

HB2771



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2771

Introduced 2/16/2023, by Rep. Kevin John Olickal

SYNOPSIS AS INTRODUCED:

30 ILCS 500/20-10

Amends the Illinois Procurement Code. Provides that if a bidder has failed to be awarded a contract after 4 consecutive bids to provide the same services to a single agency, the applicable chief procurement officer for that agency shall in writing detail why all 4 bids were rejected. Provides that the chief procurement officer shall submit by certified copy to the bidder the reasoning for the rejection of the bid within the same quarter in which the 4th bid was rejected and prior to 15 days before the next Illinois Procurement Bulletin for that type of bid.

LRB103 29780 DTM 56187 b

A BILL FOR

1 AN ACT concerning finance.

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, and 102-29)

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

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

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

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

21 (d) Bid opening. Bids shall be opened publicly or through
22 an electronic procurement system in the presence of one or
23 more witnesses at the time and place designated in the

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

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

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

1 be supported by written determination made by a State
2 purchasing officer.

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

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

13 (2) a determination that the anticipated cost will be
14 fair and reasonable;

15 (3) a listing of all responsible and responsive
16 bidders; and

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

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

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

26 (g-5) Failed bid notice. In addition to the requirements

1 of subsection (g), if a bidder has failed to be awarded a
2 contract after 4 consecutive bids to provide the same services
3 to a single agency, the applicable chief procurement officer
4 for that agency shall in writing detail why all 4 bids were
5 rejected. The chief procurement officer shall submit by
6 certified copy to the bidder the reasoning for the rejection
7 of the bid within the same quarter in which the 4th bid was
8 rejected and prior to 15 days before the next Illinois
9 Procurement Bulletin for that type of bid.

10 (h) Multi-step sealed bidding. When it is considered
11 impracticable to initially prepare a purchase description to
12 support an award based on price, an invitation for bids may be
13 issued requesting the submission of unpriced offers to be
14 followed by an invitation for bids limited to those bidders
15 whose offers have been qualified under the criteria set forth
16 in the first solicitation.

17 (i) Alternative procedures. Notwithstanding any other
18 provision of this Act to the contrary, the Director of the
19 Illinois Power Agency may create alternative bidding
20 procedures to be used in procuring professional services under
21 Section 1-56, subsections (a) and (c) of Section 1-75 and
22 subsection (d) of Section 1-78 of the Illinois Power Agency
23 Act and Section 16-111.5(c) of the Public Utilities Act and to
24 procure renewable energy resources under Section 1-56 of the
25 Illinois Power Agency Act. These alternative procedures shall
26 be set forth together with the other criteria contained in the

1 invitation for bids, and shall appear in the appropriate
2 volume of the Illinois Procurement Bulletin.

3 (j) Reverse auction. Notwithstanding any other provision
4 of this Section and in accordance with rules adopted by the
5 chief procurement officer, that chief procurement officer may
6 procure supplies or services through a competitive electronic
7 auction bidding process after the chief procurement officer
8 determines that the use of such a process will be in the best
9 interest of the State. The chief procurement officer shall
10 publish that determination in his or her next volume of the
11 Illinois Procurement Bulletin.

12 An invitation for bids shall be issued and shall include
13 (i) a procurement description, (ii) all contractual terms,
14 whenever practical, and (iii) conditions applicable to the
15 procurement, including a notice that bids will be received in
16 an electronic auction manner.

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

19 Bids shall be accepted electronically at the time and in
20 the manner designated in the invitation for bids. During the
21 auction, a bidder's price shall be disclosed to other bidders.
22 Bidders shall have the opportunity to reduce their bid prices
23 during the auction. At the conclusion of the auction, the
24 record of the bid prices received and the name of each bidder
25 shall be open to public inspection.

26 After the auction period has terminated, withdrawal of

1 bids shall be permitted as provided in subsection (f).

2 The contract shall be awarded within 60 calendar days
3 after the auction by written notice to the lowest responsible
4 bidder, or all bids shall be rejected except as otherwise
5 provided in this Code. Extensions of the date for the award may
6 be made by mutual written consent of the State purchasing
7 officer and the lowest responsible bidder.

8 This subsection does not apply to (i) procurements of
9 professional and artistic services, (ii) telecommunications
10 services, communication services, and information services,
11 and (iii) contracts for construction projects, including
12 design professional services.

13 (Source: P.A. 100-43, eff. 8-9-17; 101-31, eff. 6-28-19;
14 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

15 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,
16 98-1076, 99-906, 100-43, 101-31, 101-657, and 102-29)

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19 competitive sealed bidding except as otherwise provided in
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21 (b) Invitation for bids. An invitation for bids shall be
22 issued and shall include a purchase description and the
23 material contractual terms and conditions applicable to the
24 procurement.

25 (c) Public notice. Public notice of the invitation for

1 bids shall be published in the Illinois Procurement Bulletin
2 at least 14 calendar days before the date set in the invitation
3 for the opening of bids.

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

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1 subsections (a) and (c) of Section 1-75 and subsection (d) of
2 Section 1-78 of the Illinois Power Agency Act and Section
3 16-111.5(c) of the Public Utilities Act and to procure
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19 (Source: P.A. 101-31, eff. 6-28-19; 101-657, eff. 1-1-22;
20 102-29, eff. 6-25-21.)