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HOUSE RESOLUTION

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WHEREAS, The Governmental Joint Purchasing Act authorizes governmental units to purchase personal property, supplies, and services jointly with one or more other governmental units through a competitive bid process; and

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WHEREAS, The Governmental Joint Purchasing Act provides that when the State of Illinois is a party to the joint purchase agreement, the Illinois Department of Central Management Services ("CMS") shall conduct the letting of bids; and

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WHEREAS, On June 20, 2008, CMS issued Solicitation No. 222600 (the "Original Solicitation") requesting bids for bulk rock salt to be used for ice control by the Department of Transportation, the Illinois State Toll Highway Authority, other State agencies, and over 700 units of local government in 98 counties statewide (the "pool participants"); and

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WHEREAS, Responses to the Original Solicitation were due on July 16, 2008; responses were submitted by four vendors, but none of the responses received by CMS for the Original Solicitation contained bids for the salt requirements for the majority of the pool participants located in Cook County, or for any of the pool participants located in Lake or McHenry

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1 County; and

2 WHEREAS, On July 25, 2008, CMS issued Solicitation No.  
3 223231, a Supplemental Re-bid seeking bids for the salt  
4 requirements of the pool participants in Cook, Lake, and  
5 McHenry County (the "Re-bid"); and

6 WHEREAS, Responses to the Re-bid were due on August 12,  
7 2008; responses to the Re-bid were submitted by three vendors,  
8 but all of the vendors responded to the Original Solicitation  
9 and limited their bids to the pool participants in Cook County;  
10 and

11 WHEREAS, On August 19, 2008, CMS advised the pool  
12 participants in Lake and McHenry County that, if they wished  
13 CMS to continue efforts to procure salt for them, they would  
14 have to commit to a price per ton in the range of \$145 to \$165;  
15 and

16 WHEREAS, On August 21, 2008, CMS awarded contracts in a  
17 total amount of \$182,293,805.48 to the four vendors that  
18 responded to the Original Solicitation, notwithstanding the  
19 vendors' failure to submit bids for the salt requirements of  
20 the pool participants in Cook, Lake, and McHenry County; and

21 WHEREAS, On August 28, 2008, certain pool participants in

1 Lake and McHenry County submitted a bid protest, claiming,  
2 pursuant to the Governmental Joint Purchasing Act and the  
3 Illinois Procurement Code, and the rules promulgated  
4 thereunder that: (1) the proposals submitted in response to the  
5 Original Solicitation were materially incomplete due to their  
6 failure to provide bids for the salt requirements of all  
7 governmental units participating in the joint procurement; (2)  
8 CMS should have rejected the bids as non-responsive; and (3)  
9 CMS should conduct an investigation into the bidding activities  
10 of the responding vendors to ensure that the vendors complied  
11 with all applicable State laws; and

12 WHEREAS, On August 29, 2008, CMS awarded \$19,564,788.68 in  
13 contracts to two of the three vendors responding to the Re-bid,  
14 notwithstanding their failure to submit a bid for the salt  
15 requirements of the pool participants in Lake and McHenry  
16 County in either the Original Solicitation or the Re-Bid; and

17 WHEREAS, On September 4, 2008, CMS issued a no-bid,  
18 emergency purchase award in the amount of \$8,597,382.32 to one  
19 of the vendors that had received an award under the Original  
20 Solicitation and submitted a response to the Re-bid, but had  
21 not submitted a price for pool participants in Lake or McHenry  
22 County in either solicitation; and

23 WHEREAS, Information in the press indicates that certain

1 local governments not participating in the joint procurement,  
2 but located in geographic proximately to certain pool  
3 participants, were able to obtain bulk rock salt at more  
4 competitive prices than the pool participants; and

5 WHEREAS, Because a sealed bid process was used by CMS, bid  
6 documents are not accessible, and CMS has not provided  
7 information that would explain the price fluctuations for rock  
8 salt within and outside of the joint purchasing pool;  
9 therefore, be it

10 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE  
11 NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that  
12 the Auditor General is directed pursuant to Section 3-2 of the  
13 Illinois State Auditing Act to conduct an audit of CMS'  
14 decisions relating to the joint purchasing procurements of bulk  
15 rock salt to determine whether good procurement practices were  
16 exercised in accordance with applicable State laws and rules;  
17 and be it further

18 RESOLVED, That the Auditor General is authorized pursuant  
19 to Section 3-2 of the Illinois State Auditing Act to review,  
20 determine, and publicly report on whether CMS' activities and  
21 decisions in connection with the joint procurement of rock salt  
22 were in the best interests of the State and participating units  
23 of local government; and be it further

1           RESOLVED, That the Auditor General commence this audit as  
2           soon as possible and report his findings and recommendations  
3           upon completion in accordance with the Illinois State Auditing  
4           Act; and be it further

5           RESOLVED, That a copy of this resolution be delivered to  
6           the Auditor General, the Governor, and the Director of Central  
7           Management Services.