



Rep. William Davis

Filed: 4/12/2005

09400HB2312ham002

LRB094 03307 RSP 45120 a

1 AMENDMENT TO HOUSE BILL 2312

2 AMENDMENT NO. _____. Amend House Bill 2312 by replacing
3 everything after the enacting clause with the following:

4 "Section 90-25. The Illinois Procurement Code is amended by
5 changing Sections 1-15.30, 15-25, 20-25, 20-30, 20-80, 50-20,
6 50-30, and 50-60 and by adding Section 50-37 as follows:

7 (30 ILCS 500/1-15.30)

8 Sec. 1-15.30. Contract. "Contract" means all types of State
9 agreements, regardless of what they may be called, for the
10 procurement, use, or disposal of supplies, services,
11 professional or artistic services, or construction or for
12 leases of real property or capital improvements, and including
13 master contracts, contracts for financing through use of
14 installment or lease-purchase arrangements, renegotiated
15 contracts, amendments to contracts and change orders. The
16 changes to this Section made by this amendatory Act of the 94th
17 General Assembly apply to amendments executed on or after its
18 effective date.

19 (Source: P.A. 90-572, eff. 2-6-98.)

20 (30 ILCS 500/15-25)

21 Sec. 15-25. Bulletin content.

22 (a) Invitations for bids. Notice of each and every contract
23 that is offered, including renegotiated contracts and change

1 orders, shall be published in the Bulletin. The applicable
2 chief procurement officer may provide by rule an organized
3 format for the publication of this information, but in any case
4 it must include at least the date first offered, the date
5 submission of offers is due, the location that offers are to be
6 submitted to, the purchasing State agency, the responsible
7 State purchasing officer, a brief purchase description, the
8 method of source selection, and information of how to obtain a
9 comprehensive purchase description and any disclosure and
10 contract forms.

11 (b) Contracts let or awarded. Notice of each and every
12 contract that is let or awarded, including renegotiated
13 contracts and change orders, shall be published in the next
14 available subsequent Bulletin, and the applicable chief
15 procurement officer may provide by rule an organized format for
16 the publication of this information, but in any case it must
17 include at least all of the information specified in subsection
18 (a) as well as the name of the successful responsible bidder or
19 offeror, the contract price, the number of unsuccessful
20 responsive bidders, and any other disclosure specified in any
21 Section of this Code. This notice shall include the disclosures
22 required under Section 50-37. In addition, the notice shall
23 summarize the outreach efforts undertaken by the agency to make
24 potential bidders or offerors aware of any contract offer other
25 than publication in the Bulletin. This notice must be posted in
26 the online electronic Bulletin within 10 business days after
27 the earlier of (i) execution of the contract or (ii) whenever
28 services or goods begin to be provided under the contract and,
29 in any event, prior to any payment by the State under the
30 contract.

31 (c) Emergency purchase disclosure. Any chief procurement
32 officer, State purchasing officer, or designee exercising
33 emergency purchase authority under this Code shall publish a
34 written description and reasons and the total cost, if known,

1 or an estimate if unknown and the name of the responsible chief
2 procurement officer and State purchasing officer, and the
3 business or person contracted with for all emergency purchases
4 in the next timely, practicable Bulletin. This notice must be
5 posted in the online electronic Bulletin within 10 business
6 days after the earlier of (i) execution of the contract or (ii)
7 whenever services or goods begin to be provided under the
8 contract and, in any event, prior to any payment by the State
9 under the contract.

10 (c-5) Each State agency shall post online on the
11 Procurement Bulletin a copy of its annual report of utilization
12 of businesses owned by minorities, females, and persons with
13 disabilities as submitted to the Business Enterprises Council
14 for Minorities, Females, and Persons with Disabilities
15 pursuant to Section 6(c) of the Business Enterprise for
16 Minorities, Females, and Persons with Disabilities Act within
17 10 business days of its submission of its report to the
18 Council.

19 (d) Other required disclosure. The applicable chief
20 procurement officer shall provide by rule for the organized
21 publication of all other disclosure required in other Sections
22 of this Code in a timely manner.

23 (e) The changes to this Section made by this amendatory Act
24 of the 94th General Assembly apply to reports submitted, offers
25 made, and notices on contracts executed on or after its
26 effective date.

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

28 (30 ILCS 500/20-25)

29 Sec. 20-25. Sole source procurements. In accordance with
30 standards set by rule, contracts may be awarded without use of
31 the specified method of source selection when there is only one
32 economically feasible source for the item. This Section may not
33 be used as a basis for amending a contract if the amendment

1 would result in an increase in the amount paid under the
2 contract of more than 5% of the initial award, or would extend
3 the contract term beyond the time reasonably needed for a
4 competitive procurement, not to exceed 2 months. At least 2
5 weeks before entering into a sole source contract, the
6 purchasing agency shall publish in the Illinois Procurement
7 Bulletin a notice of intent to do so along with a description
8 of the item to be procured and the intended sole source
9 contractor. The changes to this Section made by this amendatory
10 Act of the 94th General Assembly apply to amendments executed
11 on or after its effective date.

