

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 the Department of Transportation, the Capital Development  
4 Board, or the Illinois State Toll Highway Authority, the  
5 applicable chief procurement officer for the respective agency  
6 shall in writing detail why all 4 bids were rejected. The chief  
7 procurement officer shall submit by certified copy to the  
8 bidder the reasoning for the rejection of the bid within the  
9 same calendar quarter in which the fourth bid was rejected and  
10 prior to 15 days before the next Illinois Procurement Bulletin  
11 for that type of bid.

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

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

1 Illinois Power Agency Act. These alternative procedures shall  
2 be set forth together with the other criteria contained in the  
3 invitation for bids, and shall appear in the appropriate  
4 volume of the Illinois Procurement Bulletin.

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

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

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

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

1 shall be open to public inspection.

2 After the auction period has terminated, withdrawal of  
3 bids shall be permitted as provided in subsection (f).

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

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

15 (Source: P.A. 100-43, eff. 8-9-17; 101-31, eff. 6-28-19;  
16 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

17 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,  
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23 (Source: P.A. 101-31, eff. 6-28-19; 101-657, eff. 1-1-22;  
24 102-29, eff. 6-25-21.)