

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Section 20-10 as follows:

6 (30 ILCS 500/20-10)

7 (Text of Section from P.A. 96-159, 96-588, 97-96, 97-895,
8 98-1076, 99-906, 100-43, 101-31, 101-657, 102-29, 103-558, and
9 103-564)

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

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

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

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

22 (d) Bid opening. Bids shall be opened publicly or through
23 an electronic procurement system in the presence of one or

1 more witnesses at the time and place designated in the
2 invitation for bids. The name of each bidder, including earned
3 and applied bid credit from the Illinois Works Jobs Program
4 Act, the amount of each bid, and other relevant information as
5 may be specified by rule shall be recorded. After the award of
6 the contract, the winning bid and the record of each
7 unsuccessful bid shall be open to public inspection.

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

20 (f) Correction or withdrawal of bids. Correction or
21 withdrawal of inadvertently erroneous bids before or after
22 award, or cancellation of awards of contracts based on bid
23 mistakes, shall be permitted in accordance with rules. After
24 bid opening, no changes in bid prices or other provisions of
25 bids prejudicial to the interest of the State or fair
26 competition shall be permitted. All decisions to permit the

1 correction or withdrawal of bids based on bid mistakes shall
2 be supported by written determination made by a State
3 purchasing officer.

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

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

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

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

1 (g-5) Failed bid notice. In addition to the requirements
2 of subsection (g), if a bidder has failed to be awarded a
3 contract after 4 consecutive bids to provide the same services
4 to the Department of Transportation, the Capital Development
5 Board, or the Illinois State Toll Highway Authority, the
6 applicable agency shall, in writing, detail why each of the 4
7 bids was not awarded to the bidder. The applicable agency
8 shall submit by certified copy to the bidder the reason or
9 reasons why each of the 4 bids was not awarded to the bidder.
10 The agency shall submit that certified copy to the bidder
11 within the same calendar quarter in which the fourth bid was
12 rejected. This subsection does not apply if information
13 pertaining to a failed bid was previously disclosed to a
14 bidder by electronic means. If any agency chooses to provide
15 information by electronic means, the agency shall have a
16 written policy outlining how the agency will reasonably ensure
17 the bidder receives the information. For the purposes of this
18 subsection, "electronic means" means an email communication
19 from the applicable agency to the bidder or a public posting on
20 the applicable agency's procurement bulletin.

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

1 in the first solicitation.

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

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

23 An invitation for bids shall be issued and shall include
24 (i) a procurement description, (ii) all contractual terms,
25 whenever practical, and (iii) conditions applicable to the
26 procurement, including a notice that bids will be received in

1 an electronic auction manner.

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

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

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

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

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

24 (k) Catalog awards by market basket analysis. A contract
25 for catalog supplies may be awarded pursuant to this Section
26 using a market basket analysis to evaluate the lowest price a

1 vendor can offer for a representative sample of catalog
2 supplies. The award shall be made to the responsible and
3 responsive bidder with the lowest cost for the representative
4 sample, based on analysis of all available same items. The
5 prices bid for each line item shall be firm and specified in
6 the contract. Supplies offered by the bidder that are not
7 evaluated as part of the market basket constitute the balance
8 of the bidder's catalog. Line items shall be priced,
9 categorized into distinct groups, and have a fixed discount by
10 group. Only the catalog supplies offered in the bid may be
11 specified in the contract. A contract awarded under this
12 subsection shall include terms and conditions for (i) price
13 changes for evaluated line items, (ii) substitution of
14 evaluated line items, and (iii) the addition of catalog
15 supplies that were not evaluated nor offered at the time of
16 bid. The purchasing agency shall conduct semi-annual reviews
17 of usage, substitutions, and items added or removed from the
18 catalog.

19 As used in this subsection (k):

20 "Catalog supplies" means a defined list of items with
21 verifiable prices that are categorized into distinct groups of
22 like, similar, or the same supplies.

23 "Line item" means a separately identified supply with its
24 own description, unit of measure, quantity, and price.

25 "Market basket analysis" means an evaluation of the cost
26 of the representative sample of catalog supplies to determine

1 the lowest cost bidder.

2 "Representative sample" means the line items that make up
3 at least 75% of the supplies of the State's previous purchases
4 based on all available data.

5 (Source: P.A. 102-29, eff. 6-25-21; 103-558, eff. 1-1-24;
6 103-564, eff. 11-17-23.)

7 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,
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3 (Source: P.A. 102-29, eff. 6-25-21; 103-558, eff. 1-1-24;
4 103-564, eff. 11-17-23.)

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