



Rep. William Davis

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LRB096 05039 HEP 44302 a

1 AMENDMENT TO HOUSE BILL 1454

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1454 by replacing  
3 everything after the enacting clause with the following:

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 Sec. 2705-600. Target market program. The Department of  
9 Transportation shall regularly review any and all evidence of  
10 discrimination including but not limited to evidence used for  
11 purposes of establishing disadvantaged business enterprise  
12 goals applicable to minority-owned businesses and female-owned  
13 businesses pursuant to subsection (d) of Section 6 of the  
14 Business Enterprise for Minorities, Females, and Persons with  
15 Disabilities Act. If, after reviewing such evidence, the  
16 Department finds and the chief procurement officer concurs in

1 the findings that discrimination exists against a specific  
2 group, race, or gender, the chief procurement officer has the  
3 power to establish and implement a target market program  
4 tailored to address the specific findings made by the  
5 Department after a public hearing at which minority, women's,  
6 and general contractor groups, community organizations, and  
7 other interested parties shall have the opportunity to provide  
8 comments. As used in this Section, "target market program"  
9 means a procurement process whereby construction contracts  
10 selected by the chief procurement officer are let utilizing  
11 procedures designed to encourage and facilitate bidding by  
12 minority-owned businesses, female-owned businesses, and  
13 disadvantaged businesses as defined in the Business Enterprise  
14 for Minorities, Females, and Persons with Disabilities Act. A  
15 target market program shall incorporate ~~In order to achieve all~~  
16 ~~diversity goals, the Department's chief procurement officer~~  
17 ~~shall develop and coordinate a target market program including~~  
18 the following elements:

19 (1) In January of each year, the Department and the  
20 chief procurement officer shall report jointly to the  
21 General Assembly the results of hearings held pursuant to  
22 this Section, and shall report the actions to be taken to  
23 address the findings including the establishment and  
24 implementation of target market initiatives. The dollar  
25 value of all contracts bid under the target market program  
26 shall count towards the achievement of the goals for

1 utilization of minority-owned businesses, female-owned  
2 businesses, and disadvantaged businesses established for  
3 the State-funded construction program pursuant to  
4 subsection (d) of Section 6 of the Business Enterprise for  
5 Minorities, Females, and Persons with Disabilities Act.  
6 ~~estimate the dollar value of all contracts to be awarded by~~  
7 ~~the Department during that year and shall multiply that~~  
8 ~~total by the minority owned business target market~~  
9 ~~percentage and the women owned business target market~~  
10 ~~percentage for that year. Contracts with an estimated~~  
11 ~~dollar value equal to those products shall be set aside~~  
12 ~~(prior to advertisement in the case of contracts to be~~  
13 ~~awarded by bid) to be let only to qualified minority-owned~~  
14 ~~businesses and qualified women owned businesses,~~  
15 ~~respectively.~~

16 (2) The chief procurement officer shall work with the  
17 officers and divisions of the Department to determine the  
18 appropriate designation of contracts as target market  
19 contracts. The chief procurement officer working with the  
20 Department shall determine appropriate contract formation  
21 and bidding procedures for target market contracts  
22 including but not limited to: division of procurements so  
23 designated into contract award units to facilitate offers  
24 or bids from minority-owned businesses and female-owned  
25 businesses; direct solicitation of bids or offers from  
26 minority-owned businesses and female-owned businesses;

1 providing various contracting opportunities to encourage  
2 maximum involvement of minority-owned businesses and  
3 female-owned businesses; removal of bid bond requirements  
4 for minority-owned businesses and female-owned businesses;  
5 and identification of sheltered market contracts as  
6 defined in subsection (d) of Section 6 of the Business  
7 Enterprise for Minorities, Females, and Persons with  
8 Disabilities Act. ~~To the extent practical, the chief~~  
9 ~~procurement officer shall divide the procurements so~~  
10 ~~designated into contract award units of economically~~  
11 ~~feasible production runs in order to facilitate offers or~~  
12 ~~bids from minority-owned businesses and women-owned~~  
13 ~~businesses. In making the annual designation of target~~  
14 ~~market contracts, the chief procurement officer shall~~  
15 ~~attempt to vary the included procurements so that a variety~~  
16 ~~of goods and services produced by different minority owned~~  
17 ~~businesses and women owned businesses shall be set aside~~  
18 ~~each year.~~ Minority-owned businesses and female-owned  
19 ~~women-owned~~ businesses shall remain eligible to seek the  
20 procurement award of contracts that have not been  
21 designated as target market contracts.

