



Sen. Ram Villivalam

Filed: 3/7/2023

10300SB2192sam001

LRB103 25677 DTM 58678 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 Innovation and Technology, the Department
11 of Transportation, the Capital Development Board, or the
12 Illinois State Toll Highway Authority, the applicable chief
13 procurement officer for the respective agency shall in writing
14 detail why all 4 bids were rejected. The chief procurement
15 officer shall submit by certified copy to the bidder the
16 reasoning for the rejection of the bid within the same
17 calendar quarter in which the fourth bid was rejected and
18 prior to 15 days before the next Illinois Procurement Bulletin
19 for that type of bid.

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

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

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

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

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

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

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

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

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

23 (Source: P.A. 100-43, eff. 8-9-17; 101-31, eff. 6-28-19;
24 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

25 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,

1 98-1076, 99-906, 100-43, 101-31, 101-657, and 102-29)

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

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

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

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

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

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

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

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

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

1 Bulletin. The written explanation must include:

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

3 (2) a determination that the anticipated cost will be
4 fair and reasonable;

5 (3) a listing of all responsible and responsive
6 bidders; and

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

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

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

16 (g-5) Failed bid notice. In addition to the requirements
17 of subsection (g), if a bidder has failed to be awarded a
18 contract after 4 consecutive bids to provide the same services
19 to the Department of Innovation and Technology, the Department
20 of Transportation, the Capital Development Board, or the
21 Illinois State Toll Highway Authority, the applicable chief
22 procurement officer for the respective agency shall in writing
23 detail why all 4 bids were rejected. The chief procurement
24 officer shall submit by certified copy to the bidder the
25 reasoning for the rejection of the bid within the same
26 calendar quarter in which the fourth bid was rejected and

1 prior to 15 days before the next Illinois Procurement Bulletin
2 for that type of bid.

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

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

22 (j) Reverse auction. Notwithstanding any other provision
23 of this Section and in accordance with rules adopted by the
24 chief procurement officer, that chief procurement officer may
25 procure supplies or services through a competitive electronic
26 auction bidding process after the chief procurement officer

1 determines that the use of such a process will be in the best
2 interest of the State. The chief procurement officer shall
3 publish that determination in his or her next volume of the
4 Illinois Procurement Bulletin.

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

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

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

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

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

1 This subsection does not apply to (i) procurements of
2 professional and artistic services, (ii) telecommunications
3 services, communication services, and information services,
4 and (iii) contracts for construction projects, including
5 design professional services.

6 (Source: P.A. 101-31, eff. 6-28-19; 101-657, eff. 1-1-22;
7 102-29, eff. 6-25-21.)".