



Rep. Diane Blair-Sherlock

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10400HB0960ham001

LRB104 04862 HLH 36840 a

1 AMENDMENT TO HOUSE BILL 960

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 960 by replacing  
3 everything after the enacting clause with the following:

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

1 procurement.

2 (c) Public notice. Public notice of the invitation for  
3 bids shall be published in the Illinois Procurement Bulletin  
4 at least 14 calendar days before the date set in the invitation  
5 for the opening of bids.

6 (d) Bid opening. Bids shall be opened publicly or through  
7 an electronic procurement system in the presence of one or  
8 more witnesses at the time and place designated in the  
9 invitation for bids. The name of each bidder, including earned  
10 and applied bid credit from the Illinois Works Jobs Program  
11 Act, the amount of each bid, and other relevant information as  
12 may be specified by rule shall be recorded. After the award of  
13 the contract, the winning bid and the record of each  
14 unsuccessful bid shall be open to public inspection.

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

1 (f) Correction or withdrawal of bids. Correction or  
2 withdrawal of inadvertently erroneous bids before or after  
3 award, or cancellation of awards of contracts based on bid  
4 mistakes, shall be permitted in accordance with rules. After  
5 bid opening, no changes in bid prices or other provisions of  
6 bids prejudicial to the interest of the State or fair  
7 competition shall be permitted. All decisions to permit the  
8 correction or withdrawal of bids based on bid mistakes shall  
9 be supported by written determination made by a State  
10 purchasing officer.

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

20 (1) a description of the agency's needs;

21 (2) a determination that the anticipated cost will be  
22 fair and reasonable;

23 (3) a listing of all responsible and responsive  
24 bidders; and

25 (4) the name of the bidder selected, the total  
26 contract price, and the reasons for selecting that bidder.

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

3 The written explanation shall be filed with the  
4 Legislative Audit Commission, ~~and~~ the Commission on Equity and  
5 Inclusion, and the Procurement Policy Board, and be made  
6 available for inspection by the public, within 14 calendar  
7 days after the agency's decision to award the contract.

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

1 the applicable agency's procurement bulletin.

2 (h) Multi-step sealed bidding. When it is considered  
3 impracticable to initially prepare a purchase description to  
4 support an award based on price, an invitation for bids may be  
5 issued requesting the submission of unpriced offers to be  
6 followed by an invitation for bids limited to those bidders  
7 whose offers have been qualified under the criteria set forth  
8 in the first solicitation.

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

21 (j) Reverse auction. Notwithstanding any other provision  
22 of this Section and in accordance with rules adopted by the  
23 chief procurement officer, that chief procurement officer may  
24 procure supplies or services through a competitive electronic  
25 auction bidding process after the chief procurement officer  
26 determines that the use of such a process will be in the best

1 interest of the State. The chief procurement officer shall  
2 publish that determination in his or her next volume of the  
3 Illinois Procurement Bulletin.

4 An invitation for bids shall be issued and shall include  
5 (i) a procurement description, (ii) all contractual terms,  
6 whenever practical, and (iii) conditions applicable to the  
7 procurement, including a notice that bids will be received in  
8 an electronic auction manner.

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

11 Bids shall be accepted electronically at the time and in  
12 the manner designated in the invitation for bids. During the  
13 auction, a bidder's price shall be disclosed to other bidders.  
14 Bidders shall have the opportunity to reduce their bid prices  
15 during the auction. At the conclusion of the auction, the  
16 record of the bid prices received and the name of each bidder  
17 shall be open to public inspection.

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

20 The contract shall be awarded within 60 calendar days  
21 after the auction by written notice to the lowest responsible  
22 bidder, or all bids shall be rejected except as otherwise  
23 provided in this Code. Extensions of the date for the award may  
24 be made by mutual written consent of the State purchasing  
25 officer and the lowest responsible bidder.

26 This subsection does not apply to (i) procurements of

1 professional and artistic services, (ii) telecommunications  
2 services, communication services, and information services,  
3 and (iii) contracts for construction projects, including  
4 design professional services.

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

26 As used in this subsection (k):

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

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

6       "Market basket analysis" means an evaluation of the cost  
7 of the representative sample of catalog supplies to determine  
8 the lowest cost bidder.

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

12       (Source: P.A. 102-29, eff. 6-25-21; 103-558, eff. 1-1-24;  
13 103-564, eff. 11-17-23.)

14       (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,  
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9 based on all available data.

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

12 Section 95. No acceleration or delay. Where this Act makes  
13 changes in a statute that is represented in this Act by text  
14 that is not yet or no longer in effect (for example, a Section  
15 represented by multiple versions), the use of that text does  
16 not accelerate or delay the taking effect of (i) the changes  
17 made by this Act or (ii) provisions derived from any other  
18 Public Act."