

SB0339



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0339

Introduced 2/2/2023, by Sen. Patrick J. Joyce

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-35

Amends the Illinois Procurement Code. Changes the requirements that must be met by a not-for-profit agency for persons with significant disabilities in order for supplies or services to be procured from that agency without advertising or calling for bids. Deletes a provision that requires such an agency to be certified as a work center by the United States Department of Labor or to be an accredited vocational program that provides transition services to youth under a specified provision of the School Code. Requires such an agency to be either a disability-serving organization accredited by a nationally-recognized accrediting organization or a center for independent living. Effective immediately.

LRB103 25432 HLH 51780 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 45-35 as follows:

6 (30 ILCS 500/45-35)

7 Sec. 45-35. Not-for-profit agencies for persons with
8 significant disabilities.

9 (a) Qualification. Supplies and services may be procured
10 without advertising or calling for bids from any qualified
11 not-for-profit agency for persons with significant
12 disabilities that:

13 (1) complies with Illinois laws governing private
14 not-for-profit organizations;

15 (2) (blank); and ~~is certified as a work center by the~~
16 ~~Wage and Hour Division of the United States Department of~~
17 ~~Labor or is an accredited vocational program that provides~~
18 ~~transition services to youth between the ages of 14 1/2~~
19 ~~and 22 in accordance with individualized education plans~~
20 ~~under Section 14-8.03 of the School Code and that provides~~
21 ~~residential services at a child care institution, as~~
22 ~~defined under Section 2.06 of the Child Care Act of 1969,~~
23 ~~or at a group home, as defined under Section 2.16 of the~~

1 ~~Child Care Act of 1969; and~~

2 (3) is a disability-serving organization accredited by
3 a nationally-recognized accrediting organization,
4 including the Council of Quality Leadership or the
5 Commission on Accreditation of Rehabilitation Facilities,
6 or is a center for independent living ~~or certified as a~~
7 ~~developmental training provider by the Department of Human~~
8 ~~Services.~~

9 (b) Participation. To participate, the not-for-profit
10 agency must have indicated an interest in providing the
11 supplies and services, must meet the specifications and needs
12 of the using agency, and must set a fair and reasonable price.

13 (c) Committee. There is created within the Department of
14 Central Management Services a committee to facilitate the
15 purchase of products and services from not-for-profit agencies
16 that provide employment opportunities to persons with physical
17 disabilities, intellectual or developmental disabilities,
18 mental illnesses, or any combination thereof. This committee
19 is called the State Use Committee. The State Use Committee
20 shall consist of the Director of the Department of Central
21 Management Services or his or her designee, the Secretary of
22 the Department of Human Services or his or her designee, the
23 Director of Commerce and Economic Opportunity or his or her
24 designee, one public member representing private business who
25 is knowledgeable of the employment needs and concerns of
26 persons with developmental disabilities, one public member

1 representing private business who is knowledgeable of the
2 needs and concerns of rehabilitation facilities, one public
3 member who is knowledgeable of the employment needs and
4 concerns of persons with developmental disabilities, one
5 public member who is knowledgeable of the needs and concerns
6 of rehabilitation facilities, 2 members who have a disability,
7 2 public members from a statewide association that represents
8 community-based rehabilitation facilities serving or
9 supporting individuals with intellectual or developmental
10 disabilities, and one public member from a disability-focused
11 statewide advocacy group, all appointed by the Governor. The
12 public members shall serve 2 year terms, commencing upon
13 appointment and every 2 years thereafter. A public member may
14 be reappointed, and vacancies shall be filled by appointment
15 for the completion of the term. In the event there is a vacancy
16 on the State Use Committee, the Governor must make an
17 appointment to fill that vacancy within 30 calendar days after
18 the notice of vacancy. The members shall serve without
19 compensation but shall be reimbursed for expenses at a rate
20 equal to that of State employees on a per diem basis by the
21 Department of Central Management Services. All members shall
22 be entitled to vote on issues before the State Use Committee.

23 The State Use Committee shall have the following powers
24 and duties:

25 (1) To request from any State agency information as to
26 product specification and service requirements in order to

1 carry out its purpose.

2 (2) To meet quarterly or more often as necessary to
3 carry out its purposes.

4 (3) To request a quarterly report from each
5 participating qualified not-for-profit agency for persons
6 with significant disabilities describing the volume of
7 sales for each product or service sold under this Section.

