

AN ACT concerning finance.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The State Officials and Employees Ethics Act is amended by changing Sections 5-10 and 20-5 as follows:

(5 ILCS 430/5-10)

Sec. 5-10. Ethics training.

(a) Each officer, member, and employee must complete, at least annually beginning in 2004, an ethics training program conducted by the appropriate State agency. Each ultimate jurisdictional authority must implement an ethics training program for its officers, members, and employees. These ethics training programs shall be overseen by the appropriate Ethics Commission and Inspector General appointed pursuant to this Act in consultation with the Office of the Attorney General.

(b) Each ultimate jurisdictional authority subject to the Executive Ethics Commission shall submit to the Executive Ethics Commission, at least annually, or more frequently as required by that Commission, an annual report that summarizes ethics training that was completed during the previous year, and lays out the plan for the ethics training programs in the coming year.

(c) Each Inspector General shall set standards and

determine the hours and frequency of training necessary for each position or category of positions. A person who fills a vacancy in an elective or appointed position that requires training and a person employed in a position that requires training must complete his or her initial ethics training within 30 days after commencement of his or her office or employment.

(d) Upon completion of the ethics training program, each officer, member, and employee must certify in writing that the person has completed the training program. Each officer, member, and employee must provide to his or her ethics officer a signed copy of the certification by the deadline for completion of the ethics training program.

(e) The ethics training provided under this Act by the Secretary of State may be expanded to satisfy the requirement of Section 4.5 of the Lobbyist Registration Act.

(f) The ethics training provided under this Act by State agencies under the control of the Governor shall include the requirements and duties of State officers and employees under Sections 50-39, 50-40, and 50-45 of the Illinois Procurement Code.

(Source: P.A. 96-555, eff. 8-18-09.)

(5 ILCS 430/20-5)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the

effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of

Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The Executive Ethics Commission shall have jurisdiction over all board members and employees of Regional Transit Boards. The jurisdiction of the Commission is limited to matters arising under this Act, except as provided in subsection (d-5).

A member or legislative branch State employee serving on an executive branch board or commission remains subject to the jurisdiction of the Legislative Ethics Commission and is not subject to the jurisdiction of the Executive Ethics Commission.

(d-5) The Executive Ethics Commission shall have jurisdiction over all chief procurement officers and procurement compliance monitors and their respective staffs. The Executive Ethics Commission shall have jurisdiction over any matters arising under the Illinois Procurement Code if the Commission is given explicit authority in that Code.

(d-6) (1) The Executive Ethics Commission shall have jurisdiction over the Illinois Power Agency and its staff. The Director of the Agency shall be appointed by a majority of the commissioners of the Executive Ethics Commission, subject to Senate confirmation, for a term of 2 years. The Director is removable for cause by a majority of the Commission upon a finding of neglect, malfeasance, absence, or incompetence.

(2) In case of a vacancy in the office of Director of the Illinois Power Agency during a recess of the Senate, the

Executive Ethics Commission may make a temporary appointment until the next meeting of the Senate, at which time the Executive Ethics Commission shall nominate some person to fill the office, and any person so nominated who is confirmed by the Senate shall hold office during the remainder of the term and until his or her successor is appointed and qualified. Nothing in this subsection shall prohibit the Executive Ethics Commission from removing a temporary appointee or from appointing a temporary appointee as the Director of the Illinois Power Agency.

(3) Prior to June 1, 2012, the Executive Ethics Commission may, until the Director of the Illinois Power Agency is appointed and qualified or a temporary appointment is made pursuant to paragraph (2) of this subsection, designate some person as an acting Director to execute the powers and discharge the duties vested by law in that Director. An acting Director shall serve no later than 60 calendar days, or upon the making of an appointment pursuant to paragraph (1) or (2) of this subsection, whichever is earlier. Nothing in this subsection shall prohibit the Executive Ethics Commission from removing an acting Director or from appointing an acting Director as the Director of the Illinois Power Agency.

(4) No person rejected by the Senate for the office of Director of the Illinois Power Agency shall, except at the Senate's request, be nominated again for that office at the same session or be appointed to that office during a recess of

that Senate.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) advocate for the appointment of another person to an appointed or elected office or position or actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission. The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(i) The Executive Ethics Commission shall appoint, by a majority of the members appointed to the Commission, chief procurement officers and may appoint procurement compliance monitors in accordance with the provisions of the Illinois Procurement Code. The compensation of a chief procurement officer and procurement compliance monitor shall be determined by the Commission.

(Source: P.A. 96-555, eff. 8-18-09; 96-1528, eff. 7-1-11; 97-618, eff. 10-26-11; 97-677, eff. 2-6-12.)

Section 15. The Illinois Procurement Code is amended by re-enacting and changing Sections 1-12 and 1-13, by changing Sections 1-10, 1-15.20, 5-5, 5-30, 10-10, 10-15, 15-25, 15-30, 20-10, 20-15, 20-20, 20-25, 20-30, 20-43, 20-80, 20-160, 25-35, 35-15, 35-30, 35-35, 40-30, 45-15, 45-30, 45-45, 45-57, 50-2, 50-10, 50-10.5, 50-39, 50-40, 50-45, and 53-10, and by adding

Sections 1-15.40, 1-15.47, 1-15.48, 1-15.49, 10-30, 25-85, 30-40, 45-85, 45-90, and 50-36.5 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which bidders, offerors, potential contractors, or contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. Except as specifically provided in this Code, this ~~This~~ Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies ~~except as specifically provided in this Code.~~

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 10 calendar days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) (Blank). ~~Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and~~

~~technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.~~

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) (Blank). ~~Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants.~~

(11) Public-private agreements entered into according to the procurement requirements of Section 20 of the Public-Private Partnerships for Transportation Act and design-build agreements entered into according to the procurement requirements of Section 25 of the Public-Private Partnerships for Transportation Act.

(12) Contracts for legal, financial, and other professional and artistic services entered into on or before December 31, 2018 by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the Board of the Illinois Finance Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the Board of the Illinois Finance Authority of the terms of the contract.

~~(13) The provisions of this paragraph (13), other than this sentence, are inoperative on and after January 1, 2019 or 2 years after the effective date of this amendatory Act of the 99th General Assembly, whichever is later. Contracts for services, commodities, and equipment to support the delivery of timely forensic science services in consultation with and subject to the approval of the Chief Procurement Officer as provided in subsection (d) of Section 5-4-3a of the Unified Code of Corrections, except for the requirements of Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of this Code; however, the Chief Procurement Officer may, in writing with justification, waive any certification required under Article 50 of this Code. For any contracts for services which are currently provided by members of a collective bargaining agreement, the applicable terms of the collective bargaining agreement concerning subcontracting shall be followed.~~

On and after January 1, 2019, this paragraph (13), except for this sentence, is inoperative.

(14) Contracts for participation expenditures required by a domestic or international trade show or exhibition of an exhibitor, member, or sponsor.

(15) Contracts with a railroad or utility that requires the State to reimburse the railroad or utilities for the relocation of utilities for construction or other public purpose. Contracts included within this paragraph (15)

shall include, but not be limited to, those associated with: relocations, crossings, installations, and maintenance. For the purposes of this paragraph (15), "railroad" means any form of non-highway ground transportation that runs on rails or electromagnetic guideways and "utility" means: (1) public utilities as defined in Section 3-105 of the Public Utilities Act, (2) telecommunications carriers as defined in Section 13-202 of the Public Utilities Act, (3) electric cooperatives as defined in Section 3.4 of the Electric Supplier Act, (4) telephone or telecommunications cooperatives as defined in Section 13-212 of the Public Utilities Act, (5) rural water or waste water systems with 10,000 connections or less, (6) a holder as defined in Section 21-201 of the Public Utilities Act, and (7) municipalities owning or operating utility systems consisting of public utilities as that term is defined in Section 11-117-2 of the Illinois Municipal Code.

Notwithstanding any other provision of law, for contracts entered into on or after October 1, 2017 under an exemption provided in any paragraph ~~item (12)~~ of this subsection (b), except paragraph (1), (2), or (5), each State agency shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The chief procurement officer shall prescribe the form and content of the notice. The Illinois Finance Authority shall provide the chief procurement officer,

~~on a monthly basis, in the form and content prescribed by the chief procurement officer, a report of contracts that are related to the procurement of goods and services identified in item (12) of this subsection (b). At a minimum, this report shall~~ post to the appropriate procurement bulletin ~~include~~ the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. ~~A copy of each of these contracts shall be made available to the chief procurement officer immediately upon request.~~ The chief procurement officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the chief procurement officer.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(e) This Code does not apply to the process used by the Capital Development Board to retain a person or entity to assist the Capital Development Board with its duties related to

the determination of costs of a clean coal SNG brownfield facility, as defined by Section 1-10 of the Illinois Power Agency Act, as required in subsection (h-3) of Section 9-220 of the Public Utilities Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction.

(f) (Blank). ~~This Code does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate sourcing agreement disputes between gas utilities and the clean coal SNG brownfield facility, as defined in Section 1-10 of the Illinois Power Agency Act, as required under subsection (h-1) of Section 9-220 of the Public Utilities Act.~~

(g) (Blank). ~~This Code does not apply to the processes used by the Illinois Power Agency to retain a mediator to mediate contract disputes between gas utilities and the clean coal SNG facility and to retain an expert to assist in the review of contracts under subsection (h) of Section 9-220 of the Public Utilities Act. This Code does not apply to the process used by the Illinois Commerce Commission to retain an expert to assist in determining the actual incurred costs of the clean coal SNG facility and the reasonableness of those costs as required under subsection (h) of Section 9-220 of the Public Utilities Act.~~

(h) This Code does not apply to the process to procure or

contracts entered into in accordance with Sections 11-5.2 and 11-5.3 of the Illinois Public Aid Code.

(i) Each chief procurement officer may access records necessary to review whether a contract, purchase, or other expenditure is or is not subject to the provisions of this Code, unless such records would be subject to attorney-client privilege.

(j) This Code does not apply to the process used by the Capital Development Board to retain an artist or work or works of art as required in Section 14 of the Capital Development Board Act.

(k) This Code does not apply to the process to procure contracts, or contracts entered into, by the State Board of Elections or the State Electoral Board for hearing officers appointed pursuant to the Election Code.

(l) This Code does not apply to the processes used by the Illinois Student Assistance Commission to procure supplies and services paid for from the private funds of the Illinois Prepaid Tuition Fund. As used in this subsection (l), "private funds" means funds derived from deposits paid into the Illinois Prepaid Tuition Trust Fund and the earnings thereon.

(Source: P.A. 98-90, eff. 7-15-13; 98-463, eff. 8-16-13; 98-572, eff. 1-1-14; 98-756, eff. 7-16-14; 98-1076, eff. 1-1-15; 99-801, eff. 1-1-17.)

Sec. 1-12. Applicability to artistic or musical services.

(a) This Code shall not apply to procurement expenditures necessary to provide artistic or musical services, performances, or theatrical productions held at a venue operated or leased by a State agency.

(b) Notice of each contract entered into by a State agency that is related to the procurement of goods and services identified in this Section shall be published in the Illinois Procurement Bulletin within 14 calendar days after contract execution. The chief procurement officer shall prescribe the form and content of the notice. Each State agency shall provide the chief procurement officer, on a monthly basis, in the form and content prescribed by the chief procurement officer, a report of contracts that are related to the procurement of supplies ~~goods~~ and services identified in this Section. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. A copy of any or all of these contracts shall be made available to the chief procurement officer immediately upon request. The chief procurement officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the chief procurement officer.