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

13 (30 ILCS 500/20-30)

14 Sec. 20-30. Emergency purchases.

15 (a) Conditions for use. In accordance with standards set by
16 rule, a purchasing agency may make emergency procurements
17 without competitive sealed bidding or prior notice when there
18 exists a threat to public health or public safety, or when
19 immediate expenditure is necessary for repairs to State
20 property in order to protect against further loss of or damage
21 to State property, to prevent or minimize serious disruption in
22 critical State services that affect health, safety, or
23 collections of substantial State revenue, or to ensure the
24 integrity of State records; provided, however, that the term of
25 the emergency purchase shall be limited to the time reasonably
26 needed for a competitive procurement, not to exceed 2 months.

27 Emergency procurements shall be made with as much competition
28 as is practicable under the circumstances. A written
29 description of the basis for the emergency and reasons for the
30 selection of the particular contractor shall be included in the
31 contract file.

32 (b) Notice. Before the next appropriate volume of the
33 Illinois Procurement Bulletin, the purchasing agency shall

1 publish in the Illinois Procurement Bulletin a copy of each
2 written description and reasons and the total cost of each
3 emergency procurement made during the previous month. When only
4 an estimate of the total cost is known at the time of
5 publication, the estimate shall be identified as an estimate
6 and published. When the actual total cost is determined, it
7 shall also be published in like manner before the 10th day of
8 the next succeeding month.

9 (c) Affidavits. A purchasing agency making a procurement
10 under this Section shall file affidavits with the chief
11 procurement officer and the Auditor General within 10 days
12 after the procurement setting forth the amount expended, the
13 name of the contractor involved, and the conditions and
14 circumstances requiring the emergency procurement. When only
15 an estimate of the cost is available within 10 days after the
16 procurement, the actual cost shall be reported immediately
17 after it is determined. At the end of each fiscal quarter, the
18 Auditor General shall file with the Legislative Audit
19 Commission and the Governor a complete listing of all emergency
20 procurements reported during that fiscal quarter. The
21 Legislative Audit Commission shall review the emergency
22 procurements so reported and, in its annual reports, advise the
23 General Assembly of procurements that appear to constitute an
24 abuse of this Section.

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

30 (e) The changes to this Section made by this Amendatory Act
31 of the 94th General Assembly apply to procurements executed on
32 or after its effective date.

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

1 (30 ILCS 500/20-80)

2 Sec. 20-80. Contract files.

3 (a) Written determinations. All written determinations
4 required under this Article shall be placed in the contract
5 file maintained by the chief procurement officer.

6 (b) Filing with Comptroller. Whenever a grant, defined
7 pursuant to accounting standards established by the
8 Comptroller, or a contract liability, except for: (1) contracts
9 paid from personal services, or (2) contracts between the State
10 and its employees to defer compensation in accordance with
11 Article 24 of the Illinois Pension Code, exceeding \$10,000 is
12 incurred by any State agency, a copy of the contract, purchase
13 order, grant, or lease or amendments thereto shall be filed
14 with the Comptroller within 15 days of execution. ~~thereafter.~~
15 Any cancellation or modification to any such contract liability
16 shall be filed with the Comptroller within 15 days of its
17 execution.

18 (c) Late filing affidavit. When a contract, purchase order,
19 grant, or lease or amendment thereto required to be filed by
20 this Section has not been filed within 15 ~~30~~ days of execution,
21 notice shall be filed with the Comptroller within 15 days of
22 execution indicating that a contract or amendment thereto
23 described within the notice has been executed and will not be
24 filed within 15 days of execution, and the Comptroller shall
25 refuse to issue a warrant for payment thereunder until the
26 agency files with the Comptroller the contract, purchase order,
27 grant, or lease or amendment thereto and an affidavit, signed
28 by the chief executive officer of the agency or his or her
29 designee, setting forth an explanation of why the contract
30 liability was not filed within 15 ~~30~~ days of execution. A copy
31 of this affidavit shall be filed with the Auditor General.

32 (d) Professional and artistic services contracts. No
33 voucher shall be submitted to the Comptroller for a warrant to
34 be drawn for the payment of money from the State treasury or

1 from other funds held by the State Treasurer on account of any
2 contract for services involving professional or artistic
3 skills involving an expenditure of more than \$5,000 for the
4 same type of service at the same location during any fiscal
5 year unless the contract is reduced to writing before the
6 services are performed and filed with the Comptroller. When a
7 contract for professional or artistic skills in excess of
8 \$5,000 was not reduced to writing before the services were
9 performed, the Comptroller shall refuse to issue a warrant for
10 payment for the services until the State agency files with the
11 Comptroller:

12 (1) a written contract covering the services, and

13 (2) an affidavit, signed by the chief executive officer
14 of the State agency or his or her designee, stating that
15 the services for which payment is being made were agreed to
16 before commencement of the services and setting forth an
17 explanation of why the contract was not reduced to writing
18 before the services commenced.

19 A copy of this affidavit shall be filed with the Auditor
20 General. The Comptroller shall maintain professional or
21 artistic service contracts filed under this Section separately
22 from other filed contracts.

