



Rep. Nicholas K. Smith

Filed: 5/4/2023

10300SB2192ham001

LRB103 25677 HLH 60982 a

1 AMENDMENT TO SENATE BILL 2192

2 AMENDMENT NO. _____. Amend Senate Bill 2192 by replacing
3 everything after the enacting clause with the following:

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.

1 (c) Public notice. Public notice of the invitation for
2 bids shall be published in the Illinois Procurement Bulletin
3 at least 14 calendar days before the date set in the invitation
4 for the opening of bids.

5 (d) Bid opening. Bids shall be opened publicly or through
6 an electronic procurement system in the presence of one or
7 more witnesses at the time and place designated in the
8 invitation for bids. The name of each bidder, including earned
9 and applied bid credit from the Illinois Works Jobs Program
10 Act, the amount of each bid, and other relevant information as
11 may be specified by rule shall be recorded. After the award of
12 the contract, the winning bid and the record of each
13 unsuccessful bid shall be open to public inspection.

14 (e) Bid acceptance and bid evaluation. Bids shall be
15 unconditionally accepted without alteration or correction,
16 except as authorized in this Code. Bids shall be evaluated
17 based on the requirements set forth in the invitation for
18 bids, which may include criteria to determine acceptability
19 such as inspection, testing, quality, workmanship, delivery,
20 and suitability for a particular purpose. Those criteria that
21 will affect the bid price and be considered in evaluation for
22 award, such as discounts, transportation costs, and total or
23 life cycle costs, shall be objectively measurable. The
24 invitation for bids shall set forth the evaluation criteria to
25 be used.

26 (f) Correction or withdrawal of bids. Correction or

1 withdrawal of inadvertently erroneous bids before or after
2 award, or cancellation of awards of contracts based on bid
3 mistakes, shall be permitted in accordance with rules. After
4 bid opening, no changes in bid prices or other provisions of
5 bids prejudicial to the interest of the State or fair
6 competition shall be permitted. All decisions to permit the
7 correction or withdrawal of bids based on bid mistakes shall
8 be supported by written determination made by a State
9 purchasing officer.

10 (g) Award. The contract shall be awarded with reasonable
11 promptness by written notice to the lowest responsible and
12 responsive bidder whose bid meets the requirements and
13 criteria set forth in the invitation for bids, except when a
14 State purchasing officer determines it is not in the best
15 interest of the State and by written explanation determines
16 another bidder shall receive the award. The explanation shall
17 appear in the appropriate volume of the Illinois Procurement
18 Bulletin. The written explanation must include:

19 (1) a description of the agency's needs;

20 (2) a determination that the anticipated cost will be
21 fair and reasonable;

22 (3) a listing of all responsible and responsive
23 bidders; and

24 (4) the name of the bidder selected, the total
25 contract price, and the reasons for selecting that bidder.

26 Each chief procurement officer may adopt guidelines to

1 implement the requirements of this subsection (g).

2 The written explanation shall be filed with the
3 Legislative Audit Commission, and the Commission on Equity and
4 Inclusion, and the Procurement Policy Board, and be made
5 available for inspection by the public, within 14 calendar
6 days after the agency's decision to award the contract.

7 (g-5) Failed bid notice. In addition to the requirements
8 of subsection (g), if a bidder has failed to be awarded a
9 contract after 4 consecutive bids to provide the same services
10 to the Department of Transportation, the Capital Development
11 Board, or the Illinois State Toll Highway Authority, the
12 applicable agency shall, in writing, detail why each of the 4
13 bids was not awarded to the bidder. The applicable agency
14 shall submit by certified copy to the bidder the reason or
15 reasons why each of the 4 bids was not awarded to the bidder.
16 The agency shall submit that certified copy to the bidder
17 within the same calendar quarter in which the fourth bid was
18 rejected.

19 (h) Multi-step sealed bidding. When it is considered
20 impracticable to initially prepare a purchase description to
21 support an award based on price, an invitation for bids may be
22 issued requesting the submission of unpriced offers to be
23 followed by an invitation for bids limited to those bidders
24 whose offers have been qualified under the criteria set forth
25 in the first solicitation.