(c) (Blank). ~~This Section is repealed December 31, 2016.~~

(d) The General Assembly finds and declares that:

(1) This amendatory Act of the 100th General Assembly manifests the intention of the General Assembly to remove the repeal of this Section.

(2) This Section was originally enacted to protect, promote, and preserve the general welfare. Any construction of this Section that results in the repeal of this Section on December 31, 2016 would be inconsistent with the manifest intent of the General Assembly and repugnant to the context of this Code.

It is hereby declared to have been the intent of the General Assembly that this Section not be subject to repeal on December 31, 2016.

This Section shall be deemed to have been in continuous effect since August 3, 2012 (the effective date of Public Act 97-895), and it shall continue to be in effect henceforward until it is otherwise lawfully repealed. All previously enacted amendments to this Section taking effect on or after December 31, 2016, are hereby validated.

All actions taken in reliance on or pursuant to this Section in the procurement of artistic or musical services are hereby validated.

In order to ensure the continuing effectiveness of this Section, it is set forth in full and re-enacted by this amendatory Act of the 100th General Assembly. This re-enactment is intended as a continuation of this Section. It is not

intended to supersede any amendment to this Section that is enacted by the 100th General Assembly.

In this amendatory Act of the 100th General Assembly, the base text of this Section is set forth as amended by Public Act 98-1076. Striking and underscoring is used only to show changes being made to the base text.

This Section applies to all procurements made on or before the effective date of this amendatory Act of the 100th General Assembly.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/1-13)

Sec. 1-13. Applicability to public institutions of higher education.

(a) This Code shall apply to public institutions of higher education, regardless of the source of the funds with which contracts are paid, except as provided in this Section.

(b) Except as provided in this Section, this Code shall not apply to procurements made by or on behalf of public institutions of higher education for any of the following:

(1) Memberships in professional, academic, research, or athletic organizations on behalf of a public institution of higher education, an employee of a public institution of higher education, or a student at a public institution of higher education.

(2) Procurement expenditures for events or activities

paid for exclusively by revenues generated by the event or activity, gifts or donations for the event or activity, private grants, or any combination thereof.

(3) Procurement expenditures for events or activities for which the use of specific potential contractors is mandated or identified by the sponsor of the event or activity, provided that the sponsor is providing a majority of the funding for the event or activity.

(4) Procurement expenditures necessary to provide athletic, artistic or musical services, performances, events, or productions ~~held at a venue operated by~~ or for a public institution of higher education.

(5) Procurement expenditures for periodicals, ~~and~~ books, subscriptions, database licenses, and other publications procured for use by a university library or academic department, except for expenditures related to procuring textbooks for student use or materials for resale or rental.

(6) Procurement expenditures for placement of students in externships, practicums, field experiences, and for medical residencies and rotations.

(7) Contracts for programming and broadcast license rights for university-operated radio and television stations.

(8) Procurement expenditures necessary to perform sponsored research and other sponsored activities under

grants and contracts funded by the sponsor or by sources other than State appropriations.

(9) Contracts with a foreign entity for research or educational activities, provided that the foreign entity either does not maintain an office in the United States or is the sole source of the service or product.

Notice of each contract entered into by a public institution of higher education that is related to the procurement of goods and services identified in items (1) through (9) ~~(7)~~ of this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice. Each public institution of higher education shall provide the Chief Procurement Officer, on a monthly basis, in the form and content prescribed by the Chief Procurement Officer, a report of contracts that are related to the procurement of goods and services identified in this subsection. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. A copy of any or all of these contracts shall be made available to the Chief Procurement Officer immediately upon request. The Chief Procurement Officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly

information reported to the Chief Procurement Officer.

(b-5) Except as provided in this subsection, the provisions of this Code shall not apply to contracts for medical ~~FDA-regulated~~ supplies, and to contracts for medical services necessary for the delivery of care and treatment at medical, dental, or veterinary teaching facilities utilized by Southern Illinois University or the University of Illinois and at any university-operated health care center or dispensary that provides care, treatment, and medications for students, faculty and staff. Other supplies and services needed for these teaching facilities shall be subject to the jurisdiction of the Chief Procurement Officer for Public Institutions of Higher Education who may establish expedited procurement procedures and may waive or modify certification, contract, hearing, process and registration requirements required by the Code. All procurements made under this subsection shall be documented and may require publication in the Illinois Procurement Bulletin.

(c) Procurements made by or on behalf of public institutions of higher education for the fulfillment of a grant shall be made in accordance with the requirements of this Code to the extent practical. ~~any of the following shall be made in accordance with the requirements of this Code to the extent practical as provided in this subsection:~~

~~(1) Contracts with a foreign entity necessary for research or educational activities, provided that the foreign entity either does not maintain an office in the~~

~~United States or is the sole source of the service or product.~~

~~(2) (Blank).~~

~~(3) (Blank).~~

~~(4) Procurements required for fulfillment of a grant.~~

Upon the written request of a public institution of higher education, the Chief Procurement Officer may waive contract, registration, certification, and hearing requirements of this Code if, based on the item to be procured or the terms of a grant, compliance is impractical. The public institution of higher education shall provide the Chief Procurement Officer with specific reasons for the waiver, including the necessity of contracting with a particular potential contractor, and shall certify that an effort was made in good faith to comply with the provisions of this Code. The Chief Procurement Officer shall provide written justification for any waivers. By November 1 of each year, the Chief Procurement Officer shall file a report with the General Assembly identifying each contract approved with waivers and providing the justification given for any waivers for each of those contracts. Notice of each waiver made under this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice.

(d) Notwithstanding this Section, a waiver of the registration requirements of Section 20-160 does not permit a

business entity and any affiliated entities or affiliated persons to make campaign contributions if otherwise prohibited by Section 50-37. The total amount of contracts awarded in accordance with this Section shall be included in determining the aggregate amount of contracts or pending bids of a business entity and any affiliated entities or affiliated persons.

(e) Notwithstanding subsection (e) of Section 50-10.5 of this Code, the Chief Procurement Officer, with the approval of the Executive Ethics Commission, may permit a public institution of higher education to accept a bid or enter into a contract with a business that assisted the public institution of higher education in determining whether there is a need for a contract or assisted in reviewing, drafting, or preparing documents related to a bid or contract, provided that the bid or contract is essential to research administered by the public institution of higher education and it is in the best interest of the public institution of higher education to accept the bid or contract. For purposes of this subsection, "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder of a business. The Executive Ethics Commission may promulgate rules and regulations for the implementation and administration of the provisions of this subsection (e).

(f) As used in this Section:

"Grant" means non-appropriated funding provided by a federal or private entity to support a project or program administered by a public institution of higher education and any non-appropriated funding provided to a sub-recipient of the grant.

"Public institution of higher education" means Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Southern Illinois University, University of Illinois, Western Illinois University, and, for purposes of this Code only, the Illinois Mathematics and Science Academy.

(g) (Blank). ~~This Section is repealed on December 31, 2016.~~

(h) The General Assembly finds and declares that:

(1) Public Act 98-1076, which took effect on January 1, 2015, changed the repeal date set for this Section from December 31, 2014 to December 31, 2016.

(2) The Statute on Statutes sets forth general rules on the repeal of statutes and the construction of multiple amendments, but Section 1 of that Act also states that these rules will not be observed when the result would be "inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute".

(3) This amendatory Act of the 100th General Assembly manifests the intention of the General Assembly to remove the repeal of this Section.

(4) This Section was originally enacted to protect, promote, and preserve the general welfare. Any construction of this Section that results in the repeal of this Section on December 31, 2014 would be inconsistent with the manifest intent of the General Assembly and repugnant to the context of this Code.

It is hereby declared to have been the intent of the General Assembly that this Section not be subject to repeal on December 31, 2014.

This Section shall be deemed to have been in continuous effect since December 20, 2011 (the effective date of Public Act 97-643), and it shall continue to be in effect henceforward until it is otherwise lawfully repealed. All previously enacted amendments to this Section taking effect on or after December 31, 2014, are hereby validated.

All actions taken in reliance on or pursuant to this Section by any public institution of higher education, person, or entity are hereby validated.

In order to ensure the continuing effectiveness of this Section, it is set forth in full and re-enacted by this amendatory Act of the 100th General Assembly. This re-enactment is intended as a continuation of this Section. It is not intended to supersede any amendment to this Section that is enacted by the 100th General Assembly.

In this amendatory Act of the 100th General Assembly, the base text of the reenacted Section is set forth as amended by

Public Act 98-1076. Striking and underscoring is used only to show changes being made to the base text.

This Section applies to all procurements made on or before the effective date of this amendatory Act of the 100th General Assembly.

(Source: P.A. 97-643, eff. 12-20-11; 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/1-15.20)

Sec. 1-15.20. Construction, ~~and~~ construction-related, and construction support services. "Construction" means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Construction-related services" means those services including construction design, layout, inspection, support, feasibility or location study, research, development, planning, or other investigative study undertaken by a construction agency concerning construction or potential construction.

"Construction support" means all equipment, supplies, and services that are necessary to the operation of a construction agency's construction program. "Construction support" does not include construction-related services.

(Source: P.A. 90-572, eff. 2-6-98.)

(30 ILCS 500/1-15.40 new)

Sec. 1-15.40. Electronic procurement. "Electronic procurement" means conducting all or some of the procurement function over the Internet.

(30 ILCS 500/1-15.47 new)

Sec. 1-15.47. Master contract. "Master contract" means a definite quantity, indefinite quantity, or requirements contract awarded in accordance with this Code, against which subsequent orders may be placed to meet the needs of a State purchasing entity. A master contract may be for use by a single State purchasing entity or for multiple State purchasing entities and other entities as authorized under the Governmental Joint Purchasing Act.

(30 ILCS 500/1-15.48 new)

Sec. 1-15.48. Multiple Award. "Multiple award" means an award that is made to 2 or more bidders or offerors for similar supplies, services, or construction-related services.

(30 ILCS 500/1-15.49 new)

Sec. 1-15.49. No-cost contract. "No-cost contract" means a contract in which the State of Illinois does not make a payment to or receive a payment from the vendor, but the vendor has the

contractual authority to charge an entity other than the State of Illinois for supplies or services at the State's contracted rate to fulfill the State's mandated requirements.

(30 ILCS 500/5-5)

Sec. 5-5. Procurement Policy Board.

(a) Creation. There is created a Procurement Policy Board, an agency of the State of Illinois.

(b) Authority and duties. The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with this Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional or artistic services, construction, and real property and capital improvement leases procured by the State. The Board shall also have the authority to recommend a program for professional development and provide opportunities for training in procurement practices and policies to chief procurement officers and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.

Upon a three-fifths vote of its members, the Board may review a contract. Upon a three-fifths vote of its members, the Board may propose procurement rules for consideration by chief procurement officers. These proposals shall be published in each volume of the Procurement Bulletin. Except as otherwise provided by law, the Board shall act upon the vote of a

majority of its members who have been appointed and are serving.

(b-5) Reviews, studies, and hearings. The Board may review, study, and hold public hearings concerning the implementation and administration of this Code. Each chief procurement officer, State purchasing officer, procurement compliance monitor, and State agency shall cooperate with the Board, provide information to the Board, and be responsive to the Board in the Board's conduct of its reviews, studies, and hearings.

(c) Members. The Board shall consist of 5 members appointed one each by the 4 legislative leaders and the Governor. Each member shall have demonstrated sufficient business or professional experience in the area of procurement to perform the functions of the Board. No member may be a member of the General Assembly.

