

SB2411



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2411

Introduced 2/7/2025, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-45
30 ILCS 500/45-95
30 ILCS 500/45-105

Amends the Illinois Procurement Code. In provisions concerning small businesses, HUBZone business contracts, and bid preferences, 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.

LRB104 11430 HLH 21518 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 Sections 45-45, 45-95, and 45-105 as follows:

6 (30 ILCS 500/45-45)

7 Sec. 45-45. Small businesses.

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

16 (b) Small business. "Small business" means a business that
17 is independently owned and operated and that is not dominant
18 in its field of operation. The chief procurement officer shall
19 establish a detailed definition by rule, using in addition to
20 the foregoing criteria other criteria, including the number of
21 employees and the dollar volume of business. When computing
22 the size status of a potential contractor, annual sales and
23 receipts of the potential contractor and all of its affiliates

1 shall be included. The maximum number of employees and the
2 maximum dollar volume that a small business may have under the
3 rules promulgated by the chief procurement officer may vary
4 from industry to industry to the extent necessary to reflect
5 differing characteristics of those industries, subject to the
6 following limitations:

7 (1) No wholesale business is a small business if its
8 annual sales for its most recently completed fiscal year
9 exceed \$13,000,000.

10 (2) No retail business or business selling services is
11 a small business if its annual sales and receipts exceed
12 \$8,000,000.

13 (3) No manufacturing business is a small business if
14 it employs more than 250 persons.

15 (4) No construction business is a small business if
16 its annual sales and receipts exceed \$14,000,000.

17 (c) Fair proportion. For the purpose of subsection (a),
18 for State agencies of the executive branch, a fair proportion
19 of construction contracts shall be no less than 25% nor more
20 than 40% of the annual total contracts for construction.

21 (c-5) Failed bid notice. If a small business bidder has
22 failed to be awarded a contract after 4 consecutive bids to
23 provide the same services, then the applicable agency shall,
24 in writing, detail why each of the 4 bids was not awarded to
25 the bidder. The applicable agency shall submit by certified
26 copy to the bidder the reason or reasons why each of the 4 bids

1 was not awarded to the bidder. The agency shall submit that
2 certified copy to the bidder within the same calendar quarter
3 in which the fourth bid was rejected. This subsection does not
4 apply if information pertaining to a failed bid was previously
5 disclosed to a bidder by electronic means. If any agency
6 chooses to provide information by electronic means, the agency
7 shall have a written policy outlining how the agency will
8 reasonably ensure the bidder receives the information. For the
9 purposes of this subsection, "electronic means" means an email
10 communication from the applicable agency to the bidder or a
11 public posting on the applicable agency's procurement
12 bulletin.

13 (d) Withdrawal of designation. A small business set-aside
14 designation may be withdrawn by the purchasing agency when
15 deemed in the best interests of the State. Upon withdrawal,
16 all bids or offers shall be rejected, and the bidders or
17 offerors shall be notified of the reason for rejection. The
18 contract shall then be awarded in accordance with this Code
19 without the designation of small business set-aside. Each
20 chief procurement officer shall make the annual report
21 available on his or her official website. Each chief
22 procurement officer shall also issue a press release in
23 conjunction with the small business annual report that
24 includes an executive summary of the annual report and a link
25 to the annual report on the chief procurement officer's
26 website.

(e) Small business specialist. Each chief procurement officer shall designate one or more individuals to serve as its small business specialist. The small business specialists shall collectively work together to accomplish the following duties:

(1) Compiling and maintaining a comprehensive list of potential small contractors. In this duty, he or she shall cooperate with the Federal Small Business Administration in locating potential sources for various products and services.

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

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

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

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

(f) Small business annual report. Each small business specialist designated under subsection (e) shall annually before November 1 report in writing to the General Assembly

1 concerning the awarding of contracts to small businesses. The
2 report shall include the total value of awards made in the
3 preceding fiscal year under the designation of small business
4 set-aside. The report shall also include the total value of
5 awards made to businesses owned by minorities, women, and
6 persons with disabilities, as defined in the Business
7 Enterprise for Minorities, Women, and Persons with
8 Disabilities Act, in the preceding fiscal year under the
9 designation of small business set-aside.

10 The requirement for reporting to the General Assembly
11 shall be satisfied by filing copies of the report as required
12 by Section 3.1 of the General Assembly Organization Act.

13 (Source: P.A. 103-570, eff. 1-1-24.)

14 (30 ILCS 500/45-95)

15 Sec. 45-95. HUBZone business contracts.

16 (a) For the purposes of this Section:

17 "HUBZone business" means a business that operates and
18 employs people in Historically Underutilized Business Zones
19 (HUBZone) as designated by the federal HUBZone Empowerment
20 Act.

