owned by minorities, women, and persons with disabilities within the then current fiscal year, the Commission may recommend that the State agency or public institution of higher education revise its plan to provide additional opportunities for participation by businesses owned by minorities, women, and persons with disabilities. Such recommended revisions may include, but shall not be limited to, the following:

(i) assurances of stronger and better focused solicitation efforts to obtain more businesses owned by minorities, women, and persons with disabilities as potential sources of supply;

(ii) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of businesses owned by minorities, women, and persons with disabilities;

(iii) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of businesses owned by minorities, women, and persons with disabilities;

(iv) identification of specific proposed contracts as particularly attractive or appropriate for

participation by businesses owned by minorities, women, and persons with disabilities, such identification to result from and be coupled with the efforts of subparagraphs (i) through (iii);

(v) implementation of those regulations established for the use of the sheltered market process.

(2) State agencies and public institutions of higher education shall monitor ~~review~~ a vendor's compliance with its utilization plan and the terms of its contract. Without limitation, a vendor's failure to comply with its contractual commitments as contained in the utilization plan; failure to cooperate in providing information regarding its compliance with its utilization plan; or the provision of false or misleading information or statements concerning compliance, certification status, or eligibility of the Business Enterprise Program-certified vendor, good faith efforts, or any other material fact or representation shall constitute a material breach of the contract and entitle the State agency or public institution of higher education to declare a default, terminate the contract, or exercise those remedies provided for in the contract, at law, or in equity.

(3) Prior to the expiration or termination of a contract, State agencies and public institutions of higher education shall evaluate the contractor's fulfillment of the contract goals for participation by businesses owned by minorities,

women, and persons with disabilities. The agency or public institution of higher education shall prepare a report of the vendor's compliance with the contract goals and file it with the Secretary. If the Secretary determines that the vendor did not fulfill the contract goals, the ~~A~~ vendor shall be in breach of the contract and may be subject to remedies or sanctions ~~penalties for failure to meet contract goals established under this Act,~~ unless the vendor can show that it made good faith efforts to meet the contract goals. Such remedies or sanctions for failing to make good faith efforts may include (i) disqualification of the contractor from doing business with the State for a period of no more than one year or (ii) cancellation, without any penalty to the State, of any contract entered into by the vendor. The Business Enterprise Program shall develop procedures for determining whether a vendor has made good faith efforts to meet the contract goals upon the expiration or termination of a contract.

(Source: P.A. 100-391, eff. 8-25-17; 101-657, eff. 1-1-22.)

(30 ILCS 575/8k)

Sec. 8k. Race and gender wage report. The Commission on Equity and Inclusion ~~Department of Central Management Services~~ shall annually compile ~~submit~~ a report ~~to the Council,~~ categorized by both race and gender, specifying the respective wage earnings of State employees ~~as compiled under Section 405-535 of the Department of Central Management Services Law~~

~~of the Civil Administrative Code of Illinois.~~

(Source: P.A. 101-657, eff. 3-23-21.)

Section 25. "An Act concerning State government", approved March 3, 2021, Public Act 101-657, is amended by changing Section 99-99 as follows:

(P.A. 101-657, Sec. 99-99)

Sec. 99-99. Effective date. This Act takes effect upon becoming law, except that Article 5 takes effect July 1, 2021, and Articles 1 and 40 take effect January 1, 2022.

(Source: P.A. 101-657, eff. 3-23-21.)

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

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