

SB2761



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2761

Introduced 1/28/2014, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 2705/2705-600

Amends the Civil Administrative Code of Illinois Department of Transportation Law. Extends the repeal date of the target market program from June 30, 2014 to June 30, 2017. Effective immediately.

LRB098 16261 MLW 51320 b

A BILL FOR

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 Department of Transportation Law of the
5 Civil Administrative Code of Illinois is amended by changing
6 Section 2705-600 as follows:

7 (20 ILCS 2705/2705-600)

8 (Section scheduled to be repealed on June 30, 2014)

9 Sec. 2705-600. Target market program. In order to remedy
10 particular incidents and patterns of egregious race or gender
11 discrimination, the chief procurement officer, in consultation
12 with the Department, shall have the power to implement a target
13 market program incorporating the following terms:

14 (0.5) Each fiscal year, the Department shall review any
15 and all evidence of discrimination related to
16 transportation construction projects. Evidence of
17 discrimination may include, but is not limited to: (i) the
18 determination of the Department's utilization of
19 minority-owned and female-owned firms in its prime
20 contracts and associated subcontracts; (ii) the
21 availability of minority-owned and female-owned firms in
22 the Department's geographic market areas and specific
23 construction industry markets; (iii) any disparities

1 between the utilization of minority-owned and female-owned
2 firms in the Department's markets and the utilization of
3 those firms on the Department's prime contracts and
4 subcontracts in those markets; (iv) any disparities
5 between the utilization of minority-owned and female-owned
6 firms in the overall construction markets in which the
7 Department purchases and the utilization of those firms in
8 the overall construction economy in which the Department
9 operates; (v) evidence of discrimination in the rates at
10 which minority-owned and female-owned firms in the
11 Department's markets form businesses compared to similar
12 non-minority-owned and non-female-owned firms in the
13 Department's markets and in the dollars earned by such
14 businesses; and (vi) quantitative and qualitative
15 anecdotal evidence of discrimination. If after reviewing
16 such evidence, the Department finds and the chief
17 procurement officer concurs in the findings that the
18 Department has a strong basis in evidence that it has a
19 compelling interest in remedying the identified
20 discrimination against a specific group, race, or gender,
21 and that the only remedy for such discrimination is a
22 narrowly tailored target market, the chief procurement
23 officer, in consultation with the Department, has the power
24 to establish and implement a target market program tailored
25 to address the specific findings of egregious
26 discrimination made by the Department, after a public

1 hearing at which minority, female, and general contractor
2 groups, community organizations, and other interested
3 parties shall have the opportunity to provide comments.

4 (1) In January of each year, the Department and the
5 chief procurement officer shall report jointly to the
6 General Assembly the results of any evidentiary inquiries
7 or studies that establish the Department's compelling
8 interest in remedying egregious discrimination based upon
9 strong evidence of the need for a narrowly tailored target
10 market to remedy such discrimination and public hearings
11 held pursuant to this Section, and shall report the actions
12 to be taken to address the findings, including, if
13 warranted, the establishment and implementation of any
14 target market initiatives.

15 (2) The chief procurement officer shall work with the
16 officers and divisions of the Department to determine the
17 appropriate designation of contracts as target market
18 contracts. The chief procurement officer, in consultation
19 with the Department, shall determine appropriate contract
20 formation and bidding procedures for target market
21 contracts, including, but not limited to, the dividing of
22 procurements so designated into contract award units in
23 order to facilitate offers or bids from minority-owned
24 businesses and female-owned businesses and the removal of
25 bid bond requirements for minority-owned businesses and
26 female-owned businesses. Minority-owned businesses and

1 female-owned businesses shall remain eligible to seek the
2 procurement award of contracts that have not been
3 designated as target market contracts.

4 (3) The chief procurement officer may make
5 participation in the target market program dependent upon
6 submission to stricter compliance audits than are
7 generally applicable. No contract shall be eligible for
8 inclusion in the target market program unless the
9 Department determines that there are at least 3
10 minority-owned businesses or female-owned businesses
11 interested in participating in that type of contract. The
12 Department, with the concurrence of the chief procurement
13 officer, may develop guidelines to regulate the level of
14 participation of individual minority-owned businesses and
15 female-owned businesses in the target market program in
16 order to prevent the domination of the target market
17 program by a small number of those entities. The Department
18 may require minority-owned businesses and female-owned
19 businesses to participate in training programs offered by
20 the Department or other State agencies as a condition
21 precedent to participation in the target market program.

22 (4) Participation in the target market program shall be
23 limited to minority-owned businesses and female-owned
24 businesses and joint ventures consisting exclusively of
25 minority-owned businesses, female-owned businesses, or
26 both, that are certified as disadvantaged businesses

1 pursuant to the provisions of Section 6(d) of the Business
2 Enterprise for Minorities, Females, and Persons with
3 Disabilities Act. A firm awarded a target market contract
4 may subcontract up to 50% of the dollar value of the target
5 market contract to subcontractors who are not
6 minority-owned businesses or female-owned businesses.

7 (5) The Department may include in the target market
8 program contracts that are funded by the federal government
9 to the extent allowed by federal law and may vary the
10 standards of eligibility of the target market program to
11 the extent necessary to comply with the federal funding
12 requirements.

13 (6) If no satisfactory bid or response is received with
14 respect to a contract that has been designated as part of
15 the target market program, the chief procurement officer,
16 in consultation with the Department, may delete that
17 contract from the target market program. In addition, the
18 chief procurement officer, in consultation with the
19 Department, may thereupon designate and set aside for the
20 target market program additional contracts corresponding
21 in approximate value to the contract that was deleted from
22 the target market program, in keeping with the narrowly
23 tailored process used for selecting contracts suitable for
24 the program and to the extent feasible.

25 (7) The chief procurement officer, in consultation
26 with the Department, shall promulgate such rules as he or

1 she deems necessary to administer the target market
2 program.

3 If any part, sentence, or clause of this Section is for any
4 reason held invalid or to be unconstitutional, such decision
5 shall not affect the validity of the remaining portions of this
6 Section.

7 This Section is repealed on June 30, 2017 ~~2014~~.

8 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
9 for the effective date of P.A. 96-795); 97-228, eff. 7-28-11.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.