

AN ACT concerning finance.

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

Section 5. The Illinois Procurement Code is amended by changing Section 45-57 as follows:

(30 ILCS 500/45-57)

Sec. 45-57. Veterans.

(a) Set-aside goal. It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (referred to as SDVOSB) and veteran-owned small businesses (referred to as VOSB) participate in the State's procurement process as both prime contractors and subcontractors. Not less than 3% of the total dollar amount of State contracts, as defined by the Director of Central Management Services, shall be established as a goal to be awarded to SDVOSB and VOSB. That portion of a contract under which the contractor subcontracts with a SDVOSB or VOSB may be counted toward the goal of this subsection. The Department of Central Management Services shall adopt rules to implement compliance with this subsection by all State agencies.

(b) Fiscal year reports. By each November 1, each chief

procurement officer shall report to the Department of Central Management Services on all of the following for the immediately preceding fiscal year, and by each March 1 the Department of Central Management Services shall compile and report that information to the General Assembly:

(1) The total number of VOSB, and the number of SDVOSB, who submitted bids for contracts under this Code.

(2) The total number of VOSB, and the number of SDVOSB, who entered into contracts with the State under this Code and the total value of those contracts.

(b-5) The Department of Central Management Services shall submit an annual report to the Governor and the General Assembly that shall include the following:

(1) a year-by-year comparison of the number of certifications the State has issued to veteran-owned small businesses and service-disabled veteran-owned small businesses;

(2) the obstacles, if any, the Department of Central Management Services faces when certifying veteran-owned businesses and possible rules or changes to rules to address those issues;

(3) a year-by-year comparison of awarded contracts to certified veteran-owned small businesses and service-disabled veteran-owned small businesses; and

(4) any other information that the Department of Central Management Services deems necessary to assist

veteran-owned small businesses and service-disabled veteran-owned small businesses to become certified with the State.

The Department of Central Management Services shall conduct a minimum of 2 outreach events per year to ensure that veteran-owned small businesses and service-disabled veteran-owned small businesses know about the procurement opportunities and certification requirements with the State. The Department of Central Management Services may receive appropriations for outreach.

(c) Yearly review and recommendations. Each year, each chief procurement officer shall review the progress of all State agencies under its jurisdiction in meeting the goal described in subsection (a), with input from statewide veterans' service organizations and from the business community, including businesses owned by qualified veterans, and shall make recommendations to be included in the Department of Central Management Services' report to the General Assembly regarding continuation, increases, or decreases of the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified veterans and on the continued need to encourage and promote businesses owned by qualified veterans.

(d) Governor's recommendations. To assist the State in reaching the goal described in subsection (a), the Governor shall recommend to the General Assembly changes in programs to

assist businesses owned by qualified veterans.

(e) Definitions. As used in this Section:

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or service in active duty as defined under 38 U.S.C. Section 101. Service in the Merchant Marine that constitutes active duty under Section 401 of federal Public Act 95-202 shall also be considered service in the armed forces for purposes of this Section.

"Certification" means a determination made by the Illinois Department of Veterans' Affairs and the Department of Central Management Services that a business entity is a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business for whatever purpose. A SDVOSB or VOSB owned and controlled by women, minorities, or persons with disabilities, as those terms are defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, may also select and designate whether that business is to be certified as a "women-owned business", "minority-owned business", or "business owned by a person with a disability", as defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

"Control" means the exclusive, ultimate, majority, or 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, operation 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.

"Qualified service-disabled veteran" means a veteran who has been found to have 10% or more service-connected disability by the United States Department of Veterans Affairs or the United States Department of Defense.

"Qualified service-disabled veteran-owned small business" or "SDVOSB" means a small business (i) that is at least 51% owned by one or more qualified service-disabled veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified service-disabled veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

"Qualified veteran-owned small business" or "VOSB" means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

"Service-connected disability" means a disability incurred in the line of duty in the active military, naval, or air service as described in 38 U.S.C. 101(16).