23 (e) Method of source selection. When a contract or
24 amendment thereto is filed with the Comptroller under this
25 Section, the Comptroller's file shall identify the method of
26 source selection used in obtaining the contract.

27 (f) Upon the request of the Comptroller, State agencies
28 shall supply all documents and information reasonably
29 requested by the Comptroller with respect to compliance with
30 this Code within 10 business days of the request.

31 (g) The changes to this Section made by this amendatory Act
32 of the 94th General Assembly apply to contracts, purchase
33 orders, grants, or leases or amendments thereto executed on or
34 after its effective date.

1 (Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-904, eff.
2 7-6-00.)

3 (30 ILCS 500/50-20)

4 Sec. 50-20. Exemptions. With the approval of the
5 appropriate chief procurement officer involved, the Governor,
6 or an executive ethics board or commission he or she
7 designates, may exempt named individuals from the prohibitions
8 of Section 50-13 when, in his, her, or its judgment, the public
9 interest in having the individual in the service of the State
10 outweighs the public policy evidenced in that Section. An
11 exemption is effective only when it is filed with the Secretary
12 of State and the Comptroller and includes a statement setting
13 forth the name of the individual and all the pertinent facts
14 that would make that Section applicable, setting forth the
15 reason for the exemption, and declaring the individual exempted
16 from that Section. Exemptions must be filed with the Secretary
17 of State and Comptroller prior to execution of any contracts. A
18 copy of ~~Notice~~ of each exemption shall be published in the
19 Illinois Procurement Bulletin in its electronic form prior to
20 execution of the contract. The changes to this Section made by
21 this amendatory Act of the 94th General Assembly apply to
22 exemptions granted on or after its effective date.

23 (Source: P.A. 90-572, eff. 2-6-98.)

24 (30 ILCS 500/50-37 new)

25 Sec. 50-37. Contract award disclosure.

26 (a) For purposes of this Section:

27 "Contracting entity" means an entity that would execute any
28 contract with a State agency.

29 "Key persons" means any persons who (i) have an ownership
30 or distributive income share in the contracting entity that is
31 in excess of 5%, or an amount greater than 60% of the annual
32 salary of the Governor; (ii) serve as executive officers of the

1 contracting entity; (iii) are employed by the contracting
2 entity who are required to register under the Lobbyist
3 Registration Act; (iv) are individuals or entities with whom
4 the contracting entity is contracting who are required to be
5 registered as lobbyists under the Lobbyist Registration Act;
6 and (v) are employed by the contracting entity who are special
7 government agents as defined in Section 4A-101(1) of the
8 Illinois Governmental Ethics Act.

9 (b) For contracts with an annual value of \$50,000 or more
10 all offers from responsive bidders or offerors shall be
11 accompanied by disclosure of the names of the following:

12 (1) The contracting entity.

13 (2) Any entity that is a parent of, or owns a
14 controlling interest in, the contracting entity.

15 (3) Any entity that is a subsidiary of, or in which a
16 controlling interest is owned by the contracting entity.

17 (4) Any State, local, or federal political committee
18 that makes or may make political contributions on behalf of
19 the contracting entity.

20 (5) The contracting entity's key persons.

21 (c) Notices of contracts let or awarded published in the
22 Procurement Bulletin pursuant to Section 15-25 shall include as
23 part of the notice posted online the names disclosed by the
24 winning bidder or offeror pursuant to subsection (b).

25 (d) The changes made to this Section made by this
26 amendatory Act of the 94th General Assembly apply to contracts
27 first offered on or after its effective date.

28 (30 ILCS 500/50-60)

29 Sec. 50-60. Voidable contracts.

30 (a) If any contract or amendment thereto is entered into or
31 purchase or expenditure of funds is made at any time in
32 violation of this Code or any other law, the contract or
33 amendment thereto may be declared void by the Comptroller, with

1 the approval of the Treasurer, or the chief procurement officer
2 or may be ratified and affirmed by the Comptroller, with the
3 approval of the Treasurer, or by the chief procurement officer,
4 provided the Comptroller, with the approval of the Treasurer,
5 or the chief procurement officer determines that ratification
6 is in the best interests of the State. If the contract is
7 ratified and affirmed, it shall be without prejudice to the
8 State's rights to any appropriate damages.

9 (b) If, during the term of a contract, the contracting
10 agency determines that the contractor is delinquent in the
11 payment of debt as set forth in Section 50-11 of this Code, the
12 State agency may declare the contract void if it determines
13 that voiding the contract is in the best interests of the
14 State. The Debt Collection Board shall adopt rules for the
15 implementation of this subsection (b).

16 (c) If, during the term of a contract, the contracting
17 agency determines that the contractor is in violation of
18 Section 50-10.5 of this Code, the contracting agency shall
19 declare the contract void.

20 (d) The changes to this Section made by this amendatory Act
21 of the 94th General Assembly apply to actions taken by the
22 Comptroller and Treasurer on or after its effective date.

23 (Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)

24 Section 99-5. Effective date. This Act takes effect upon
25 becoming law."