(d) Terms. Of the initial appointees, the Governor shall designate one member, as Chairman, to serve a one-year term, the President of the Senate and the Speaker of the House shall each appoint one member to serve 3-year terms, and the Minority Leader of the House and the Minority Leader of the Senate shall each appoint one member to serve 2-year terms. Subsequent terms shall be 4 years. Members may be reappointed for succeeding terms.

(e) Reimbursement. Members shall receive no compensation but shall be reimbursed for any expenses reasonably incurred in

the performance of their duties.

(f) Staff support. Upon a three-fifths vote of its members, the Board may employ an executive director. Subject to appropriation, the Board also may employ a reasonable and necessary number of staff persons.

(g) Meetings. Meetings of the Board may be conducted telephonically, electronically, or through the use of other telecommunications. Written minutes of such meetings shall be created and available for public inspection and copying.

(h) Procurement recommendations. Upon a three-fifths vote of its members, the Board may review a proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any violation of this Code or the existence of a conflict of interest as described in subsections (b) and (d) of Section 50-35. A chief procurement officer or State purchasing officer shall notify the Board if an alleged conflict of interest or violation of the Code is identified, discovered, or reasonably suspected to exist. Any person or entity may notify the Board of an alleged conflict of interest or violation of the Code. A recommendation of the Board shall be delivered to the appropriate chief procurement officer and Executive Ethics Commission within 7 calendar days and must be published in the next volume of the Procurement Bulletin. In the event that an alleged conflict of interest or violation of the Code that was not originally disclosed with the bid, offer, or proposal is identified and filed with the

Board, the Board shall provide written notice of the alleged conflict of interest or violation to the bidder, offeror, potential contractor, contractor, or subcontractor on that contract. If the alleged conflict of interest or violation is by the subcontractor, written notice shall also be provided to the bidder, offeror, potential contractor, or contractor. The bidder, offeror, potential contractor, contractor, or subcontractor shall have 15 calendar days to provide a written response to the notice, and a hearing before the Board on the alleged conflict of interest or violation shall be held upon request by the bidder, offeror, potential contractor, contractor, or subcontractor. The requested hearing date and time shall be determined by the Board, but in no event shall the hearing occur later than 15 calendar days after the date of the request.

(i) After providing notice and a hearing as required by subsection (h), the Board shall refer any alleged violations of this Code to the Executive Inspector General in addition to or instead of issuing a recommendation to void a contract.

(j) Response. Each State agency shall respond promptly in writing to all inquiries and comments of the Procurement Policy Board.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/5-30)

Sec. 5-30. Proposed contracts; Procurement Policy Board.

(a) Except as provided in subsection (c), within 14 ~~30~~ calendar days after notice of the awarding or letting of a contract has appeared in the Procurement Bulletin in accordance with subsection (b) of Section 15-25, the Board may request in writing from the contracting agency and the contracting agency shall promptly, but in no event later than 7 calendar days after receipt of the request, provide to the Board, by electronic or other means satisfactory to the Board, documentation in the possession of the contracting agency concerning the proposed contract. Nothing in this subsection is intended to waive or abrogate any privilege or right of confidentiality authorized by law.

(b) No contract subject to this Section may be entered into until the 14-day ~~30-day~~ period described in subsection (a) has expired, unless the contracting agency requests in writing that the Board waive the period and the Board grants the waiver in writing.

(c) This Section does not apply to (i) contracts entered into under this Code for small and emergency procurements as those procurements are defined in Article 20 and (ii) contracts for professional and artistic services that are nonrenewable, one year or less in duration, and have a value of less than \$20,000. If requested in writing by the Board, however, the contracting agency must promptly, but in no event later than 10 calendar days after receipt of the request, transmit to the Board a copy of the contract for an emergency procurement and

documentation in the possession of the contracting agency concerning the contract.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/10-10)

Sec. 10-10. Independent State purchasing officers.

(a) The chief procurement officer shall appoint a State purchasing officer for each agency that the chief procurement officer is responsible for under Section 1-15.15. A State purchasing officer shall be located in the State agency that the officer serves but shall report to his or her respective chief procurement officer. The State purchasing officer shall have direct communication with agency staff assigned to assist with any procurement process. At the direction of his or her respective chief procurement officer, a State purchasing officer shall have the authority to (i) review any contract or contract amendment prior to execution to ensure that applicable procurement and contracting standards were followed and (ii) approve or reject contracts for a purchasing agency. If the State purchasing officer provides written approval of the contract, the head of the applicable State agency shall have the authority to sign and enter into that contract. All actions of a State purchasing officer are subject to review by a chief procurement officer in accordance with procedures and policies established by the chief procurement officer.

(a-5) A State purchasing officer may (i) attend any

procurement meetings; (ii) access any records or files related to procurement; (iii) submit reports to the chief procurement officer on procurement issues; (iv) ensure the State agency is maintaining appropriate records; and (v) ensure transparency of the procurement process.

(a-10) If a State purchasing officer is aware of misconduct, waste, or inefficiency with respect to State procurement, the State purchasing officer shall advise the State agency of the issue in writing. If the State agency does not correct the issue, the State purchasing officer shall report the problem, in writing, to the chief procurement officer and appropriate Inspector General.

(b) In addition to any other requirement or qualification required by State law, within 30 months after appointment, a State purchasing officer must be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council or the Institute for Supply Management. A State purchasing officer shall serve a term of 5 years beginning on the date of the officer's appointment. A State purchasing officer shall have an office located in the State agency that the officer serves but shall report to the chief procurement officer. A State purchasing officer may be removed by a chief procurement officer for cause after a hearing by the Executive Ethics Commission. The chief procurement officer or executive officer of the State agency housing the State

purchasing officer may institute a complaint against the State purchasing officer by filing such a complaint with the Commission and the Commission shall have a public hearing based on the complaint. The State purchasing officer, chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a non-binding recommendation on whether the State purchasing officer shall be removed. The salary of a State purchasing officer shall be established by the chief procurement officer and may not be diminished during the officer's term. In the absence of an appointed State purchasing officer, the applicable chief procurement officer shall exercise the procurement authority created by this Code and may appoint a temporary acting State purchasing officer.

(c) Each State purchasing officer owes a fiduciary duty to the State.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 97-895, eff. 8-3-12.)

(30 ILCS 500/10-15)

Sec. 10-15. Procurement compliance monitors.

(a) The Executive Ethics Commission may ~~shall~~ appoint procurement compliance monitors to oversee and review the

procurement processes. Each procurement compliance monitor shall serve a term of 5 years beginning on the date of the officer's appointment. Each procurement compliance monitor appointed pursuant to this Section and serving a 5-year term on the effective date of this amendatory Act of the 100th General Assembly shall ~~have an office located in the State agency that the monitor serves but shall~~ report to the ~~appropriate~~ chief procurement officer in the performance of his or her duties until the expiration of the monitor's term. The compliance monitor shall have direct communications with the executive officer of a State agency in exercising duties. A procurement compliance monitor may be removed only for cause after a hearing by the Executive Ethics Commission. The appropriate chief procurement officer or executive officer of the State agency served by housing the procurement compliance monitor may institute a complaint against the procurement compliance monitor with the Commission and the Commission shall hold a public hearing based on the complaint. The procurement compliance monitor, State purchasing officer, appropriate chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall determine whether the procurement compliance monitor shall be removed. The salary of a procurement compliance monitor shall be established by the Executive Ethics Commission and may not be

diminished during the officer's term.

(b) The procurement compliance monitor shall: (i) review any procurement, contract, or contract amendment as directed by the Executive Ethics Commission or a chief procurement officer; and (ii) report any findings of the review, in writing, to the Commission, the affected agency, the chief procurement officer responsible for the affected agency, and any entity requesting the review. The procurement compliance monitor may: (i) review each contract or contract amendment prior to execution to ensure that applicable procurement and contracting standards were followed; (ii) attend any procurement meetings; (iii) access any records or files related to procurement; (iv) issue reports to the chief procurement officer on procurement issues that present issues or that have not been corrected after consultation with appropriate State officials; (v) ensure the State agency is maintaining appropriate records; and (vi) ensure transparency of the procurement process.

(c) If the procurement compliance monitor is aware of misconduct, waste, or inefficiency with respect to State procurement, the procurement compliance monitor shall advise the State agency of the issue in writing. If the State agency does not correct the issue, the monitor shall report the problem, in writing, to the chief procurement officer and Inspector General.

(d) Each procurement compliance monitor owes a fiduciary duty to the State.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 97-895, eff. 8-3-12.)

(30 ILCS 500/10-30 new)

Sec. 10-30. Fiduciary duty. Each chief procurement officer, State purchasing officer, and procurement compliance monitor owe a fiduciary duty to the State.

(30 ILCS 500/15-25)

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin. ~~All businesses listed on the Department of Transportation Disadvantaged Business Enterprise Directory, the Department of Central Management Services Business Enterprise Program, and the Chief Procurement Office's Small Business Vendors Directory shall be furnished written instructions and information on how to register on each Procurement Bulletin maintained by the State. Such information shall be provided to each business within 30 calendar days after the business' notice of certification.~~ The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers

are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to potential contractors to hire qualified veterans, as defined by Section 45-67 of this Code, and qualified Illinois minorities, women, persons with disabilities, and residents discharged from any Illinois adult correctional center.

(a-5) All businesses listed on the Illinois Unified Certification Program Disadvantaged Business Enterprise Directory, the Business Enterprise Program of the Department of Central Management Services, and any small business database created pursuant to Section 45-45 of this Code shall be furnished written instructions and information on how to register for the Illinois Procurement Bulletin. This information shall be provided to each business within 30 calendar days after the business's notice of certification or qualification.

(b) Contracts let. Notice of each and every contract that is let, including renegotiated contracts and change orders, shall be issued electronically to those bidders submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let. Failure of any chief procurement officer to give such notice shall result in tolling the time for filing a bid protest up to 7 calendar days.

For purposes of this subsection (b), "contracts let" means a construction agency's act of advertising an invitation for bids for one or more construction projects.

(b-5) Contracts awarded. Notice of each and every contract that is awarded, including renegotiated contracts and change orders, shall be issued electronically to the successful responsible bidder, offeror, or contractor and published in the ~~next available subsequent~~ Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a) as well as the name of the successful responsible bidder, offeror, the contract price, the number of unsuccessful bidders or offerors and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin prior to execution of the contract.

For purposes of this subsection (b-5), "contract award" means the determination that a particular bidder or offeror has been selected from among other bidders or offerors to receive a contract, subject to the successful completion of final negotiations. "Contract award" is evidenced by the posting of a Notice of Award or a Notice of Intent to Award to the respective volume of the Illinois Procurement Bulletin.

(c) Emergency purchase disclosure. Any chief procurement officer or State purchasing officer exercising emergency purchase authority under this Code shall publish a written

description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the ~~next timely, practicable~~ Bulletin. This notice must be posted in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of a hearing to extend an emergency contract must be posted in the online electronic Procurement Bulletin no later than 14 calendar days prior to the hearing.

(c-5) Business Enterprise Program report. Each purchasing agency shall, with the assistance of the applicable chief procurement officer, post in the online electronic Bulletin a copy of its annual report of utilization of businesses owned by minorities, females, and persons with disabilities as submitted to the Business Enterprise Council for Minorities, Females, and Persons with Disabilities pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act within 10 calendar days after its submission of its report to the Council.

(c-10) Renewals. Notice of each contract renewal shall be posted in the ~~online electronic~~ Bulletin within 14 calendar days of the determination to execute a renewal of the ~~renew the~~ contract ~~and the next available subsequent Bulletin~~. The notice shall include at least all of the information required in subsection (a) or (b), as applicable.