26 (i) Alternative procedures. Notwithstanding any other

1 provision of this Act to the contrary, the Director of the
2 Illinois Power Agency may create alternative bidding
3 procedures to be used in procuring professional services under
4 Section 1-56, subsections (a) and (c) of Section 1-75 and
5 subsection (d) of Section 1-78 of the Illinois Power Agency
6 Act and Section 16-111.5(c) of the Public Utilities Act and to
7 procure renewable energy resources under Section 1-56 of the
8 Illinois Power Agency Act. These alternative procedures shall
9 be set forth together with the other criteria contained in the
10 invitation for bids, and shall appear in the appropriate
11 volume of the Illinois Procurement Bulletin.

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

21 An invitation for bids shall be issued and shall include
22 (i) a procurement description, (ii) all contractual terms,
23 whenever practical, and (iii) conditions applicable to the
24 procurement, including a notice that bids will be received in
25 an electronic auction manner.

26 Public notice of the invitation for bids shall be given in

1 the same manner as provided in subsection (c).

2 Bids shall be accepted electronically at the time and in
3 the manner designated in the invitation for bids. During the
4 auction, a bidder's price shall be disclosed to other bidders.
5 Bidders shall have the opportunity to reduce their bid prices
6 during the auction. At the conclusion of the auction, the
7 record of the bid prices received and the name of each bidder
8 shall be open to public inspection.

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

11 The contract shall be awarded within 60 calendar days
12 after the auction by written notice to the lowest responsible
13 bidder, or all bids shall be rejected except as otherwise
14 provided in this Code. Extensions of the date for the award may
15 be made by mutual written consent of the State purchasing
16 officer and the lowest responsible bidder.

17 This subsection does not apply to (i) procurements of
18 professional and artistic services, (ii) telecommunications
19 services, communication services, and information services,
20 and (iii) contracts for construction projects, including
21 design professional services.

22 (Source: P.A. 100-43, eff. 8-9-17; 101-31, eff. 6-28-19;
23 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

24 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,
25 98-1076, 99-906, 100-43, 101-31, 101-657, and 102-29)

1 Sec. 20-10. Competitive sealed bidding; reverse auction.

2 (a) Conditions for use. All contracts shall be awarded by
3 competitive sealed bidding except as otherwise provided in
4 Section 20-5.

5 (b) Invitation for bids. An invitation for bids shall be
6 issued and shall include a purchase description and the
7 material contractual terms and conditions applicable to the
8 procurement.

9 (c) Public notice. Public notice of the invitation for
10 bids shall be published in the Illinois Procurement Bulletin
11 at least 14 calendar days before the date set in the invitation
12 for the opening of bids.

13 (d) Bid opening. Bids shall be opened publicly or through
14 an electronic procurement system in the presence of one or
15 more witnesses at the time and place designated in the
16 invitation for bids. The name of each bidder, including earned
17 and applied bid credit from the Illinois Works Jobs Program
18 Act, the amount of each bid, and other relevant information as
19 may be specified by rule shall be recorded. After the award of
20 the contract, the winning bid and the record of each
21 unsuccessful bid shall be open to public inspection.

22 (e) Bid acceptance and bid evaluation. Bids shall be
23 unconditionally accepted without alteration or correction,
24 except as authorized in this Code. Bids shall be evaluated
25 based on the requirements set forth in the invitation for
26 bids, which may include criteria to determine acceptability

1 such as inspection, testing, quality, workmanship, delivery,
2 and suitability for a particular purpose. Those criteria that
3 will affect the bid price and be considered in evaluation for
4 award, such as discounts, transportation costs, and total or
5 life cycle costs, shall be objectively measurable. The
6 invitation for bids shall set forth the evaluation criteria to
7 be used.

8 (f) Correction or withdrawal of bids. Correction or
9 withdrawal of inadvertently erroneous bids before or after
10 award, or cancellation of awards of contracts based on bid
11 mistakes, shall be permitted in accordance with rules. After
12 bid opening, no changes in bid prices or other provisions of
13 bids prejudicial to the interest of the State or fair
14 competition shall be permitted. All decisions to permit the
15 correction or withdrawal of bids based on bid mistakes shall
16 be supported by written determination made by a State
17 purchasing officer.

