Testimony of David Morrison
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To the Joint Committee on Government Reform
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Good morning Mr. President, Mr. Speaker, and members of the Joint Committee. My name is David Morrison and I'm with the Illinois Campaign for Political Reform. ICPR, as you may know, was founded in 1997 by Paul Simon and Bob Kustra to watchdog campaign finance, government ethics and voter education, and to facilitate bipartisan dialogue around reform efforts in those areas. It has been our sincere pleasure to work with many of you in the past on what I believe were fruitful reform efforts, and I am happy to be with you today to continue these efforts in the area of procurement.

Illinois government has a voracious appetite for goods and services. Procurement serves a necessary and vital purpose, helping state agencies and employees fulfill their duties under the law and arranging for private entities to take on those duties that they are better able to provide. The process of procurement also presents great temptation, and numerous opportunities for graft, theft, and corruption.

When confronted with threats to the integrity of government, there are typically four ways of responding. The first is to do nothing, to assume or hope that violations will be rare and minor, and might be best handled through informal checks, augmented with the threat of ordinary criminal statutes. The second is to require greater disclosure -- using sunshine to minimize venality. This method works only so far as shame is a factor, but shame has proven effective in many contexts. The third is to regulate behaviors, and the fourth is to prohibit them entirely. This fourth response -- targeted prohibitions -- should be used deliberately and sparingly, only when no other solution can be found.

Several improvements to the procurement code have been offered in recent years, and let me highlight several that ICPR believes are prudent and worthy additions. Most of these fall into the second and third types of legislative response - disclosure and regulation, rather than prohibitions. These include:

* Explicit inclusion of lessee and leassor relationships in the definition of a contract for all aspects of procurement, as in HB 4320, now pending in the House.

* Explicit inclusion of subcontractors on the same basis as contractors, for all aspects of procurement all aspects of procurement as in HB 4320.

* Requiring that bidders or offers exist in legal form prior to submitting a bid, whether as in SB 1305 from the last legislative session (sponsored by Sen. Jeff Schoenberg) or SB 1470 in the current session (Sponsored by Sen. Christine Radogno).

* Putting explicit time limits on holdover leases and emergency bids, as in the old SB 1305, and now in HB 1201, SB 1727, or SB 1470.

* Requiring that waivers to ordinary procurement processes be approved prior to the start of work, as in SB 1726.

* Technology has long since advanced to a point where disclosure of RFP and bid details can more easily be shared with the public. Whether this is accomplished through stand-alone process like that outlined in SB 1470 or in the context of a broader accountability portal as is contemplated in HB 35, giving the public more information about procurement will help to reduce the incidence and severity of abuses.

From our perspective, the most significant change to the procurement code in recent years was the adoption of a prohibition on campaign donations to the elected official ultimately responsible for overseeing a contract from the entity that received the contract, together with subsidiaries, parent companies, and key people at those companies. This Pay-to-Play ban, enacted with much fanfare last year, was the first time in state history that Illinois prohibited donations from certain sources to benefit certain candidates. ICPR strongly supported the ban then, and we continue to support efforts to reduce the influence of money on state politics and policy. I would like to offer a few lessons from that effort.

The complete ban on giving by contractors was undertaken only after efforts to publicize the flow of outsized payments from contractors to Gov. Blagojevich's campaign fund failed to stem the practice. Disclosure alone was not enough. Sunshine, and shame, did not deter Gov. Blagojevich from collecting comparatively enormous amounts of money from businesses seeking state contracts under his control.

The Pay-to-Play ban was a thoughtful effort to end a practice which, at a minimum, encouraged both the public and businesses that might bid on contracts to believe that contracts were available in trade for campaign contributions. Whether public officials were shaking down bidders for campaign donations or bidders were seeking to curry favor by chipping in enormous sums to campaign coffers, the flow of money between contractors and the officials who oversaw those contracts was egregious, and the perception of corruption was pervasive. But passing that law is not the end of the problem. Proper enforcement, for one, may require another bite at the apple. The State Board of Elections will need additional resources to ensure that disclosures required by the law are made public in a full, timely, and fully searchable manner.

And while he is not on this panel, I would also join those who ask Gov. Quinn to rescind Gov. Blagojevich’s Executive Order on Pay-to-Play, which expanded the scope of the contribution ban in ways that are more suited to litigation than regulation. Allowing the EO to stand creates uncertainty and confusion, and Gov. Quinn should put a stop to it.

I thank the members of this committee for your time and attention, and I look forward to working with each of you in the weeks and months ahead.