"Small 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 Department of Central Management Services for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on SDVOSB or VOSB as suppliers or subcontractors or in employment of veterans or service-disabled veterans.

"State agency" has the meaning provided in Section 1-15.100 of this Code.

"Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is

in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

"Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of hardship; or (d) the veteran was released from active duty because of a service connected disability and was discharged under honorable conditions.

(f) Certification program. The Illinois Department of Veterans' Affairs and the Department of Central Management Services shall work together to devise a certification procedure to assure that businesses taking advantage of this Section are legitimately classified as qualified service-disabled veteran-owned small businesses or qualified veteran-owned small businesses.

The Department of Central Management Services shall:

(1) compile and maintain a comprehensive list of certified veteran-owned small businesses and service-disabled veteran-owned small businesses;

(2) assist veteran-owned small businesses and service-disabled veteran-owned small businesses in complying with the procedures for bidding on State contracts;

(3) provide training for State agencies regarding the goal setting process and compliance with veteran-owned small business and service-disabled veteran-owned small business goals; and

(4) implement and maintain an electronic portal on the Department's website for the purpose of completing and submitting veteran-owned small business and service-disabled veteran-owned small business certificates.

The Department of Central Management Services, in consultation with the Department of Veterans' Affairs, may develop programs and agreements to encourage cities, counties, towns, townships, and other certifying entities to adopt uniform certification procedures and certification recognition programs.

(f-5) A business shall be certified by the Department of Central Management Services as a service-disabled veteran-owned small business or a veteran-owned small business for purposes of this Section if the Department of Central Management Services determines that the business has been certified as a service-disabled veteran-owned small business or a veteran-owned small business by the Vets First

Verification Program of the United States Department of Veterans Affairs, and the business has provided to the Department of Central Management Services the following:

(1) documentation showing certification as a service-disabled veteran-owned small business or a veteran-owned small business by the Vets First Verification Program of the United States Department of Veterans Affairs;

(2) proof that the business has its home office in Illinois; and

(3) proof that the qualified veterans or qualified service-disabled veterans live in the State of Illinois.

The policies of the Department of Central Management Services regarding recognition of the Vets First Verification Program of the United States Department of Veterans Affairs shall be reviewed annually by the Department of Central Management Services, and recognition of service-disabled veteran-owned small businesses and veteran-owned small businesses certified by the Vets First Verification Program of the United States Department of Veterans Affairs may be discontinued by the Department of Central Management Services by rule upon a finding that the certification standards of the Vets First Verification Program of the United States Department of Veterans Affairs do not meet the certification requirements established by the Department of Central Management Services.

(g) Penalties.

(1) Administrative penalties. The chief procurement officers appointed pursuant to Section 10-20 shall suspend any person who commits a violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to this Section from bidding on, or participating as a contractor, subcontractor, or supplier in, any State contract or project for a period of not less than 3 years, and, if the person is certified as a service-disabled veteran-owned small business or a veteran-owned small business, then the Department shall revoke the business's certification for a period of not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than 5 years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.

(2) Reports of violations. Each State agency shall report any alleged violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to this Section to the chief procurement officers appointed pursuant to Section 10-20. The chief procurement officers appointed pursuant to Section 10-20 shall subsequently report all such alleged violations to the Attorney General, who shall determine whether to bring

a civil action against any person for the violation.

(3) List of suspended persons. The chief procurement officers appointed pursuant to Section 10-20 shall monitor the status of all reported violations of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to this Section and shall maintain and make available to all State agencies a central listing of all persons that committed violations resulting in suspension.

(4) Use of suspended persons. During the period of a person's suspension under paragraph (1) of this subsection, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor.

(5) Duty to check list. Each State agency shall check the central listing provided by the chief procurement officers appointed pursuant to Section 10-20 under paragraph (3) of this subsection to verify that a person being awarded a contract by that State agency, or to be used as a subcontractor or supplier on a contract being awarded by that State agency, is not under suspension pursuant to paragraph (1) of this subsection.

(Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17; 100-863, eff. 8-14-18.)

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