18 (g) Award. The contract shall be awarded with reasonable
19 promptness by written notice to the lowest responsible and
20 responsive bidder whose bid meets the requirements and
21 criteria set forth in the invitation for bids, except when a
22 State purchasing officer determines it is not in the best
23 interest of the State and by written explanation determines
24 another bidder shall receive the award. The explanation shall
25 appear in the appropriate volume of the Illinois Procurement
26 Bulletin. The written explanation must include:

- 1 (1) a description of the agency's needs;
- 2 (2) a determination that the anticipated cost will be
3 fair and reasonable;
- 4 (3) a listing of all responsible and responsive
5 bidders; and
- 6 (4) the name of the bidder selected, the total
7 contract price, and the reasons for selecting that bidder.

8 Each chief procurement officer may adopt guidelines to
9 implement the requirements of this subsection (g).

10 The written explanation shall be filed with the
11 Legislative Audit Commission, and the Commission on Equity and
12 Inclusion, and the Procurement Policy Board, and be made
13 available for inspection by the public, within 14 days after
14 the agency's decision to award the contract.

15 (g-5) Failed bid notice. In addition to the requirements
16 of subsection (g), if a bidder has failed to be awarded a
17 contract after 4 consecutive bids to provide the same services
18 to the Department of Transportation, the Capital Development
19 Board, or the Illinois State Toll Highway Authority, the
20 applicable agency shall, in writing, detail why each of the 4
21 bids was not awarded to the bidder. The applicable agency
22 shall submit by certified copy to the bidder the reason or
23 reasons why each of the 4 bids was not awarded to the bidder.
24 The agency shall submit that certified copy to the bidder
25 within the same calendar quarter in which the fourth bid was
26 rejected.

1 (h) Multi-step sealed bidding. When it is considered
2 impracticable to initially prepare a purchase description to
3 support an award based on price, an invitation for bids may be
4 issued requesting the submission of unpriced offers to be
5 followed by an invitation for bids limited to those bidders
6 whose offers have been qualified under the criteria set forth
7 in the first solicitation.

8 (i) Alternative procedures. Notwithstanding any other
9 provision of this Act to the contrary, the Director of the
10 Illinois Power Agency may create alternative bidding
11 procedures to be used in procuring professional services under
12 subsections (a) and (c) of Section 1-75 and subsection (d) of
13 Section 1-78 of the Illinois Power Agency Act and Section
14 16-111.5(c) of the Public Utilities Act and to procure
15 renewable energy resources under Section 1-56 of the Illinois
16 Power Agency Act. These alternative procedures shall be set
17 forth together with the other criteria contained in the
18 invitation for bids, and shall appear in the appropriate
19 volume of the Illinois Procurement Bulletin.

20 (j) Reverse auction. Notwithstanding any other provision
21 of this Section and in accordance with rules adopted by the
22 chief procurement officer, that chief procurement officer may
23 procure supplies or services through a competitive electronic
24 auction bidding process after the chief procurement officer
25 determines that the use of such a process will be in the best
26 interest of the State. The chief procurement officer shall

1 publish that determination in his or her next volume of the
2 Illinois Procurement Bulletin.

3 An invitation for bids shall be issued and shall include
4 (i) a procurement description, (ii) all contractual terms,
5 whenever practical, and (iii) conditions applicable to the
6 procurement, including a notice that bids will be received in
7 an electronic auction manner.

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

10 Bids shall be accepted electronically at the time and in
11 the manner designated in the invitation for bids. During the
12 auction, a bidder's price shall be disclosed to other bidders.
13 Bidders shall have the opportunity to reduce their bid prices
14 during the auction. At the conclusion of the auction, the
15 record of the bid prices received and the name of each bidder
16 shall be open to public inspection.

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

19 The contract shall be awarded within 60 calendar days
20 after the auction by written notice to the lowest responsible
21 bidder, or all bids shall be rejected except as otherwise
22 provided in this Code. Extensions of the date for the award may
23 be made by mutual written consent of the State purchasing
24 officer and the lowest responsible bidder.

25 This subsection does not apply to (i) procurements of
26 professional and artistic services, (ii) telecommunications

1 services, communication services, and information services,
2 and (iii) contracts for construction projects, including
3 design professional services.

4 (Source: P.A. 101-31, eff. 6-28-19; 101-657, eff. 1-1-22;
5 102-29, eff. 6-25-21.)".