8 (4) To prepare a report for the Governor and General
9 Assembly no later than December 31 of each year. The
10 requirement for reporting to the General Assembly shall be
11 satisfied by following the procedures set forth in Section
12 3.1 of the General Assembly Organization Act.

13 (5) To prepare a publication that lists all supplies
14 and services currently available from any qualified
15 not-for-profit agency for persons with significant
16 disabilities. This list and any revisions shall be
17 distributed to all purchasing agencies.

18 (6) To encourage diversity in supplies and services
19 provided by qualified not-for-profit agencies for persons
20 with significant disabilities and discourage unnecessary
21 duplication or competition among not-for-profit agencies.

22 (7) To develop guidelines to be followed by qualifying
23 agencies for participation under the provisions of this
24 Section. Guidelines shall include a list of national
25 accrediting organizations which satisfy the requirements
26 of item (3) of subsection (a) of this Section. The

1 guidelines shall be developed within 6 months after the
2 effective date of this Code and made available on a
3 nondiscriminatory basis to all qualifying agencies. The
4 new guidelines required under this item (7) by Public Act
5 100-203 shall be developed within 6 months after August
6 18, 2017 (the effective date of Public Act 100-203) and
7 made available on a non-discriminatory basis to all
8 qualifying not-for-profit agencies.

9 (8) To review all pricing submitted under the
10 provisions of this Section and may approve a proposed
11 agreement for supplies or services where the price
12 submitted is fair and reasonable. Review of pricing under
13 this paragraph may include, but is not limited to:

14 (A) Amounts private businesses would pay for
15 similar products or services.

16 (B) Amounts the federal government would pay
17 contractors for similar products or services.

18 (C) The amount paid by the State for similar
19 products or services.

20 (D) The actual cost of manufacturing the product
21 or performing a service at a community rehabilitation
22 program offering employment services on or off
23 premises to persons with disabilities or mental
24 illnesses, with adequate consideration given to legal
25 and moral imperatives to pay workers with disabilities
26 equitable wages.

1 (E) The usual, customary, and reasonable costs of
2 manufacturing, marketing, and distribution.

3 (9) To, not less than every 3 years, adopt a strategic
4 plan for increasing the number of products and services
5 purchased from qualified not-for-profit agencies for
6 persons with disabilities or mental illnesses, including
7 the feasibility of developing mandatory set-aside
8 contracts.

9 (c-5) Conditions for Use. Each chief procurement officer
10 shall, in consultation with the State Use Committee, determine
11 which articles, materials, services, food stuffs, and supplies
12 that are produced, manufactured, or provided by persons with
13 significant disabilities in qualified not-for-profit agencies
14 shall be given preference by purchasing agencies procuring
15 those items.

16 (d) (Blank).

17 (e) Subcontracts. Subcontracts shall be permitted for
18 agreements authorized under this Section. For the purposes of
19 this subsection (e), "subcontract" means any acquisition from
20 another source of supplies, not including raw materials, or
21 services required by a qualified not-for-profit agency to
22 provide the supplies or services that are the subject of the
23 contract between the State and the qualified not-for-profit
24 agency.

25 The State Use Committee shall develop guidelines to be
26 followed by qualified not-for-profit agencies when seeking and

1 establishing subcontracts with other persons or not-for-profit
2 agencies in order to fulfill State contract requirements.

3 These guidelines shall include the following:

4 (i) The State Use Committee must approve all
5 subcontracts and substantive amendments to subcontracts
6 prior to execution or amendment of the subcontract.

7 (ii) A qualified not-for-profit agency shall not enter
8 into a subcontract, or any combination of subcontracts, to
9 fulfill an entire requirement, contract, or order without
10 written State Use Committee approval.

11 (iii) A qualified not-for-profit agency shall make
12 reasonable efforts to utilize subcontracts with other
13 not-for-profit agencies for persons with significant
14 disabilities.

15 (iv) For any subcontract not currently performed by a
16 qualified not-for-profit agency, the primary qualified
17 not-for-profit agency must provide to the State Use
18 Committee the following: (A) a written explanation as to
19 why the subcontract is not performed by a qualified
20 not-for-profit agency, and (B) a written plan to transfer
21 the subcontract to a qualified not-for-profit agency, as
22 reasonable.

23 (Source: P.A. 102-343, eff. 8-13-21; 102-558, eff. 8-20-21.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.