21 "Qualified HUBZone small business concern" means a
22 business that qualifies under the HUBZone program administered
23 by the United States Small Business Administration.

24 (b) Each chief procurement officer shall establish rules,
25 in consultation with the procuring agency, related to the

1 eligibility of qualified HUBZone small business concerns to
2 receive preference under this Section, and shall verify the
3 accuracy of any information submitted by a qualified HUBZone
4 small business concern with respect to a contract awarded
5 under this Section.

6 (c) The provisions of this Section shall not apply to: (1)
7 construction procurements; (2) construction-related services
8 procurements; or (3) the selection of construction-related
9 professional services.

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

1 bulletin.

2 (Source: P.A. 100-881, eff. 1-1-19.)

3 (30 ILCS 500/45-105)

4 Sec. 45-105. Bid preference for Illinois businesses.

5 (a) (Blank).

6 (b) It is hereby declared to be the public policy of the
7 State of Illinois to promote the economy of Illinois through
8 the use of Illinois businesses for all State construction
9 contracts.

10 (c) A construction agency, as defined in Section 1-15.25,
11 procuring construction services shall make reasonable efforts
12 to contract with Illinois businesses.

13 (d) Each construction agency shall submit a report to the
14 Governor and the General Assembly by December 1 of each year
15 that identifies the Illinois businesses procured by the
16 construction agency, the primary location of the construction
17 project, the percentage of the construction agency's
18 utilization of Illinois businesses on the project as a whole,
19 and the actions that the construction agency has undertaken to
20 increase the use of Illinois businesses.

21 (e) In procuring construction services for projects with a
22 total value that exceeds the small purchase maximum
23 established by Section 20-20 of this Code, construction
24 agencies shall provide a bid preference to a responsive and
25 responsible bidder that is an Illinois business as defined in

1 this Section. The construction agency shall allocate to the
2 lowest bid by an Illinois business that is responsible and
3 responsive a bid preference of 4% of the contract base bid.
4 This subsection applies only to projects where a business that
5 is not an Illinois business submits a bid.

6 (e-5) The chief procurement officer shall require at the
7 time of submission of a bid, and may require at the chief
8 procurement officer's option at any time during the term of
9 the contract, that the bidder or contractor submit an
10 affidavit and other supporting documents demonstrating that
11 the bidder or contractor is an Illinois business and, if
12 applicable, submit an affidavit and other supporting documents
13 demonstrating that the bidder or contractor is eligible for a
14 4% bid preference under this Section.

15 (e-10) If a contractor who is awarded a contract through
16 the use of a preference for Illinois businesses provided false
17 information in order to obtain that preference, then the
18 contractor is subject to disciplinary procedures as identified
19 in Section 50-65 of this Act.

20 (e-15) Failed bid notice. If a bidder has failed to be
21 awarded a contract after 4 consecutive bids to provide the
22 same services, then the applicable agency shall, in writing,
23 detail why each of the 4 bids was not awarded to the bidder.
24 The applicable agency shall submit by certified copy to the
25 bidder the reason or reasons why each of the 4 bids was not
26 awarded to the bidder. The agency shall submit that certified

1 copy to the bidder within the same calendar quarter in which
2 the fourth bid was rejected. This subsection does not apply if
3 information pertaining to a failed bid was previously
4 disclosed to a bidder by electronic means. If any agency
5 chooses to provide information by electronic means, the agency
6 shall have a written policy outlining how the agency will
7 reasonably ensure the bidder receives the information. For the
8 purposes of this subsection, "electronic means" means an email
9 communication from the applicable agency to the bidder or a
10 public posting on the applicable agency's procurement
11 bulletin.

12 (f) This Section does not apply to any contract for any
13 project for which federal funds are available for expenditure
14 when its provisions may be in conflict with federal law or
15 federal regulation.

16 (g) As used in this Section, "Illinois business" means a
17 contractor that is, for at least one year prior, operating and
18 headquartered in Illinois, subject to applicable State taxes,
19 and providing, at the time that an invitation for a bid or
20 notice of contract opportunity is first advertised,
21 construction services. "Illinois business" includes a foreign
22 corporation duly authorized to transact business in this State
23 that has a bona fide establishment for transacting business
24 within this State where it is operating, headquartered, and
25 performing construction or construction-related professional
26 services at least one year before an invitation for a bid or

1 notice of contract opportunity is first advertised.

2 "Illinois business" does not include any subcontractors or
3 businesses headquartered outside of the State that have an
4 affiliated entity operating in the State.

5 (Source: P.A. 102-721, eff. 1-1-23; 103-570, eff. 1-1-24;
6 103-865, Article 35, Section 35-5, eff. 1-1-25; 103-865,
7 Article 65, Section 65-5, eff. 1-1-25; revised 11-26-24.)