



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO SENATE BILL 276

2 AMENDMENT NO. _____. Amend Senate Bill 276 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Transportation Law of the
5 Civil Administrative Code of Illinois is amended by changing
6 Section 2705-595 and by adding Section 2705-607 as follows:

7 (20 ILCS 2705/2705-595)

8 Sec. 2705-595. Prequalification of minority-owned and
9 women-owned contractors.

10 (a) The Department shall, within 30 days after the
11 effective date of this amendatory Act of the 96th General
12 Assembly, establish a committee to review the rules for
13 prequalification of contractors adopted by the Department at 44
14 Illinois Administrative Code 650. The purpose of the review is
15 to determine whether the rules for prequalification operate as
16 a barrier to minority-owned and women-owned contractors

1 becoming prequalified to bid on or make proposals for
2 Department contracts. The committee shall, in addition to
3 Department staff, be constituted with membership representing
4 the construction industry and minority-owned and women-owned
5 contractors. The committee shall complete its work and make
6 recommendations for any changes to the rules for
7 prequalification to the Secretary of Transportation within 180
8 days after the effective date of this amendatory Act of the
9 96th General Assembly.

10 (b) The Department, in conjunction with the Capital
11 Development Board, shall hold 2 public hearings to determine
12 whether a more effective, efficient, and less burdensome method
13 exists to prequalify an architect, engineer, or contractor. The
14 hearings shall also specifically determine how the Department
15 can obtain greater participation in the bidding process of
16 small contractors and minority, female, disabled, and veteran
17 architects, engineers, and contractors. The Department and the
18 Capital Development Board shall collect data to review at the
19 hearings, which shall include, but is not limited to,
20 percentages and the number of minority, female, disabled, and
21 veteran employees who are hired for each trade necessary for
22 each project. The Department and the Capital Development Board
23 shall issue their joint findings and recommendations to the
24 Governor and the General Assembly no later than January 1,
25 2019. The findings and recommendations to the General Assembly
26 shall be filed with the Clerk of the House of Representatives

1 and the Secretary of the Senate in electronic form only, in the
2 manner that the Clerk and the Secretary shall direct.

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

5 (20 ILCS 2705/2705-607 new)

6 Sec. 2705-607. Performance evaluation; contractor.

7 (a) For purposes of this Section, "Performance Factor"
8 means a numerical value determined by the contractor's
9 performance evaluation in a work category during the previous
10 year.

11 (b) At the close of each construction season, the
12 Department, other State agencies or authorities using
13 contractors based on the prequalification standards of the
14 Department, and officials of a unit of local government
15 administering a contract approved for award by the Department,
16 shall evaluate each contractor who performed work for them
17 during the previous year as either a prime contractor or a
18 subcontractor. The information shall be submitted on the
19 Contractor's Annual Performance Report and shall be subject to
20 disclosure under the Freedom of Information Act. The
21 performance evaluation shall be based upon:

22 (1) the quality of work performed for each work
23 category under 44 Ill. Adm. Code 650; and

24 (2) the overall execution of work measured by:

25 (A) organization and prosecution of work;

1 (B) cooperation with public agency personnel
2 responsible for contract administration and
3 inspection;

4 (C) traffic control and site protection under
5 contract requirements;

6 (D) compliance with the Equal Employment
7 Opportunity program and labor requirements;

8 (E) erosion control; and

9 (F) the contractor's ability to meet the Quality
10 Control plan and Quality Assurance plan under contract
11 requirements for materials production and construction
12 quality control.

13 (c) The performance evaluation scale is a rating from 0 to
14 8 in accordance with the following definitions:

15 (1) "8" means excellent;

16 (2) "7" means good;

17 (3) "6" means satisfactory;

18 (4) "3" means marginal; and

19 (5) "0" means poor.

20 (d) The quality and evaluating categories under execution
21 of work are rated as follows:

22 (1) to determine the contractor's quality of
23 performance, the Department shall consider the project's
24 durability and appearance, knowledge of supervisory
25 personnel, and compliance with contract requirements and
26 shall evaluate the performance based on the following

1 scale:

2 (A) if the contractor exceeded project
3 requirements in all areas considered, he or she shall
4 receive an 8;

5 (B) if the contractor exceeded project
6 requirements in a majority of areas considered, he or
7 she shall receive a 7;

8 (C) if the contractor met project requirements in
9 all areas considered, he or she shall receive a 6;