(c-15) Sole source procurements. Before entering into a sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin before a sole source contract is awarded and at least 14 calendar days before the hearing required by Section 20-25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c-5), (c-10), and (c-15) of this Section made by this amendatory Act of the 96th General Assembly apply to reports submitted, offers made, and notices on contracts executed on or after its effective date.

(f) Each chief procurement officer shall, in consultation with the agencies under his or her jurisdiction, provide the Procurement Policy Board with the information and resources necessary, and in a manner, to effectuate the purpose of this amendatory Act of the 96th General Assembly.

(Source: P.A. 97-895, eff. 8-3-12; 98-1038, eff. 8-25-14; 98-1076, eff. 1-1-15.)

Sec. 15-30. Electronic Bulletin clearinghouse.

(a) The Procurement Policy Board shall maintain on its official website a searchable database containing all information required to be included in the Illinois Procurement Bulletin under subsections (b), (c), (c-10), and (c-15) of Section 15-25 and all information required to be disclosed under Section 50-41. The posting of procurement information on the website is subject to the same posting requirements as the online electronic Bulletin.

(b) For the purposes of this Section, searchable means searchable and sortable by awarded ~~successful~~ responsible bidder, offeror, potential contractor, or contractor, for emergency purchases, business or person contracted with; the contract price or total cost; the service or supply ~~good~~; the purchasing State agency; and the date first offered or announced.

(c) The applicable chief procurement officer shall provide the Procurement Policy Board the information and resources necessary, and in a manner, to effectuate the purpose of this Section.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/20-10)

(Text of Section before amendment by P.A. 99-906)

(Text of Section from P.A. 96-159, 96-588, 97-96, 97-895, and 98-1076)

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

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

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

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

(d) Bid opening. Bids shall be opened publicly or through an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and

suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

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

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

- (1) a description of the agency's needs;
- (2) a determination that the anticipated cost will be

fair and reasonable;

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

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

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

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 30 calendar days after the agency's decision to award the contract.

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

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under subsection (a) of Section 1-75 and subsection (d) of Section 1-78 of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act.

These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

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

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

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

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

shall be open to public inspection.

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

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

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

(Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(Text of Section from P.A. 96-159, 96-795, 97-96, 97-895, and 98-1076)

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

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

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

procurement.

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

(d) Bid opening. Bids shall be opened publicly or through an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

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

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after

award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

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

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

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

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 30 days after the agency's decision to award the contract.

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

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

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may

procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

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

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

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

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

The contract shall be awarded within 60 calendar days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by

mutual written consent of the State purchasing officer and the lowest responsible bidder.

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

(Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(Text of Section after amendment by P.A. 99-906)

(Text of Section from P.A. 96-159, 96-588, 97-96, 97-895, 98-1076, and 99-906)

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

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

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

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

(d) Bid opening. Bids shall be opened publicly or through

an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

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

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be

supported by written determination made by a State purchasing officer.

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

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

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

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 30 calendar days after the agency's decision to award the contract.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to

support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

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

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

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

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

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

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

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

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects, including

design professional services.

(Source: P.A. 98-1076, eff. 1-1-15; 99-906, eff. 6-1-17.)

(Text of Section from P.A. 96-159, 96-795, 97-96, 97-895, 98-1076, and 99-906)

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

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

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

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

(d) Bid opening. Bids shall be opened publicly or through an electronic procurement system in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be

unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

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

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder

shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

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

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

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board, and be made available for inspection by the public, within 30 days after the agency's decision to award the contract.

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

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding

procedures to be used in procuring professional services under subsections (a) and (c) of Section 1-75 and subsection (d) of Section 1-78 of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

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

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

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

Bids shall be accepted electronically at the time and in

the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

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

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

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

(Source: P.A. 98-1076, eff. 1-1-15; 99-906, eff. 6-1-17.)

(30 ILCS 500/20-15)

Sec. 20-15. Competitive sealed proposals.

(a) Conditions for use. When provided under this Code or under rules, or when the purchasing agency determines in writing that the use of competitive sealed bidding is either

not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposals.

(b) Request for proposals. Proposals shall be solicited through a request for proposals.

(c) Public notice. Public notice of the request for proposals shall be published in the Illinois Procurement Bulletin at least 14 calendar days before the date set in the invitation for the opening of proposals.

(d) Receipt of proposals. Proposals shall be opened publicly or via an electronic procurement system in the presence of one or more witnesses at the time and place designated in the request for proposals, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after contract award.

(e) Evaluation factors. The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: the first, covering items except price; and the second, covering price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals.

(f) Discussion with responsible offerors and revisions of offers or proposals. As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit offers or proposals determined to be

reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.

(g) Award. Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/20-20)

Sec. 20-20. Small purchases.

(a) Amount. Any individual procurement of supplies or services ~~other than professional or artistic services,~~ not exceeding \$100,000 ~~\$10,000~~ and any procurement of construction not exceeding \$100,000, or any individual procurement of professional or artistic services not exceeding \$100,000

~~\$30,000~~ may be made without competitive source selection sealed bidding. Procurements shall not be artificially divided so as to constitute a small purchase under this Section. Any procurement of construction not exceeding \$100,000 may be made by an alternative competitive source selection. The construction agency shall establish rules for an alternative competitive source selection process. This Section does not apply to construction-related professional services contracts awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(b) Adjustment. Each July 1, the small purchase maximum established in subsection (a) shall be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest \$100.

(c) Based upon rules proposed by the Board and rules promulgated by the chief procurement officers, the small purchase maximum established in subsection (a) may be modified.

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/20-25)

Sec. 20-25. Sole source procurements.

(a) In accordance with standards set by rule, contracts may be awarded without use of the specified method of source selection when there is only one economically feasible source

for the item. A State contract may be awarded as a sole source contract ~~procurement~~ unless an interested party submits a written request for a public hearing at which the chief procurement officer and purchasing agency present written justification for the procurement method. Any interested party may present testimony. A sole source contract where a hearing was requested by an interested party may be awarded after the hearing is conducted with the approval of the chief procurement officer.

(b) This Section may not be used as a basis for amending a contract for professional or artistic services if the amendment would result in an increase in the amount paid under the contract of more than 5% of the initial award, or would extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed 2 months.

(c) Notice of intent to enter into a sole source contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 calendar days before the public hearing required in subsection (a). The notice shall include the sole source procurement justification form prescribed by the Board, a description of the item to be procured, the intended sole source contractor, and the date, time, and location of the public hearing. A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.

(d) By August 1 each year, each chief procurement officer

shall file a report with the General Assembly identifying each contract the officer sought under the sole source procurement method and providing the justification given for seeking sole source as the procurement method for each of those contracts.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/20-30)

Sec. 20-30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however, that the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 calendar days. A contract may be extended beyond 90 calendar days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts.

Members of the public may present testimony. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Notice of all emergency procurements shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 calendar days before the public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor, and if applicable, the date, time, and location of the public hearing. A copy of this notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of

the next succeeding month.

(c) Statements ~~Affidavits~~. A chief procurement officer making a procurement under this Section shall file statements ~~affidavits~~ with the Procurement Policy Board and the Auditor General within 10 calendar days after the procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 calendar days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter. The Legislative Audit Commission shall review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time.

(e) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to procurements executed on or after its effective date.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/20-43)

Sec. 20-43. Bidder or offeror authorized to transact business or conduct affairs ~~do business~~ in Illinois. In addition to meeting any other requirement of law or rule, a person (other than an individual acting as a sole proprietor) may qualify as a bidder or offeror under this Code only if the person is a legal entity prior to submitting the bid, offer, or proposal. The legal entity must be authorized to transact business or conduct affairs in Illinois prior to execution of the contract ~~submitting the bid, offer, or proposal. This Section shall not apply to construction contracts that are subject to the requirements of Sections 30-20 and 33-10 of this Code. The pre-qualification requirements of Sections 30-20 and 33-10 of this Code shall include the requirement that the bidder be registered with the Secretary of State.~~

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/20-80)

Sec. 20-80. Contract files.

(a) Written determinations. All written determinations required under this Article shall be placed in the contract file maintained by the chief procurement officer.

(b) Filing with Comptroller. Whenever a grant, defined pursuant to accounting standards established by the Comptroller, or a contract liability, except for: (1) contracts

paid from personal services, or (2) contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding \$20,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptroller within 30 calendar days thereafter. Beginning January 1, 2013, the Comptroller may require that contracts and grants required to be filed with the Comptroller under this Section shall be filed electronically, unless the agency is incapable of filing the contract or grant electronically because it does not possess the necessary technology or equipment. Any State agency that is incapable of electronically filing its contracts or grants shall submit a written statement to the Governor and to the Comptroller attesting to the reasons for its inability to comply. This statement shall include a discussion of what the State agency needs in order to effectively comply with this Section. Prior to requiring electronic filing, the Comptroller shall consult with the Governor as to the feasibility of establishing mutually agreeable technical standards for the electronic document imaging, storage, and transfer of contracts and grants, taking into consideration the technology available to that agency, best practices, and the technological capabilities of State agencies. Nothing in this amendatory Act of the 97th General Assembly shall be construed to impede the implementation of an Enterprise Resource Planning (ERP) system. For each State contract for ~~goods~~, supplies, or

services awarded on or after July 1, 2010, the contracting agency shall provide the applicable rate and unit of measurement of the ~~goods,~~ supplies, or services on the contract obligation document as required by the Comptroller. If the contract obligation document that is submitted to the Comptroller contains the rate and unit of measurement of the ~~goods,~~ supplies, or services, the Comptroller shall provide that information on his or her official website. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 30 calendar days of its execution.

(c) Late filing affidavit. When a contract, purchase order, grant, or lease required to be filed by this Section has not been filed within 30 calendar days of execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the agency files with the Comptroller the contract, purchase order, grant, or lease and an affidavit, signed by the chief executive officer of the agency or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 calendar days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) Timely execution of contracts. Except as set forth in subsection (b) of this Section, no ~~no~~ voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract unless

the contract is reduced to writing before the services are performed and filed with the Comptroller. Contractors ~~Vendors~~ shall not be paid for any supplies ~~goods~~ that were received or services that were rendered before the contract was reduced to writing and signed by all necessary parties. A chief procurement officer may request an exception to this subsection by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of this subsection must be approved by the Comptroller and Treasurer. This Section shall not apply to emergency purchases if notice of the emergency purchase is filed with the Procurement Policy Board and published in the Bulletin as required by this Code.

(e) Method of source selection. When a contract is filed with the Comptroller under this Section, the Comptroller's file shall identify the method of source selection used in obtaining the contract.

(Source: P.A. 97-932, eff. 8-10-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/20-160)

Sec. 20-160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated

person" have the meanings ascribed to those terms in Section 50-37.

(b) Every bid and offer submitted to and every contract executed by the State on or after January 1, 2009 (the effective date of Public Act 95-971) and every submission to a vendor portal shall contain (1) a certification by the bidder, offeror, vendor, or contractor that either (i) the bidder, offeror, vendor, or contractor is not required to register as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder, offeror, vendor, or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50-60 for the bidder's, offeror's, vendor's, or contractor's failure to comply with this Section.

(c) Each business entity (i) whose aggregate bids and proposals on State contracts annually total more than \$50,000, (ii) whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, or (iii) whose contracts with State agencies, in the aggregate, annually total more than \$50,000 shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the

date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier. A business entity required to register under this subsection due to item (iii) has a continuing duty to ensure that the registration is accurate in accordance with subsection (e).