22 (3) The chief procurement officer ~~Department shall~~  
23 ~~develop a list of minority-owned businesses and~~  
24 ~~women-owned businesses that are interested in~~  
25 ~~participating in the target market program, including the~~  
26 ~~type of contract in which each minority owned businesses~~

1 ~~and women-owned businesses is interested in participating.~~  
2 ~~The Department~~ may make participation in the target market  
3 program dependent upon submission to stricter compliance  
4 audits than are generally applicable. No contract shall be  
5 eligible for inclusion in the target market program unless  
6 ~~the list developed by~~ the Department determines ~~indicates~~  
7 that there are at least 3 ~~qualified~~ minority-owned  
8 businesses or female-owned ~~women-owned~~ businesses  
9 interested in participating in that type of contract. The  
10 Department with concurrence by the chief procurement  
11 officer may waive this requirement for a particular  
12 contract if the particular contract would have a  
13 significant impact on participating businesses. The  
14 Department with concurrence by the chief procurement  
15 officer may develop guidelines to regulate the level of  
16 participation of individual minority-owned businesses and  
17 female-owned ~~women-owned~~ businesses in the target market  
18 program in order to prevent the domination of the target  
19 market program by a small number of those entities. The ~~if~~  
20 ~~necessary or useful,~~ the Department may require  
21 minority-owned businesses and female-owned ~~women-owned~~  
22 businesses to participate in training programs offered by  
23 the Department or other State agencies as a condition  
24 precedent to participation in the target market program.

25 (4) Participation in the target market program shall be  
26 limited to prequalified minority-owned businesses and

1        female-owned ~~women-owned~~ businesses and joint ventures  
2        consisting exclusively of minority-owned businesses,  
3        female-owned ~~women-owned~~ businesses, or both, that are  
4        certified as disadvantaged businesses pursuant to the  
5        provisions of subsection (d) of Section 6 of the Business  
6        Enterprise for Minorities, Females, and Persons with  
7        Disabilities Act. The Department may include previously  
8        certified but graduated firms that meet the definition of  
9        "business concern or business" under the Business  
10       Enterprise for Minorities, Females, and Persons with  
11       Disabilities Act. A ~~The prime contractor on a~~ target market  
12       contract may subcontract up to 50% of the dollar value of  
13       the target market contract to subcontractors who are not  
14       minority-owned businesses or female-owned ~~women-owned~~  
15       businesses.

16       (5) The Department in conjunction with the chief  
17       procurement officer may include in the target market  
18       program contracts that are funded by the federal government  
19       to the extent allowed by federal law and may vary the  
20       standards of eligibility of the target market program ~~(for~~  
21       ~~example, by allowing the participation of businesses owned~~  
22       ~~by a person with a disability)~~ to the extent necessary to  
23       comply with the federal funding requirements.

24       (6) If no satisfactory bid or response is received with  
25       respect to a contract that has been designated as part of  
26       the target market program, the chief procurement officer

1       ~~Department~~ may delete that contract from the target market  
2       program. In addition, the chief procurement officer shall  
3       thereupon designate ~~and set aside for the target market~~  
4       ~~program~~ additional contracts corresponding in approximate  
5       value to the contract that was deleted from the target  
6       market program, to the extent feasible.

7           (7) In order to facilitate the performance of target  
8       market contracts by minority-owned businesses and  
9       female-owned ~~women-owned~~ businesses, the Department ~~chief~~  
10       ~~procurement officer~~ may expedite payments under target  
11       market contracts, ~~may reduce retainages under target~~  
12       ~~market contracts when appropriate,~~ and may pay the  
13       contractor a portion of the value of a target market  
14       contract at the time of award as an advance to cover  
15       start-up and mobilization costs.

16       (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
17       for the effective date of P.A. 96-795).)

18           Section 99. Effective date. This Act takes effect upon  
19       becoming law."