



Rep. Ruth Munson

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1 AMENDMENT TO HOUSE BILL 3334

2 AMENDMENT NO. _____. Amend House Bill 3334 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 changing Sections 20-50 and 45-45 as follows:

6 (30 ILCS 500/20-50)

7 Sec. 20-50. Specifications. Specifications shall be
8 prepared in accordance with consistent standards that are
9 promulgated by the chief procurement officer and reviewed by
10 the Board and the Joint Committee on Administrative Rules.
11 Those standards shall include a prohibition against the use of
12 brand-name only products, except for products intended for
13 retail sale or as specified by rule, and shall include a
14 restriction on the use of specifications drafted by a potential
15 bidder. All specifications shall seek to promote overall
16 economy for the purposes intended and encourage competition in
17 satisfying the State's needs and shall not be unduly
18 restrictive.

19 A solicitation or specification for a contract or a
20 contract, including a contract of a college, university, or
21 institution under the jurisdiction of a governing board listed
22 in Section 1-15.100, may not require, stipulate, suggest, or
23 encourage a monetary or other financial contribution or
24 donation as an explicit or implied term or condition for

1 awarding or completing the contract. The contract,
2 solicitation, or specification also may not include a
3 requirement that an individual or individuals employed by such
4 a college, university, or institution receive a consulting
5 contract for professional services.

6 Each specification shall include a best estimate of the
7 payment cycle under the contract. This best estimate (i) shall
8 be expressed as the number of days between the submission of a
9 proper bill or invoice under the contract and the expected
10 payment date and (ii) shall also be recited in the contract
11 documents. The payment cycle shall not be for a period longer
12 than the period allowed for payment without interest penalties
13 under the State Prompt Payment Act. If with due diligence
14 payment can be made in a period shorter than the payment cycle,
15 the recitation of the payment cycle in the contract shall not
16 be used to delay payment.

17 (Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-627, eff.
18 8-19-99.)

19 (30 ILCS 500/45-45)

20 Sec. 45-45. Small businesses.

21 (a) Set-asides. The chief procurement officer has
22 authority to designate as small business set-asides a fair
23 proportion of construction, supply, and service contracts for
24 award to small businesses in Illinois. Advertisements for bids
25 or offers for those contracts shall specify designation as
26 small business set-asides. In awarding the contracts, only bids
27 or offers from qualified small businesses shall be considered.

28 If an invitation for bids, a request for proposals, or any
29 other solicitation that has been designated as a small business
30 set-aside is cancelled, then a new invitation for bids, request
31 for proposals, or other solicitation for the same or
32 substantially the same goods or services must also be
33 designated as a small business set-aside; except that if the

1 invitation, request, or other solicitation is cancelled
2 because there are no small business bids, proposals, or other
3 responses, then the new invitation, request, or other
4 solicitation for the same or substantially similar goods or
5 services need not be designated as a small business set-aside.
6 Due diligence must be used to promote the availability of a
7 small business set-aside by searching for small businesses and
8 targeting small businesses in the solicitation process.

9 (b) Small business. "Small business" means a business that
10 is independently owned and operated and that is not dominant in
11 its field of operation. The chief procurement officer shall
12 establish a detailed definition by rule, using in addition to
13 the foregoing criteria other criteria, including the number of
14 employees and the dollar volume of business. When computing the
15 size status of a bidder, annual sales and receipts of the
16 bidder and all of its affiliates shall be included. The maximum
17 number of employees and the maximum dollar volume that a small
18 business may have under the rules promulgated by the chief
19 procurement officer may vary from industry to industry to the
20 extent necessary to reflect differing characteristics of those
21 industries, subject to the following limitations:

22 (1) No wholesale business is a small business if its
23 annual sales for its most recently completed fiscal year
24 exceed \$10,000,000.

25 (2) No retail business or business selling services is
26 a small business if its annual sales and receipts exceed
27 \$6,000,000.

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

30 (4) No construction business is a small business if its
31 annual sales and receipts exceed \$10,000,000.

32 (c) Fair proportion. For the purpose of subsection (a), for
33 State agencies of the executive branch, a fair proportion of
34 construction contracts shall be no less than 25% nor more than

1 40% of the annual total contracts for construction.

2 (d) Withdrawal of designation. A small business set-aside
3 designation may be withdrawn by the purchasing agency when
4 deemed in the best interests of the State. Upon withdrawal, all
5 bids or offers shall be rejected, and the bidders or offerors
6 shall be notified of the reason for rejection. The contract
7 shall then be awarded in accordance with this Code without the
8 designation of small business set-aside.

9 (e) Small business specialist. The chief procurement
10 officer shall designate a State purchasing officer who will be
11 responsible for engaging an experienced contract negotiator to
12 serve as its small business specialist, whose duties shall
13 include:

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

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

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

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

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

32 (f) Small business annual report. The State purchasing
33 officer designated under subsection (e) shall annually before
34 December 1 report in writing to the General Assembly concerning

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

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

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

14 Section 10. The State Prompt Payment Act is amended by
15 changing Section 3-3 as follows:

16 (30 ILCS 540/3-3) (from Ch. 127, par. 132.403-3)

17 Sec. 3-3. Rules. The State Comptroller and the Department
18 of Central Management Services shall jointly promulgate rules
19 and policies to govern the uniform application of this Act.
20 These rules and policies shall include procedures and time
21 frames for approving a bill or invoice from a vendor for goods
22 or services furnished to the State. These rules and policies
23 shall provide for procedures and time frames applicable to
24 payment plans as may be agreed upon between State agencies and
25 vendors. These rules and policies shall be binding on all
26 officials and agencies under this Act's jurisdiction. These
27 rules and policies may be made effective no earlier than July
28 1, 1993.

29 In addition, the State Comptroller and the Department of
30 Central Management Services shall jointly promulgate rules to
31 develop and implement a single website that details information
32 for vendors regarding the status of each proper bill and

1 invoice submitted pursuant to a contract awarded under the
2 Illinois Procurement Code. The website must allow the vendor to
3 determine the status of the bill or invoice from the time it is
4 submitted to the State agency through the time it is paid by
5 the Comptroller, including a best estimate of the number of
6 days before payment will be made by the Comptroller.

7 (Source: P.A. 92-384, eff. 7-1-02.)".