(d) Any business entity, not required under subsection (c) to register, whose aggregate bids and proposals on State contracts annually total more than \$50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code prior to submitting to a State agency the bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(e) A business entity whose contracts with State agencies,

in the aggregate, annually total more than \$50,000 must maintain its registration under this Section and has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. A business entity, required to register under this subsection, has a continuing duty to report any changes on a quarterly basis to the State Board of Elections within 14 calendar days following the last day of January, April, July, and October of each year. Any update pursuant to this paragraph that is received beyond that date is presumed late and the civil penalty authorized by subsection (e) of Section 9-35 of the Election Code (10 ILCS 5/9-35) may be assessed.

Also, if a business entity required to register under this subsection has a pending bid or offer, any change in information shall be reported to the State Board of Elections within 7 calendar days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including but not limited to changes of affiliated entities or affiliated persons.

(g) For any bid or offer for a contract with a State agency by a business entity required to register under this Section, the chief procurement officer shall verify that the business entity is required to register under this Section and is in compliance with the registration requirements on the date the bid or offer is due. A chief procurement officer shall not accept a bid or offer if the business entity is not in compliance with the registration requirements as of the date bids or offers are due. Upon discovery of noncompliance with this Section, if the bidder or offeror made a good faith effort to comply with registration efforts prior to the date the bid or offer is due, a chief procurement officer may provide the bidder or offeror 5 business days to achieve compliance. A chief procurement officer may extend the time to prove compliance by as long as necessary in the event that there is a failure within the State Board of Election's registration system.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9-35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, offer, or other procurement relationship voidable by the chief procurement officer if he or she deems it

to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract.

(Source: P.A. 97-333, eff. 8-12-11; 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/25-35)

Sec. 25-35. Purchase of coal and postage stamps.

(a) Delivery of necessary supplies. To avoid interruption or impediment of delivery of necessary supplies, commodities, and coal, State purchasing officers may approve a State agency's ~~make~~ purchases of or contracts for supplies and commodities after April 30 of a fiscal year when delivery of the supplies and commodities is to be made after June 30 of that fiscal year and payment for which is to be made from appropriations for the next fiscal year.

(b) Postage. All postage stamps purchased from State funds must be perforated for identification purposes. A General Assembly member may furnish the U.S. Post Office with a warrant so as to allow for the creation or continuation of a bulk rate mailing fund in the name of the General Assembly member or may furnish a postage meter company or post office with a warrant so as to facilitate the purchase of a postage meter and its stamps. Any postage meter so purchased must also contain a stamp that shall state "Official State Mail".

(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/25-85 new)

Sec. 25-85. Best value procurement.

(a) This Section shall apply only to purchases of heavy mobile fleet vehicles and off-road construction equipment procured by or on behalf of:

- (1) institutions of higher education;
- (2) the Department of Agriculture;
- (3) the Department of Transportation; and
- (4) the Department of Natural Resources.

(b) As used in this Section, "best value procurement" means a contract award determined by objective criteria related to price, features, functions, and life-cycle costs that may include the following:

(1) total cost of ownership, including warranty, under which all repair costs are borne solely by the warranty provider; repair costs; maintenance costs; fuel consumption; and salvage value;

(2) product performance, productivity, and safety standards;

(3) the supplier's ability to perform to the contract requirements; and

(4) environmental benefits, including reduction of greenhouse gas emissions, reduction of air pollutant emissions, or reduction of toxic or hazardous materials.

(c) The department or institution may enter into a contract

for heavy mobile fleet vehicles and off-road construction equipment for use by the department or institution by means of best value procurement, using specifications and criteria developed in consultation with the Chief Procurement Officer of each designated department or institution and conducted in accordance with Section 20-15 of this Code.

(d) In addition to disclosure of the minimum requirements for qualification, the solicitation document shall specify which business performance measures, in addition to price, shall be given a weighted value. The solicitation shall include a scoring method based on those factors and price in determining the successful offeror. Any evaluation and scoring method shall ensure substantial weight is given to the contract price.

(e) Upon written request of any person who has submitted an offer, notice of the award shall be posted in a public place in the offices of the department or institution at least 24 hours before executing the contract or purchase order. If, before making an award, any offeror who has submitted a bid files a protest with the department or institution against the awarding of the contract or purchase order on the ground that his or her offer should have been selected in accordance with the selection criteria in the solicitation document, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the appropriate Chief Procurement Officer has made a final decision as to the action to be taken relative

to the protest. Within 10 days after filing a protest, the protesting offeror shall file with the Chief Procurement Officer a full and complete written statement specifying in detail the ground of the protest and the facts in support thereof.

(f) The total annual value of vehicles and equipment purchased through best value procurement pursuant to this Section shall be limited to \$20,000,000 per each department or institution.

(g) Best value procurement shall only be used on procurements first solicited on or before June 30, 2020.

(h) On or before January 1, 2021, the Chief Procurement Officer of each designated department or institution shall prepare an evaluation of the best value procurement pilot program authorized by this Section, including a recommendation on whether or not the process should be continued. The evaluation shall be posted in the applicable volume or volumes of the Illinois Procurement Bulletin on or before January 1, 2021.

(i) This Section is repealed on January 1, 2021.

(30 ILCS 500/35-15)

Sec. 35-15. Prequalification.

(a) The chief procurement officer for matters other than construction and the higher education chief procurement officer shall each develop appropriate and reasonable

prequalification standards and categories of professional and artistic services.

(b) The prequalifications and categorizations shall be submitted to the Procurement Policy Board and published for public comment prior to their submission to the Joint Committee on Administrative Rules for approval.

(c) The chief procurement officer for matters other than construction and the higher education chief procurement officer shall each also assemble and maintain a comprehensive list of prequalified and categorized businesses and persons.

(d) Prequalification shall not be used to bar or prevent any qualified business or person from ~~for~~ bidding or responding to invitations for bid or requests for proposal.

(Source: P.A. 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

(30 ILCS 500/35-30)

Sec. 35-30. Awards.

(a) All State contracts for professional and artistic services, except as provided in this Section, shall be awarded using the competitive request for proposal process outlined in this Section.

(b) For each contract offered, the chief procurement officer, State purchasing officer, or his or her designee shall use the appropriate standard solicitation forms available from the chief procurement officer for matters other than construction or the higher education chief procurement

officer.

(c) Prepared forms shall be submitted to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, for publication in its Illinois Procurement Bulletin and circulation to the chief procurement officer for matters other than construction or the higher education chief procurement officer's list of prequalified vendors. Notice of the offer or request for proposal shall appear at least 14 calendar days before the response to the offer is due.

(d) All interested respondents shall return their responses to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, which shall open and record them. The chief procurement officer for matters other than construction or higher education chief procurement officer then shall forward the responses, together with any information it has available about the qualifications and other State work of the respondents.

(e) After evaluation, ranking, and selection, the responsible chief procurement officer, State purchasing officer, or his or her designee shall notify the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, of the successful respondent and shall forward a copy of the signed contract for the chief procurement officer

for matters other than construction or higher education chief procurement officer's file. The chief procurement officer for matters other than construction or higher education chief procurement officer shall publish the names of the responsible procurement decision-maker, the agency letting the contract, the successful respondent, a contract reference, and value of the let contract in the next appropriate volume of the Illinois Procurement Bulletin.

(f) For all professional and artistic contracts with annualized value that exceeds \$100,000 ~~\$25,000~~, evaluation and ranking by price are required. Any chief procurement officer or State purchasing officer, but not their designees, may select a respondent other than the lowest respondent by price. In any case, when the contract exceeds the \$100,000 ~~\$25,000~~ threshold and the lowest respondent is not selected, the chief procurement officer or the State purchasing officer shall forward together with the contract notice of who the low respondent by price was and a written decision as to why another was selected to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate. The chief procurement officer for matters other than construction or higher education chief procurement officer shall publish as provided in subsection (e) of Section 35-30, but shall include notice of the chief procurement officer's or State purchasing officer's written decision.

(g) The chief procurement officer for matters other than construction and higher education chief procurement officer may each refine, but not contradict, this Section by promulgating rules for submission to the Procurement Policy Board and then to the Joint Committee on Administrative Rules. Any refinement shall be based on the principles and procedures of the federal Architect-Engineer Selection Law, Public Law 92-582 Brooks Act, and the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act; except that pricing shall be an integral part of the selection process.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/35-35)

Sec. 35-35. Exceptions.

(a) Exceptions to Section 35-30 are allowed for sole source procurements, emergency procurements, and at the discretion of the chief procurement officer or the State purchasing officer, but not their designees, for professional and artistic contracts that are nonrenewable, one year or less in duration, and have a value of less than \$100,000 ~~\$20,000~~.

(b) All exceptions granted under this Article must still be submitted to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, and published as provided for in subsection (f) of Section 35-30, shall name the authorizing chief procurement officer or State purchasing

officer, and shall include a brief explanation of the reason for the exception.

(Source: P.A. 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

(30 ILCS 500/40-30)

Sec. 40-30. Purchase option. Leases ~~Initial leases~~ of all space in entire, free-standing buildings shall include an option to purchase exercisable ~~exercisable~~ by the State, unless the purchasing officer determines that inclusion of such purchase option is not in the State's best interest and makes that determination in writing along with the reasons for making that determination and publishes the written determination in the appropriate volume of the Illinois Procurement Bulletin. Leases from governmental units and not-for-profit entities are exempt from the requirements of this Section.

(Source: P.A. 90-572, eff. date - See Sec. 99-5; revised 9-9-16.)

(30 ILCS 500/45-15)

Sec. 45-15. Soybean oil-based ink and vegetable oil-based ink.

(a) As used in this Section:

"Digital printing" means a printing method which includes, but is not limited to, the electrostatic process of transferring ink or toner to a substrate. This process may involve the use of photo imaging plates, photoreceptor drums,

or belts which hold an electrostatic charge. "Digital printing" is also defined as a process of transferring ink through a print head directly to a substrate, as is done with ink-jet printers.

"Offset printing" means lithography, flexography, gravure, or letterpress. "Offset printing" involves the process of transferring ink through static or fixed image plates using an impact method of pressing ink into a substrate.

(b) Contracts requiring the procurement of offset printing services shall specify the use of soybean oil-based ink or vegetable oil-based ink unless a State purchasing officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.

This Section does not apply to digital printing services.
(Source: P.A. 90-572, eff. date - See Sec. 99-5.)

(30 ILCS 500/45-30)

Sec. 45-30. Illinois Correctional Industries. Notwithstanding anything to the contrary in other law, each ~~the~~ chief procurement officer appointed pursuant to ~~paragraph (4) of subsection (a) of~~ Section 10-20 shall, in consultation with Illinois Correctional Industries, a division of the Illinois Department of Corrections (referred to as the "Illinois Correctional Industries" or "ICI") determine for all State agencies under their respective jurisdictions which articles, materials, industry related services, food stuffs, and

finished goods that are produced or manufactured by persons confined in institutions and facilities of the Department of Corrections who are participating in Illinois Correctional Industries programs shall be purchased from Illinois Correctional Industries. Each ~~The~~ chief procurement officer appointed pursuant to ~~paragraph (4) of subsection (a) of~~ Section 10-20 shall develop and distribute to the appropriate ~~various~~ purchasing and using agencies a listing of all Illinois Correctional Industries products and procedures for implementing this Section.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/45-45)

Sec. 45-45. Small businesses.

(a) Set-asides. Each chief procurement officer has authority to designate as small business set-asides a fair proportion of construction, supply, and service contracts for award to small businesses in Illinois. Advertisements for bids or offers for those contracts shall specify designation as small business set-asides. In awarding the contracts, only bids or offers from qualified small businesses shall be considered.