10 (D) if the contractor did not meet project
11 requirements in one area considered, he or she shall
12 receive a 3; and

13 (E) if the contractor did not meet project
14 requirements in 2 or more areas considered, he or she
15 shall receive a 0;

16 (2) to determine the contractor's organization and
17 prosecution, the Department shall consider the
18 contractor's ability to diligently prosecute work by
19 planning and scheduling labor, materials, and the work of
20 subcontractors on the project site and shall evaluate the
21 organization and prosecution based on the following scale:

22 (A) if the contractor exceeded project
23 requirements in all areas considered and completed the
24 project well ahead of schedule, he or she shall receive
25 an 8;

26 (B) if the contractor exceeded project

1 requirements in a majority of areas considered and the
2 project was completed slightly ahead of schedule, he or
3 she shall receive a 7;

4 (C) if the contractor met project requirements in
5 all areas considered and the scheduled completion date
6 was met, he or she shall receive a 6;

7 (D) if the contractor did not meet project
8 requirements in one area considered and occasionally
9 did not work when conditions permitted and the
10 scheduled completion date was met, he or she shall
11 receive a 3; and

12 (E) if the contractor did not meet project
13 requirements in 2 or more areas considered and the
14 scheduled completion date was not met, he or she shall
15 receive a 0;

16 (3) to determine the contractor's cooperation, the
17 Department shall consider the contractor's willingness to
18 negotiate contract disputes, to respond to reasonable
19 requests by the resident engineer, and to respond to
20 various correspondence from the Department and shall
21 evaluate the cooperation based on the following scale:

22 (A) if the contractor exceeded project
23 requirements in all areas considered, he or she shall
24 receive an 8;

25 (B) if the contractor exceeded project
26 requirements in a majority of areas considered, he or

1 she shall receive a 7;

2 (C) if the contractor met project requirements in
3 all areas considered, he or she shall receive a 6;

4 (D) if the contractor did not meet project
5 requirements in one area considered, he or she shall
6 receive a 3; and

7 (E) if the contractor did not meet project
8 requirements in 2 or more areas considered, he or she
9 shall receive a 0;

10 (4) to determine the project's traffic control and site
11 protection, the Department shall consider the appearance
12 of traffic control devices, the response to repair
13 deficient devices, and the contractor's willingness to
14 comply with the Traffic Control Plan and shall evaluate
15 based on the following scale:

16 (A) if the contractor exceeded project
17 requirements in all areas considered, he or she shall
18 receive an 8;

19 (B) if the contractor exceeded project
20 requirements in a majority of areas considered, he or
21 she shall receive a 7;

22 (C) if the contractor met project requirements in
23 all areas considered, he or she shall receive a 6;

24 (D) if the contractor did not meet project
25 requirements in one area considered, he or she shall
26 receive a 3; and

1 (E) if the contractor did not meet project
2 requirements in 2 or more areas considered or the
3 contractor committed an act or omission which
4 seriously compromised the safety of the public, he or
5 she shall receive a 0;

6 (5) to determine the contractor's compliance with the
7 Equal Employment Opportunity program and labor
8 requirements, the Department shall evaluate the compliance
9 based on the following scale:

10 (A) if the contractor exceeded project
11 requirements, he or she shall receive an 8;

12 (B) if the contractor met project requirements
13 through extraordinary effort and initiative, he or she
14 shall receive a 7;

15 (C) if the contractor met project requirements
16 with minimum effort and initiative, he or she shall
17 receive a 6;

18 (D) if the contractor met project requirements,
19 but had to be motivated by Department personnel, he or
20 she shall receive a 3; and

21 (E) if the contractor did not meet project
22 requirements, he or she shall receive a 0;

23 (6) to determine the project's erosion control, the
24 Department shall consider the contractor's compliance with
25 the project's erosion control plan and all pertinent
26 federal and State laws, permits, rules, and regulations and

1 shall evaluate based on the following scale:

2 (A) if the contractor exceeded project
3 requirements, he or she shall receive an 8;

4 (B) if the contractor exceeded project
5 requirements in a majority of the areas, he or she
6 shall receive a 7;

7 (C) if the contractor met project requirements in
8 all areas, he or she shall receive a 6;

9 (D) if the contractor did not meet the project
10 requirements in one area considered, he or she shall
11 receive a 3; and

12 (E) if the contractor did not meet the contract
13 requirements in 2 or more areas, he or she shall
14 receive a 0;

