



Illinois Commission on Equity and Inclusion

Kellye A. Keyes, Esq.
Acting Chairperson and Executive Director
100 West Randolph Street, Suite 14-300
Chicago, IL 60601
312 814-1054

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Honorable J.B. Pritzker Governor State of Illinois and Members of the General Assembly:

As codified in 30 ILCS 574/40-1, the Commission on Equity and Inclusion (Commission) began operating January 1, 2022. By statute, each January, and as otherwise frequently as may be deemed necessary and appropriate by the Commission, the Commission shall propose and submit to the Governor and the General Assembly legislative changes to increase inclusion and diversity in State government.

The Commission on Equity and Inclusion proposed changes to the Business Enterprise for Minorities, Women, and Persons with Disabilities Act (30 ILCS 575/)

Clarify Definitions in the BEP Act 30 ILCS 575/2 for Implementation of the Act

- **Define "BEP Certified Vendor"**
(4.4) "BEP Certified Vendor" means a business that has been certified as being 51 or more % owned and operated by minorities women, or persons with disabilities by the Business Enterprise Program.
- **Update definition of a "Utilization Plan"**
(11) "Utilization Plan" refers to an attachment to bids or proposals for all solicitations that have a BEP Goal. The Utilization Plan (U Plan) demonstrates the bidder or offeror's efforts to meet the contract specific BEP goal. The U Plan must indicate whether a prime vendor will meet the BEP goal through self-performance, if it is a BEP certified vendor, or using subcontractors that are BEP certified vendors.

The U Plan shall demonstrate that the Vendor has either: (1) met the entire contract BEP goal or (2) requested a full waiver or (3) partial waiver of the BEP goal. If the prime vendor intends to use a subcontractor, that is a BEP certified vendor, to fulfil the BEP goal a participation agreement executed between the prime vendor and BEP certified subcontractor must be included with the U Plan.

- **Add a definition of "Good Faith Effort"**
(13) "Good Faith Effort" means actions undertaken by a vendor to achieve a contract specific BEP goal that, by scope, intensity and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.



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- **Add a definition of “Commercially Useful Function”**
(14) "Commercially Useful Function" means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, evidencing the responsibilities and risks of a business owner such as negotiating the terms of (sub)contracts, taking on a financial risk commensurate with the contract or its subcontract, responsibility for acquiring the appropriate lines of credit and/or loans, or fulfilling responsibilities as a joint venture partner as described in the joint venture agreement.
- **Add a definition of “Contract”**
(16) "Contract" means all types of State agreements, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property where the State is the lessee, or capital improvements, and including renewals, master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.
- **Add a definition of “Grant”**
(17) "Grant" means the furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to the Procurement Code **30 ILCS 500/et seq.**
- **Add a definition of “Professional and Artistic Services”**
(18) "Professional and Artistic Services" means those services provided under contract to a state agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability.
- **Add a definition of “State Agency”**
(19) "State Agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code



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or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act, and the Illinois Comprehensive Health Insurance Board.

Amend BEP Act Section 30 ILCS 575/4(d) - Award of State Contracts

- Adjusting the deadline of the new social scientific study that measures the impact of discrimination on minority and women business development in Illinois to June 1, 2023. The adjustment will allow CEI to meaningfully review the report and make changes throughout the next fiscal year.
- Adjusting the deadline of the sourcing model for social scientific disparity studies for local governmental units to adapt and use to implement and address regional disparities in public procurement to December 1, 2023. The adjustment will allow CEI the opportunity to provide best practices to the local governmental units, as well as capitalize on the model used for the State's most recent study.
- *Suggested amendment 30 ILCS 575/4(d):* By June 1, 2023, the Commission on Equity and Inclusion shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and women participation established in this Act....By December 1, 2023, the Commission on Equity and Inclusion shall develop a model for social scientific disparity study sourcing for local governmental units to adapt and use to implement and address regional disparities in public procurement.

Amend BEP Act Section 30 ILCS 575/7 - to Permit the BEP Program to Recommend Public Hearings to the BEP Council for Underperforming Agencies and Community Colleges

- The BEP Council can use its authority to hold public hearings pursuant to the BEP Act. Agencies, community colleges, vendors, and stakeholders will have a better understanding of the purpose of the hearings because the topics will be enumerated. Furthermore, the reasons for the agencies and community colleges lack of performance shall be identified so that the State may provide additional resources and guidance to get back on track.
- *Suggested amendment 30 ILCS 575/7:* The BEP Program may recommend that the Council hold a hearing for an agencies or community colleges who have exhibited a failure to comply with the Council's goals and policies, a trend of questionable equity and inclusion procurement practices, or a lack of compliance with the BEP Act, the CEI Act and/or related sections of the Procurement Code.

Amend Procurement Code Section 30 ILCS 500/ 1-10 - to Allow the Commission on Equity and Inclusion to Access Records to Effectuate Statutory Duties



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- The revision will allow CEI to have full access to the records used by Chief Procurement Officers, and state agencies. It will allow CEI to fully understand the totality of the circumstances of each transaction.
- *Suggested Amendment 30 ILCS 500/1-10 (21)(i)*: Each chief procurement officer, the Business Enterprise Program, and the Commission on Equity and Inclusion may access records necessary to determine whether a contract, purchase, or other expenditure is subject to the provisions of this Code.

Update Procurement Code Section 30 ILCS 500/ 15-30 - Electronic Bulletin clearinghouse to Allow the Chief Procurement Officer to Provide Information to the Commission on Equity and Inclusion

- The revision will allow CEI to have full access to the records and resources used by the Procurement Policy Board to analyze procurement matters.
- *Suggested amendment 30 ILCS 500/ 15-30*: The Commission on Equity and Inclusion and the BEP Council shall be provided the same information and resources as the Procurement Policy Board.

Amend Procurement Code Section 30 ILCS 500/20-65 - to Strengthen Auditing Capabilities of the Commission on Equity and Inclusion

- CEI has no independent authority to audit records. CEI currently monitors procurements that are subject to the BEP Act and the CEI Act. Reliance upon individual agencies to conduct audits creates an area of exposure related to noncompliance of the BEP and the CEI Acts.
- *Suggested amendment 30 ILCS 500/20-65(b)*: The Commission on Equity and Inclusion shall have joint authority with the Auditor General, chief procurement officer, and internal auditor to review and audit contracts and subcontracts required to be maintained under subsection (a). Every contract and subcontract shall provide that all books and records required to be maintained under subsection (a) shall be available for review and audit by the Auditor General, chief procurement officer, internal auditor, the Commission on Equity and Inclusion, and the purchasing agency. Every contract and subcontract shall require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

Add Procurement Code Section 30 ILCS 500/ 20-155(a-5) - to Streamline and Standardize BEP Related Solicitation and Contract Documents for Vendors and State Agencies

- This revision will allow CEI to standardize solicitation and BEP related contract documents provided to vendors and agencies for the implementation of the BEP Act and Sections 30 ILCS 500/45-57 of the Procurement Code. The standardization will make reporting and collecting data as well as the identification of trends more efficient and effective.
- *Suggested Amendment 30 ILCS 500/20-155(a)*: The Commission on Equity and Inclusion shall have the sole authority for the agencies under its jurisdiction to develop and distribute uniform documents with respect to implementation of the Business Enterprise Program Act, the



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Commission on Inclusion Act and Section 45-57 of the Procurement Code for agencies and vendors to complete a procurement transaction.