(b) Small business. "Small business" means a business that is independently owned and operated and that is not dominant in its field of operation. The chief procurement officer shall establish a detailed definition by rule, using in addition to the foregoing criteria other criteria, including the number of

employees and the dollar volume of business. When computing the size status of a potential contractor, annual sales and receipts of the potential contractor and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume that a small business may have under the rules promulgated by the chief procurement officer may vary from industry to industry to the extent necessary to reflect differing characteristics of those industries, subject to the following limitations:

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year exceed \$13,000,000.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed \$8,000,000.

(3) No manufacturing business is a small business if it employs more than 250 persons.

(4) No construction business is a small business if its annual sales and receipts exceed \$14,000,000.

(c) Fair proportion. For the purpose of subsection (a), for State agencies of the executive branch, a fair proportion of construction contracts shall be no less than 25% nor more than 40% of the annual total contracts for construction.

(d) Withdrawal of designation. A small business set-aside designation may be withdrawn by the purchasing agency when deemed in the best interests of the State. Upon withdrawal, all

bids or offers shall be rejected, and the bidders or offerors shall be notified of the reason for rejection. The contract shall then be awarded in accordance with this Code without the designation of small business set-aside.

(e) Small business specialist. Each ~~The~~ chief procurement officer shall designate one or more individuals ~~a State purchasing officer who will be responsible for engaging an experienced contract negotiator~~ to serve as its small business specialist. The small business specialists shall collectively work together to accomplish the following duties, ~~whose duties shall include:~~

(1) Compiling and maintaining a comprehensive list of potential small contractors. In this duty, he or she shall cooperate with the Federal Small Business Administration in locating potential sources for various products and services.

(2) Assisting small businesses in complying with the procedures for bidding on State contracts.

(3) Examining requests from State agencies for the purchase of property or services to help determine which invitations to bid are to be designated small business set-asides.

(4) Making recommendations to the chief procurement officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

(5) Assisting in investigations by purchasing agencies to determine the responsibility of bidders or offerors on small business set-asides.

(f) Small business annual report. Each small business specialist ~~The State purchasing officer~~ designated under subsection (e) shall annually before November ~~December~~ 1 report in writing to the General Assembly concerning the awarding of contracts to small businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The report shall also include the total value of awards made to businesses owned by minorities, females, and persons with disabilities, as defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, in the preceding fiscal year under the designation of small business set-aside.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/45-57)

Sec. 45-57. Veterans.

(a) Set-aside goal. It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses

(referred to as SDVOSB) and veteran-owned small businesses (referred to as VOSB) participate in the State's procurement process as both prime contractors and subcontractors. Not less than 3% of the total dollar amount of State contracts, as defined by the Director of Central Management Services, shall be established as a goal to be awarded to SDVOSB and VOSB. That portion of a contract under which the contractor subcontracts with a SDVOSB or VOSB may be counted toward the goal of this subsection. The Department of Central Management Services shall adopt rules to implement compliance with this subsection by all State agencies.

(b) Fiscal year reports. By each ~~September~~ November 1, each chief procurement officer shall report to the Department of Central Management Services on all of the following for the immediately preceding fiscal year, and by each March 1 the Department of Central Management Services shall compile and report that information to the General Assembly:

(1) The total number of VOSB, and the number of SDVOSB, who submitted bids for contracts under this Code.

(2) The total number of VOSB, and the number of SDVOSB, who entered into contracts with the State under this Code and the total value of those contracts.

(c) Yearly review and recommendations. Each year, each chief procurement officer shall review the progress of all State agencies under its jurisdiction in meeting the goal described in subsection (a), with input from statewide

veterans' service organizations and from the business community, including businesses owned by qualified veterans, and shall make recommendations to be included in the Department of Central Management Services' report to the General Assembly regarding continuation, increases, or decreases of the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified veterans and on the continued need to encourage and promote businesses owned by qualified veterans.

(d) Governor's recommendations. To assist the State in reaching the goal described in subsection (a), the Governor shall recommend to the General Assembly changes in programs to assist businesses owned by qualified veterans.

(e) Definitions. As used in this Section:

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or service in active duty as defined under 38 U.S.C. Section 101. Service in the Merchant Marine that constitutes active duty under Section 401 of federal Public Act 95-202 shall also be considered service in the armed forces for purposes of this Section.

"Certification" means a determination made by the Illinois Department of Veterans' Affairs and the Department of Central Management Services that a business entity is a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business for whatever purpose. A SDVOSB or VOSB owned and controlled by females, minorities, or persons

with disabilities, as those terms are defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, may also select and designate whether that business is to be certified as a "female-owned business", "minority-owned business", or "business owned by a person with a disability", as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

"Control" means the exclusive, ultimate, majority, or sole control of the business, including but not limited to capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operation responsibilities, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or joint partners. Control shall be real, substantial, and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management, and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business, and control shall not include simple majority or absentee ownership.

"Qualified service-disabled veteran" means a veteran who has been found to have 10% or more service-connected disability

by the United States Department of Veterans Affairs or the United States Department of Defense.

"Qualified service-disabled veteran-owned small business" or "SDVOSB" means a small business (i) that is at least 51% owned by one or more qualified service-disabled veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified service-disabled veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

"Qualified veteran-owned small business" or "VOSB" means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

"Service-connected disability" means a disability incurred in the line of duty in the active military, naval, or air service as described in 38 U.S.C. 101(16).

"Small business" means a business that has annual gross sales of less than \$75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Department of Central

Management Services for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on SDVOSB or VOSB as suppliers or subcontractors or in employment of veterans or service-disabled veterans.

"State agency" has the meaning provided in Section 1-15.100 of this Code ~~same meaning as in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.~~

"Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

"Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of hardship; or (d) the veteran was

released from active duty because of a service connected disability and was discharged under honorable conditions.

(f) Certification program. The Illinois Department of Veterans' Affairs and the Department of Central Management Services shall work together to devise a certification procedure to assure that businesses taking advantage of this Section are legitimately classified as qualified service-disabled veteran-owned small businesses or qualified veteran-owned small businesses.

(g) Penalties.

(1) Administrative penalties. The chief procurement officers appointed pursuant to Section 10-20 shall suspend any person who commits a violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to this Section from bidding on, or participating as a contractor, subcontractor, or supplier in, any State contract or project for a period of not less than 3 years, and, if the person is certified as a service-disabled veteran-owned small business or a veteran-owned small business, then the Department shall revoke the business's certification for a period of not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than 5 years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or

affiliated with, those principals.

(2) Reports of violations. Each State agency shall report any alleged violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to this Section to the chief procurement officers appointed pursuant to Section 10-20. The chief procurement officers appointed pursuant to Section 10-20 shall subsequently report all such alleged violations to the Attorney General, who shall determine whether to bring a civil action against any person for the violation.

(3) List of suspended persons. The chief procurement officers appointed pursuant to Section 10-20 shall monitor the status of all reported violations of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to this Section and shall maintain and make available to all State agencies a central listing of all persons that committed violations resulting in suspension.

(4) Use of suspended persons. During the period of a person's suspension under paragraph (1) of this subsection, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor.

(5) Duty to check list. Each State agency shall check the central listing provided by the chief procurement officers appointed pursuant to Section 10-20 under

paragraph (3) of this subsection to verify that a person being awarded a contract by that State agency, or to be used as a subcontractor or supplier on a contract being awarded by that State agency, is not under suspension pursuant to paragraph (1) of this subsection.

(Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13; 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)

(30 ILCS 500/45-90 new)

Sec. 45-90. Small business contracts.

(a) Not less than 10% of the total dollar amount of State contracts shall be established as a goal to be awarded as a contract or subcontract to small businesses.

(b) The percentage in subsection (a) relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each State official or agency which lets such contracts.

(c) Each State agency shall file with its chief procurement officer an annual compliance plan which shall outline the goals for contracting with small businesses for the then-current fiscal year, the manner in which the agency intends to reach these goals, and a timetable for reaching these goals. The chief procurement officer shall review and approve the plan of the agency and may reject any plan that does not comply with this Section.

(d) Each State agency shall file with its chief procurement

officer an annual report of its utilization of small businesses during the preceding fiscal year, including lapse period spending and a mid-fiscal year report of its utilization to date for the then-current fiscal year. The reports shall include a self-evaluation of the efforts of the State official or agency to meet its goals.

(e) The chief procurement officers shall make public presentations, at least once a year, directed at providing information to small businesses about the contracting process and how to apply for contracts or subcontracts.

(f) Each chief procurement officer shall file, no later than November 1 of each year, an annual report with the Governor and the General Assembly that shall include, but need not be limited to, the following:

(1) a summary of the number of contracts awarded and the average contract amount by each State official or agency; and

(2) an analysis of the level of overall goal achievement concerning purchases from small businesses.

(g) Each chief procurement officer may adopt rules to implement and administer this Section.

(30 ILCS 500/50-2)

Sec. 50-2. Continuing disclosure; false certification. Every person that has entered into a ~~multi-year~~ contract for more than one year in duration for the initial term or for any

renewal term and ~~every subcontractor with a multi-year subcontract~~ shall certify, by January ~~July~~ 1 of each fiscal year covered by the contract after the initial fiscal year, to the ~~responsible~~ chief procurement officer or, if the procurement is under the authority of a chief procurement officer, the applicable procurement officer of any changes that affect its ability ~~whether it continues~~ to satisfy the requirements of this Article pertaining to eligibility for a contract award. If a contractor or subcontractor continues to meet all requirements of this Article, it shall not be required to submit any certification or if the work under the contract has been substantially completed before contract expiration but the contract has not yet expired. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under this Article is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act for submission of a false claim.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795); 96-1304, eff. 7-27-10.)

Sec. 50-10. Felons.

(a) Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

For purposes of this subsection (a), "completion of sentence" means completion of all sentencing related to the felony conviction or admission and includes, but is not limited to, the following: incarceration, mandatory supervised release, probation, work release, house arrest, or commitment to a mental facility.

(b) Every bid or offer submitted to the State, every contract executed by the State, every subcontract subject to Section 20-120 of this Code, and every vendor's submission to a vendor portal shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications required by this Section are false. If the false certification is made by a

subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/50-10.5)

Sec. 50-10.5. Prohibited bidders, offerors, potential contractors, and contractors.

(a) Unless otherwise provided, no business shall bid, offer, enter into a contract or subcontract under this Code, or make a submission to a vendor portal if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

(b) Every bid and offer submitted to the State, every contract executed by the State, every vendor's submission to a vendor portal, and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, potential contractor, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges

that the chief procurement officer shall declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.

(c) If a business is not a natural person, the prohibition in subsection (a) applies only if:

(1) the business itself is convicted of a felony referenced in subsection (a); or

(2) the business is ordered to pay punitive damages based on the conduct of any officer, director, partner, or other managerial agent who has been convicted of a felony referenced in subsection (a).

(d) A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10.

(e) No person or business shall bid, offer, make a submission to a vendor portal, or enter into a contract under this Code if the person or business assisted an employee of the State of Illinois, who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract, by reviewing, drafting, directing, or preparing any invitation for bids, a request for proposal, or request for information or provided similar

assistance except as part of a publicly issued opportunity to review drafts of all or part of these documents.

This subsection does not prohibit a person or business from submitting a bid or offer or entering into a contract if the person or business: (i) initiates a communication with an employee to provide general information about products, services, or industry best practices, ~~and, if applicable, that communication is documented in accordance with Section 50-39 or~~ (ii) responds to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services, or technologies, or (iii) asks for clarification regarding a solicitation, so long as there is no competitive advantage to the person or business and the question and answer, if material, are posted to the Illinois Procurement Bulletin as an addendum to the solicitation.

