



Rep. Marlow H. Colvin

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LRB095 01053 RAS 49687 a

1 AMENDMENT TO HOUSE BILL 2405

2 AMENDMENT NO. _____. Amend House Bill 2405, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Procurement Code is amended by
6 changing Section 45-45 as follows:

7 (30 ILCS 500/45-45)

8 Sec. 45-45. Small businesses.

9 (a) Set-asides. The chief procurement officer has
10 authority to designate as small business set-asides a fair
11 proportion of construction, supply, and service contracts for
12 award to small businesses in Illinois. Advertisements for bids
13 or offers for those contracts shall specify designation as
14 small business set-asides. In awarding the contracts, only bids
15 or offers from qualified small businesses shall be considered.

16 (b) Small business. "Small business" means a business that

1 is independently owned and operated and that is not dominant in
2 its field of operation. The chief procurement officer shall
3 establish a detailed definition by rule, using in addition to
4 the foregoing criteria other criteria, including the number of
5 employees and the dollar volume of business. When computing the
6 size status of a bidder, annual sales and receipts of the
7 bidder and all of its affiliates shall be included. The maximum
8 number of employees and the maximum dollar volume that a small
9 business may have under the rules promulgated by the chief
10 procurement officer may vary from industry to industry to the
11 extent necessary to reflect differing characteristics of those
12 industries, subject to the following limitations:

13 (1) No wholesale business is a small business if its
14 average annual sales over the 3 most recent calendar years
15 ~~for its most recently completed fiscal year~~ exceed
16 \$10,000,000.

17 (2) No retail business or business selling services is
18 a small business if its average annual sales and receipts
19 over the 3 most recent calendar years exceed \$6,000,000.

20 (3) (Blank). ~~No manufacturing business is a small~~
21 ~~business if it employs more than 250 persons.~~

22 (4) No construction business is a small business if:

23 (A) its average annual sales and receipts over the
24 3 most recent calendar years exceed \$10,000,000; or

25 (B) its average annual sales and receipts over the
26 3 most recent calendar years exceed \$2,000,000 and it

1 has received a cumulative total of \$5,000,000 or more
2 from State construction and construction-related
3 professional services contracts.

4 (c) Fair proportion. For the purpose of subsection (a), for
5 State agencies of the executive branch, a fair proportion of
6 construction contracts shall be no less than 25% nor more than
7 40% of the annual total contracts for construction and
8 construction-related professional services. The construction
9 agency must designate under which category set forth in item
10 (4) of subsection (b) the set-asides are made in the agency's
11 procurement notices.

12 (d) Withdrawal of designation. A small business set-aside
13 designation may be withdrawn by the purchasing agency when
14 deemed in the best interests of the State. Upon withdrawal, all
15 bids or offers shall be rejected, and the bidders or offerors
16 shall be notified of the reason for rejection. The contract
17 shall then be awarded in accordance with this Code without the
18 designation of small business set-aside.

19 (e) Small business specialist. The chief procurement
20 officer shall designate a State purchasing officer who will be
21 responsible for engaging an experienced contract negotiator to
22 serve as its small business specialist, whose duties shall
23 include:

24 (1) Compiling and maintaining a comprehensive bidders
25 list of small businesses. In this duty, he or she shall
26 cooperate with the Federal Small Business Administration

1 in locating potential sources for various products and
2 services.

3 (2) Assisting small businesses in complying with the
4 procedures for bidding on State contracts.

5 (3) Examining requests from State agencies for the
6 purchase of property or services to help determine which
7 invitations to bid are to be designated small business
8 set-asides.

9 (4) Making recommendations to the chief procurement
10 officer for the simplification of specifications and terms
11 in order to increase the opportunities for small business
12 participation.

13 (5) Assisting in investigations by purchasing agencies
14 to determine the responsibility of bidders on small
15 business set-asides.

16 (f) Small business annual report. The State purchasing
17 officer designated under subsection (e) shall annually before
18 December 1 report in writing to the General Assembly concerning
19 the awarding of contracts to small businesses. The report shall
20 include the total value of awards made in the preceding fiscal
21 year under the designation of small business set-aside. The
22 report shall also include the total value of awards made to
23 businesses owned by minorities, females, and persons with
24 disabilities, as defined in the Business Enterprise for
25 Minorities, Females, and Persons with Disabilities Act, in the
26 preceding fiscal year under the designation of small business

1 set-aside.

2 The requirement for reporting to the General Assembly shall
3 be satisfied by filing copies of the report as required by
4 Section 3.1 of the General Assembly Organization Act.

5 (g) Rulemaking. Notwithstanding any other rulemaking
6 authority that may exist, neither the Governor nor any agency
7 or agency head under the jurisdiction of the Governor has any
8 authority to make or promulgate rules to implement or enforce
9 the provisions of this amendatory Act of the 95th General
10 Assembly. If, however, the Governor believes that rules are
11 necessary to implement or enforce the provisions of this
12 amendatory Act of the 95th General Assembly, the Governor may
13 suggest rules to the General Assembly by filing them with the
14 Clerk of the House and the Secretary of the Senate and by
15 requesting that the General Assembly authorize such rulemaking
16 by law, enact those suggested rules into law, or take any other
17 appropriate action in the General Assembly's discretion.
18 Nothing contained in this amendatory Act of the 95th General
19 Assembly shall be interpreted to grant rulemaking authority
20 under any other Illinois statute where such authority is not
21 otherwise explicitly given. For the purposes of this amendatory
22 Act of the 95th General Assembly, "rules" is given the meaning
23 contained in Section 1-70 of the Illinois Administrative
24 Procedure Act, and "agency" and "agency head" are given the
25 meanings contained in Sections 1-20 and 1-25 of the Illinois
26 Administrative Procedure Act to the extent that such

1 definitions apply to agencies or agency heads under the
2 jurisdiction of the Governor.

3 (Source: P.A. 92-60, eff. 7-12-01; 93-769, eff. 1-1-05.)".