

AN ACT concerning procurement.

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

Section 1. Short title. This Act may be cited as the Procurement of Domestic Products Act.

Section 5. Definitions. As used in this Act:

"Manufactured in the United States" means, in the case of assembled articles, materials, or supplies, that final assembly occurs in the United States.

"Purchasing agency" means a State agency.

"State agency" means each agency, department authority, board, commission of the executive branch of State government, including each university, whether created by statute or by executive order of the Governor.

"United States" means the United States and any place subject to the jurisdiction of the United States.

Section 10. United States products. Each purchasing agency making purchases of manufactured articles, materials, and supplies shall promote the purchase of and give preference to manufactured articles, materials, and supplies that have been manufactured in the United States. Manufactured articles, materials, and supplies manufactured in the United States shall be specified and purchased unless the purchasing agency determines that any of the following applies:

(1) The manufactured articles, materials, and supplies are not manufactured in the United States in reasonably available quantities.

(2) The price of the manufactured articles, materials, and supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable manufactured articles, materials, and supplies

manufactured outside the United States.

(3) The quality of the manufactured articles, materials, and supplies manufactured in the United States is substantially less than the quality of the comparably priced, available, and comparable manufactured articles, materials, and supplies manufactured outside the United States.

(4) The purchase of the manufactured articles, materials, and supplies manufactured in the United States is not in the public interest.

(5) The purchase of the manufactured articles, materials, or supplies is made in conjunction with contracts or offerings of telecommunications services or Internet or information services.

(6) The purchase is of pharmaceutical products, drugs, biologics, vaccines, medical devices used to treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the federal Food, Drug and Cosmetic Act.

In determining the price of manufactured articles, materials, and supplies for purposes of this Section, consideration shall be given to the life-cycle cost of those manufactured articles, materials, and supplies.

Section 15. Contracts; prequalification.

(a) Each contract awarded by a purchasing agency on or after the effective date of this Act through the use of the preference required under Section 10 shall contain the contractor's certification that manufactured articles, materials, and supplies provided pursuant to the contract or a subcontract shall be manufactured in the United States.

(b) Chief procurement officers, as provided in Section 20-45 of the Illinois Procurement Code, and the Capital Development Board, as provided in Section 30-20 of the Illinois Procurement Code, must promulgate rules for prequalification

of suppliers and contractors under this Section.

Section 20. Federal and State law.

(a) Nothing in this Act is intended to contravene any existing treaty, law, agreement, or regulation of the United States. Contracts entered into in accordance with any treaty, law, agreement, or regulation of the United States shall not be in violation of this Act to the extent of that accordance. No preference shall be granted under this Act if that preference would contravene any treaty, law, agreement, or regulation of the United States.

(b) The preference required by this Act is in addition to any other preference afforded by State law.

Section 25. Penalties. If a contractor is awarded a contract through the use of a preference under this Act and knowingly supplies manufactured articles, materials, or supplies under that contract that are not manufactured in the United States, then (i) the contractor is barred from obtaining any State contract for a period of 5 years after the violation is discovered by the purchasing agency, (ii) the purchasing agency may void the contract, and (iii) the purchasing agency may recover damages in a civil action in an amount 3 times the value of the preference.

Section 30. Capital Development Board; exemption. The Capital Development Board (CDB) is exempt from the requirements of this Act with respect to a specific project if (i) CDB determines that the project is too complex for the 5 major construction building trades to identify the numerous individual articles, materials, and supplies required for the project or (ii) CDB determines that the articles, materials, and supplies required for the project are too numerous or complex to be able to efficiently assess the sites where manufactured.

Section 90. The Illinois Procurement Code is amended by changing Section 45-65 as follows:

(30 ILCS 500/45-65)

Sec. 45-65. Additional preferences. This Code is subject to applicable provisions of:

- (1) the Public Purchases in Other States Act;
- (2) the Illinois Mined Coal Act;
- (3) the Steel Products Procurement Act;
- (4) the Veterans Preference Act; ~~and~~
- (5) the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; ~~and~~
- (6) the Procurement of Domestic Products Act.

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