Nothing in this Section prohibits a vendor developing technology, goods, or services from bidding or offering to supply that technology or those goods or services if the subject demonstrated to the State represents industry trends and innovation and is not specifically designed to meet the State's needs.

Nothing in this Section prohibits a person performing construction-related services from initiating contact with a business that performs construction for the purpose of obtaining market costs or production time to determine the estimated costs to complete the construction project.

For purposes of this subsection (e), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, or manager of a business.

No person or business shall submit specifications to a State agency unless requested to do so by an employee of the State. No person or business who contracts with a State agency to write specifications for a particular procurement need shall submit a bid or proposal or receive a contract for that procurement need.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/50-39)

Sec. 50-39. Procurement communications reporting requirement.

(a) Any written or oral communication received by a State employee who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board, and, with respect to the Illinois Power Agency, by the initiator of the communication, and may be reported also by the

recipient.

Any person communicating orally, in writing, electronically, or otherwise with the Director or any person employed by, or associated with, the Illinois Power Agency to impart, solicit, or transfer any information related to the content of any power procurement plan, the manner of conducting any power procurement process, the procurement of any power supply, or the method or structure of contracting with power suppliers must disclose to the Procurement Policy Board the full nature, content, and extent of any such communication in writing by submitting a report with the following information:

- (1) The names of any party to the communication.
- (2) The date on which the communication occurred.
- (3) The time at which the communication occurred.
- (4) The duration of the communication.
- (5) The method (written, oral, etc.) of the communication.
- (6) A summary of the substantive content of the communication.

These communications do not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; (iii) statements made by a State employee of the agency to the agency head or other employees of that agency, to the employees of the Executive Ethics

Commission, or to an employee of another State agency who, through the communication, is either (a) exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate State purchasing officer, or (b) exercising oversight, supervisory, or management authority over the procurement in the normal course of business and as part of official responsibilities; (iv) unsolicited communications providing general information about products, services, or industry best practices before those products or services become involved in a procurement matter; (v) communications received in response to procurement solicitations, including, but not limited to, vendor responses to a request for information, request for proposal, request for qualifications, invitation for bid, or a small purchase, sole source, or emergency solicitation, or questions and answers posted to the Illinois Procurement Bulletin to supplement the procurement action, provided that the communications are made in accordance with the instructions contained in the procurement solicitation, procedures, or guidelines; (vi) communications that are privileged, protected, or confidential under law; and (vii) communications that are part of a formal procurement process as set out by statute, rule, or the solicitation, guidelines, or procedures, including, but not limited to, the posting of procurement opportunities, the process for

approving a procurement business case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes. The provisions of this Section shall not apply to communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of a contract.

The reporting requirement does not apply to any communication asking for clarification regarding a contract solicitation so long as there is no competitive advantage to the person or business and the question and answer, if material, are posted to the Illinois Procurement Bulletin as an addendum to the contract solicitation.

(b) The report required by subsection (a) shall be submitted monthly and include at least the following: (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the

communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information. No trade secrets or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.

(c) Additionally, when an oral communication made by a person required to register under the Lobbyist Registration Act is received by a State employee that is covered under this Section, all individuals who initiate or participate in the oral communication shall submit a written report to that State employee that memorializes the communication and includes, but is not limited to, the items listed in subsection (b).

(d) The Procurement Policy Board shall make each report submitted pursuant to this Section available on its website within 7 calendar days after its receipt of the report. The Procurement Policy Board may promulgate rules to ensure compliance with this Section.

(e) The reporting requirements shall also be conveyed through ethics training under the State Officials and Employees Ethics Act. An employee who knowingly and intentionally violates this Section shall be subject to suspension or discharge. The Executive Ethics Commission shall promulgate rules, including emergency rules, to implement this Section.

(f) This Section becomes operative on January 1, 2011.

(g) For purposes of this Section:

"Active procurement matter" means a procurement process beginning with requisition or determination of need by an agency and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or Procurement Policy Board review period, if applicable. "Active procurement matter" also includes communications relating to change orders, renewals, or extensions.

"Material information" means information that a reasonable person would deem important in determining his or her course of action and pertains to significant issues, including, but not limited to, price, quantity, and terms of payment or performance.

"Material argument" means a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. "Material argument" does not include general information about products, services, or industry best practices or a response to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services, or technologies.

(Source: P.A. 97-333, eff. 8-12-11; 97-618, eff. 10-26-11; 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 500/50-40)

Sec. 50-40. Reporting and anticompetitive practices. When,

for any reason, any vendor, bidder, offeror, potential contractor, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, potential contractors, contractors, or employees of the State, a notice of the relevant facts shall be transmitted to the appropriate Inspector General, the Attorney General, and the chief procurement officer.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/50-45)

Sec. 50-45. Confidentiality. Any chief procurement officer, State purchasing officer, designee, ~~or~~ executive officer, or State employee who willfully uses or allows the use of specifications, competitive solicitation documents, proprietary competitive information, contracts, or selection information to compromise the fairness or integrity of the procurement or contract process shall be subject to immediate dismissal, regardless of the Personnel Code, any contract, or any collective bargaining agreement, and may in addition be subject to criminal prosecution.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 500/53-10)

Sec. 53-10. Concessions and leases of State property and

no-cost contracts.

(a) Except for property under the jurisdiction of a public institution of higher education, concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, may be entered into by the State agency with jurisdiction over the property, whether tangible or intangible.

(b) Except for property under the jurisdiction of a public institution of higher education, all leases of State property and concessions shall be reduced to writing and shall be awarded under the provisions of Article 20, except that the contract shall be awarded to the highest bidder or ~~and~~ best bidder or offeror when the State receives a lease payment, a percentage of sales from the lessee, or in-kind support from the lessee based on the return to the State.

(c) Except for property under the jurisdiction of a public institution of higher education, all no-cost procurements shall be reduced to writing and shall be awarded under the provisions of Article 20 of this Code. All awards of no-cost procurements shall identify the estimated business value to the lessee and the value to the State.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

Section 20. The Small Business Contracts Act is repealed.

Section 25. The Governmental Joint Purchasing Act is amended by changing Sections 1, 2, 3, 4, and 4.2 and by adding Sections 1.1 and 4.05 as follows:

(30 ILCS 525/1) (from Ch. 85, par. 1601)

Sec. 1. Definitions. For the purposes of this Act,

"Governmental ~~governmental~~ unit" means State of Illinois, any State agency as defined in Section 1-15.100 of the Illinois Procurement Code, officers of the State of Illinois, any public authority which has the power to tax, or any other public entity created by statute.

"Master contract" means a definite quantity or indefinite quantity contract awarded pursuant to this Act against which subsequent orders may be placed to meet the needs of a governmental unit or qualified not-for-profit agency.

"Multiple award" means an award that is made to 2 or more bidders or offerors for similar supplies or services.

(Source: P.A. 98-1076, eff. 1-1-15.)

(30 ILCS 525/1.1 new)

Sec. 1.1. Joint purchasing programs. Each chief procurement officer may establish a joint purchasing program and a cooperative purchasing program.

(30 ILCS 525/2) (from Ch. 85, par. 1602)

Sec. 2. Joint purchasing authority.

(a) Any governmental unit, except a governmental unit subject to the jurisdiction of a chief procurement officer established in Section 10-20 of the Illinois Procurement Code, may purchase personal property, supplies and services jointly with one or more other governmental units. All such joint purchases shall be by competitive solicitation as provided in Section 4 ~~of this Act,~~ except as otherwise provided in this Act. The provisions of any other acts under which a governmental unit operates which refer to purchases and procedures in connection therewith shall be superseded by the provisions of this Act when the governmental units are exercising the joint powers created by this Act.

(a-5) For purchases made by a governmental unit subject to the jurisdiction of a chief procurement officer established in Section 10-20 of the Illinois Procurement Code, the applicable ~~A~~ chief procurement officer established in Section 10-20 of the Illinois Procurement Code may authorize the purchase of ~~personal property,~~ supplies, and services jointly with a governmental unit entity of this State, governmental entity of ~~or~~ another state, or with a consortium of governmental entities of one or more other states, except as otherwise provided in this Act. Subject to provisions of the joint purchasing solicitation, the appropriate chief procurement officer may designate the resulting contract as available to governmental

units in Illinois.

(a-10) Each chief procurement officer appointed pursuant to Section 10-20 of the Illinois Procurement Code, with joint agreement of the respective agency or institution, may authorize the purchase or lease of supplies and services which have been procured through a competitive process by a federal agency; a consortium of governmental, educational, medical, research, or similar entities; or a group purchasing organization of which the chief procurement officer or State agency is a member or affiliate, including, without limitation, any purchasing entity operating under the federal General Services Administration, the Higher Education Cooperation Act, and the Midwestern Higher Education Compact Act. Each applicable chief procurement officer may authorize purchases and contracts which have been procured through other methods of procurement if each chief procurement officer determines it is in the best interests of the State, considering a recommendation by their respective agencies or institutions. The chief procurement officer may establish detailed rules, policies, and procedures for use of these cooperative contracts. Notice of award shall be published by the chief procurement officer in the Illinois Procurement Bulletin at least prior to use of the contract. Each chief procurement officer shall submit to the General Assembly by November 1 of each year a report of procurements made under this subsection (a-10).

(b) Any not-for-profit agency that qualifies under Section 45-35 of the Illinois Procurement Code and that either (1) acts pursuant to a board established by or controlled by a unit of local government or (2) receives grant funds from the State or from a unit of local government, shall be eligible to participate in contracts established by the State.

(c) For governmental units subject to the jurisdiction of a chief procurement officer established in Section 10-20 of the Illinois Procurement Code, if any contract or amendment to a contract is entered into or purchase or expenditure of funds is made at any time in violation of this Act or any other law, the contract or amendment may be declared void by the chief procurement officer or may be ratified and affirmed, if the chief procurement officer determines that ratification is in the best interests of the governmental unit. If the contract or amendment is ratified and affirmed, it shall be without prejudice to the governmental unit's rights to any appropriate damages.

(d) This Section does not apply to construction-related professional services contracts awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(Source: P.A. 96-584, eff. 1-1-10; 97-895, eff. 8-3-12.)

(30 ILCS 525/3) (from Ch. 85, par. 1603)

Sec. 3. Conduct of competitive procurement. Under any

agreement of governmental units that desire to make joint purchases pursuant to subsection (a) of Section 2, one of the governmental units shall conduct the competitive procurement process. Where the State of Illinois is a party to the joint purchase agreement, the appropriate chief procurement officer shall conduct or authorize the competitive procurement process. Expenses of such competitive procurement process may be shared by the participating governmental units in proportion to the amount of personal property, supplies or services each unit purchases.

When the State of Illinois is a party to the joint purchase agreement pursuant to subsection (a) of Section 2, the acceptance of responses to the competitive procurement process shall be in accordance with the Illinois Procurement Code and rules promulgated under that Code. When the State of Illinois is not a party to the joint purchase agreement, the acceptance of responses to the competitive procurement process shall be governed by the agreement.

When the State of Illinois is a party to a joint purchase agreement pursuant to subsection (a-5) of Section 2, the State may act as the lead state or as a participant state. When the State of Illinois is the lead state, all such joint purchases shall be conducted in accordance with the Illinois Procurement Code. When the State of Illinois is the lead state, a multiple award is allowed. When Illinois is a participant state, all such joint purchases shall be conducted in accordance with the

procurement laws of the lead state; provided that all such joint procurements must be by competitive solicitation process. All resulting awards shall be published in the appropriate volume of the Illinois Procurement Bulletin as may be required by Illinois law governing ~~publication of the solicitation, protest, and~~ award of Illinois State contracts. Contracts resulting from a joint purchase shall contain all provisions required by Illinois law and rule.