15 (7) to determine the contractor's ability to meet the
16 Quality Control plan and Quality Assurance plan, the
17 Department shall consider the contractor's ability to meet
18 a Quality Control plan and Quality Assurance plan
19 inspection, testing, and documentation requirements, to
20 take control of the product, to take corrective action, and
21 to communicate production and construction issued to
22 Department personnel and shall evaluate based on the
23 following scale:

24 (A) if the contractor exceeded Quality Control
25 plan and Quality Assurance plan requirements in all
26 areas considered, he or she shall receive an 8;

1 (B) if the contractor exceeded Quality Control
2 plan and Quality Assurance plan requirements in a
3 majority of areas considered, he or she shall receive a
4 7;

5 (C) if the contractor met Quality Control plan and
6 Quality Assurance plan requirements in all areas
7 considered, he or she shall receive a 6;

8 (D) if the contractor did not meet Quality Control
9 plan and Quality Assurance plan requirements in one
10 area considered, he or she shall receive a 3; and

11 (E) if the contractor did not meet Quality Control
12 plan and Quality Assurance plan requirements in 2 or
13 more areas considered, he or she shall receive a 0.

14 (e) The Department shall calculate the Performance Factor
15 by first determining the Project Cost Ratio for the relevant
16 work category. The Project Cost Ratio is the ratio of the value
17 of all contracts being evaluated to the value of all contracts
18 performed. The Department shall establish a weighted
19 performance evaluation value for each performance evaluation
20 completed by determining the product of the Project Cost Ratio,
21 the rating for quality given on the relevant performance
22 evaluation, and the averaged ratings for the execution given on
23 the relevant performance evaluation divided by 6. Finally, the
24 Department shall divide the summation of all weighted
25 performance evaluation values by 6 to arrive at the Performance
26 Factor.

1 (f) A work rating shall be subject to denial or revocation
2 if the summation of all weighted performance evaluation values
3 for a work rating category is less than 6 for 2 successive
4 years. A work rating shall be subject to denial or revocation
5 if the summation of all weighted performance evaluation values
6 for a work rating category is less than 3 for one year.

7 (g) The Department shall evaluate performance on any
8 individual contract or group of contracts for purposes of
9 determining the current responsibility of a contractor when the
10 Engineer of Construction has determined that performance on any
11 contract or contracts may not be acceptable and that an
12 immediate evaluation is necessary to assess the responsibility
13 of a contractor in order to protect the interests of the State
14 in sound procurement practices. If the evaluation ordered by
15 the Engineer of Construction results in the quality of work or
16 the average overall execution of work ratings being rated at
17 less than 3, the work ratings shall be revoked.

18 (h) If a contractor receives a Quality of Work Rating of 0
19 for any work category being evaluated on any one contract, the
20 work rating shall be revoked.

21 (i) The Department shall notify the contractor of the
22 performance evaluation in writing within 14 days of completion
23 of the evaluation with a detailed explanation of any
24 substandard items. If a performance evaluation results in a
25 denied, reduced, or revoked work rating, the contractor may
26 proceed with the review procedures under 44 Ill. Adm. Code

1 650.150.

2 (j) If an applicant did not have a contract with the
3 Department in the previous year, the last evaluation issued
4 within a 5-year period shall be used. If an applicant has not
5 had an evaluation in the last 5 years or is applying for an
6 initial rating in a category and lists no public agencies or
7 private customers as references, a Performance Factor of "1"
8 shall be used until an actual evaluation is made.

9 (k) As a component of the Auditor's General biennial
10 compliance examination of the Department, the Auditor General
11 shall review the Department's compliance with the requirements
12 under this Section. Upon completion of the examination and
13 release of the results to the Department, the Auditor General
14 shall publish the results on its website.

15 Section 10. The Criminal Code of 2012 is amended by adding
16 Section 33E-15.5 as follows:

17 (720 ILCS 5/33E-15.5 new)

18 Sec. 33E-15.5. Manipulation of work ratings.

19 (a) Any person who knowingly manipulates a work rating
20 factor for a contractor or subcontractor under Section 2705-607
21 of the Department of Transportation Law of the Civil
22 Administrative Code of Illinois that results in a rating
23 disqualifying or qualifying a contractor or subcontractor who
24 would have been otherwise qualified or disqualified commits

1 manipulation of work ratings. A charge of manipulation of work
2 ratings under this Section shall be investigated by the
3 Department of Transportation Division of Internal
4 Investigation.

5 (b) Manipulation of work ratings is a Class 4 felony.

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