The ~~personal property,~~ supplies or services involved shall be distributed or rendered directly to each governmental unit taking part in the purchase. The person selling the personal property, supplies or services may bill each governmental unit separately for its proportionate share of the cost of the personal property, supplies or services purchased.

The credit or liability of each governmental unit shall remain separate and distinct. Disputes between contractors ~~bidders~~ and governmental units or qualified not-for-profit agencies shall be resolved between the immediate parties.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 525/4) (from Ch. 85, par. 1604)

Sec. 4. Bids, offers, and small purchases. The purchases of all personal property, supplies and services under this Act, except for small purchases, shall be based on competitive solicitations unless, for purchases made pursuant to subsection (a) of Section 2 of this Act, it is the

determination of the applicable chief procurement officer that it is impractical to obtain competition. Purchases pursuant to this Section ~~and~~ shall follow the same procedures used for competitive solicitations made pursuant to the Illinois Procurement Code when the State is a party to the joint purchase. For purchases made pursuant to subsection (a) of Section 2 of this Act where the applicable chief procurement officer makes the determination that it is impractical to obtain competition, purchases shall either follow the same procedure used for sole source procurements in Section 20-25 of the Illinois Procurement Code or the same procedure used for emergency purchases in Section 20-30 of the Illinois Procurement Code. For purchases pursuant to subsection (a) of Section 2, bids and offers shall be solicited by public notice inserted at least once in a newspaper of general circulation in one of the counties where the materials are to be used and at least 5 calendar days before the final date of submitting bids or offers, except as otherwise provided in this Section. Where the State of Illinois is a party to the joint purchase agreement, public notice soliciting the bids or offers shall be published in the appropriate volume of the Illinois Procurement Bulletin. Such notice shall include a general description of the ~~personal property,~~ supplies or services to be purchased and shall state where ~~all blanks and~~ specifications may be obtained and the time and place for the opening of bids and offers. The governmental unit conducting the competitive procurement

process may also solicit sealed bids or offers by sending requests by mail to potential contractors and by posting notices on a public bulletin board in its office. Small purchases pursuant to this Section shall follow the same procedure used for small purchases in Section 20-20 of the Illinois Procurement Code.

All purchases, orders or contracts shall be awarded to the lowest responsible bidder or highest-ranked offeror, taking into consideration the qualities of the articles or services supplied, their conformity with the specifications, their suitability to the requirements of the participating governmental units and the delivery terms.

Where the State of Illinois is not a party, all bids or offers may be rejected and new bids or offers solicited if one or more of the participating governmental units believes the public interest may be served thereby. Each bid or offer, with the name of the bidder or offeror, shall be entered on a record, which record with the successful bid or offer, indicated thereon shall, after the award of the purchase or order or contract, be open to public inspection. A copy of all contracts shall be filed with the purchasing office or clerk or secretary of each participating governmental unit.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

(30 ILCS 525/4.05 new)

Sec. 4.05. Other methods of joint purchases.

(a) It may be determined that it is impractical to obtain competition because either (i) there is only one economically-feasible source for the item or (ii) there is a threat to public health or public safety, or when immediate expenditure is necessary to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records.

(b) When the State of Illinois is a party to the joint purchase agreement, the applicable chief procurement officer shall make a determination whether (i) there is only one economically feasible source for the item or (ii) that there exists a threat to public health or public safety or that immediate expenditure is necessary to prevent or minimize serious disruption in critical State services.

(c) When there is only one economically feasible source for the item, the chief procurement officer may authorize a sole economically-feasible source contract. When there exists a threat to public health or public safety or when immediate expenditure is necessary to prevent or minimize serious disruption in critical State services, the chief procurement officer may authorize an emergency procurement without competitive sealed bidding or competitive sealed proposals or prior notice.

(d) All joint purchases made pursuant to this Section shall follow the same procedures for sole source contracts in the

Illinois Procurement Code when the chief procurement officer determines there is only one economically-feasible source for the item. All joint purchases made pursuant to this Section shall follow the same procedures for emergency purchases in the Illinois Procurement Code when the chief procurement officer determines immediate expenditure is necessary to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records.

(e) Each chief procurement officer shall submit to the General Assembly by November 1 of each year a report of procurements made under this Section.

(30 ILCS 525/4.2) (from Ch. 85, par. 1604.2)

Sec. 4.2. Any governmental unit may, without violating any bidding requirement otherwise applicable to it, procure ~~personal property,~~ supplies and services under any contract let by the State pursuant to lawful procurement procedures. Purchases made by the State of Illinois must be approved or authorized by the appropriate chief procurement officer.

(Source: P.A. 97-895, eff. 8-3-12.)

Section 26. The State Prompt Payment Act is amended by changing Section 7 as follows:

(30 ILCS 540/7) (from Ch. 127, par. 132.407)

Sec. 7. Payments to subcontractors and material suppliers.

(a) When a State official or agency responsible for administering a contract submits a voucher to the Comptroller for payment to a contractor, that State official or agency shall promptly make available electronically the voucher number, the date of the voucher, and the amount of the voucher. The State official or agency responsible for administering the contract shall provide subcontractors and material suppliers, known to the State official or agency, with instructions on how to access the electronic information.

(a-5) When a contractor receives any payment, the contractor shall pay each subcontractor and material supplier in proportion to the work completed by each subcontractor and material supplier its ~~their~~ application or pay estimate, plus interest received under this Act, ~~less any retention~~. When a contractor receives any payment, the contractor shall pay each lower-tiered subcontractor and material supplier and each subcontractor and material supplier shall make payment to its own respective subcontractors and material suppliers. If the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, plus interest received under this Act, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount of payment each has earned. When, however, the State official or agency ~~public~~

~~owner~~ does not release the full payment due under the contract because there are specific areas of work or materials the State agency or official has determined ~~contractor is rejecting or because the contractor has otherwise determined~~ such areas are not suitable for payment, then those specific subcontractors or material suppliers involved shall not be paid for that portion of work rejected or deemed not suitable for payment and all other subcontractors and suppliers shall be paid based upon the amount of payment each has earned ~~in full~~, plus interest received under this Act.

(a-10) For construction contracts with the Department of Transportation, the contractor, subcontractor, or material supplier, regardless of tier, shall not offset, decrease, or diminish payment or payments that are due to its subcontractors or material suppliers without reasonable cause.

A contractor, who refuses to make prompt payment, in whole or in part, shall provide to the subcontractor or material supplier and the public owner or its agent, a written notice of that refusal. The written notice shall be made by a contractor no later than 5 calendar days after payment is received by the contractor. The written notice shall identify the Department of Transportation's contract, any subcontract or material purchase agreement, a detailed reason for refusal, the value of the payment to be withheld, and the specific remedial actions required of the subcontractor or material supplier so that payment may be made. Written notice of refusal may be given in

a form and method which is acceptable to the parties and public owner.

(b) If the contractor, without reasonable cause, fails to make full payment of amounts due under subsection (a) to its ~~his~~ subcontractors and material suppliers within 15 calendar days after receipt of payment from the State official or agency under the public construction contract, the contractor shall pay to its ~~his~~ subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 15-day period until fully paid. This subsection shall further ~~also~~ apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

(1) If a contractor, without reasonable cause, fails to make payment in full as provided in subsection (a-5) ~~(a)~~ within 15 calendar days after receipt of payment under the public construction contract, any subcontractor or material supplier to whom payments are owed may file a written notice and request for administrative hearing with the State official or agency setting forth the amount owed by the contractor and the contractor's failure to timely pay the amount owed. The written notice and request for administrative hearing shall identify the public construction contract, the contractor, and the amount

owed, and shall contain a sworn statement or attestation to verify the accuracy of the notice. The notice and request for administrative hearing shall be filed with the State official for the public construction contract, with a copy of the notice concurrently provided to the contractor. Notice to the State official may be made by certified or registered mail, messenger service, or personal service, and must include proof of delivery to the State official.

(2) The State official or agency, within 15 calendar days after receipt of a subcontractor's or material supplier's written notice and request for administrative hearing ~~of the failure to receive payment from the contractor,~~ shall hold a hearing convened by an administrative law judge to determine whether the contractor withheld payment, without reasonable cause, from the subcontractors or and material suppliers and what amount, if any, is due to the subcontractors or and material suppliers, and the reasonable cause or causes asserted by the contractor. The State official or agency shall provide appropriate notice to the parties of the date, time, and location of the hearing. Each contractor, subcontractor, or and material supplier has the right to be represented by counsel at a ~~the~~ hearing and to cross-examine witnesses and challenge documents. Upon the request of the subcontractor or material supplier and a showing of good cause, reasonable continuances may be

granted by the administrative law judge.

(3) Upon ~~If there is~~ a finding by the administrative law judge that the contractor failed to make payment in full, without reasonable cause, as provided in subsection (a-10) ~~(a)~~, then the administrative law judge shall, in writing, order ~~direct~~ the contractor to pay the amount owed to the subcontractors or ~~and~~ material suppliers plus interest within 15 calendar days after the order ~~finding~~.

(4) If a contractor fails to make full payment as ordered under paragraph (3) of this subsection (b) within 15 days after the administrative law judge's order ~~finding~~, then the contractor shall be barred from entering into a State public construction contract for a period of one year beginning on the date of the administrative law judge's order ~~finding~~.

(5) If, on 2 or more occasions within a 3-calendar-year period, there is a finding by an administrative law judge that the contractor failed to make payment in full, without reasonable cause, and a written order was issued to a contractor under paragraph (3) of this subsection (b), then the contractor shall be barred from entering into a State public construction contract for a period of 6 months beginning on the date of the administrative law judge's second written order, even if the payments required under the orders were made in full.

(6) If a contractor fails to make full payment as

ordered under paragraph (4) of this subsection (b), the subcontractor or material supplier may, within 30 days of the date of that order, petition the State agency for an order for reasonable attorney's fees and costs incurred in the prosecution of the action under this subsection (b). Upon that petition and taking of additional evidence, as may be required, the administrative law judge may issue a supplemental order directing the contractor to pay those reasonable attorney's fees and costs.

(7) The written order of the administrative law judge shall be final and appealable under the Administrative Review Law.

(c) This Section shall not be construed to in any manner diminish, negate, or interfere with the contractor-subcontractor or contractor-material supplier relationship or commercially useful function.

(d) This Section shall not preclude, bar, or stay the rights, remedies, and defenses available to the parties by way of the operation of their contract, purchase agreement, the Mechanics Lien Act, or the Public Construction Bond Act.

(e) State officials and agencies may adopt rules as may be deemed necessary in order to establish the formal procedures required under this Section.

(f) As used in this Section:

"Payment" means the discharge of an obligation in money or other valuable consideration or thing delivered in full or

partial satisfaction of an obligation to pay. "Payment" shall include interest paid pursuant to this Act.

"Reasonable cause" may include, but is not limited to, unsatisfactory workmanship or materials; failure to provide documentation required by the contract, subcontract, or material purchase agreement; claims made against the Department of Transportation or the subcontractor pursuant to subsection (c) of Section 23 of the Mechanics Lien Act or the Public Construction Bond Act; judgments, levies, garnishments, or other court-ordered assessments or offsets in favor of the Department of Transportation or other State agency entered against a subcontractor or material supplier. "Reasonable cause" does not include payments issued to the contractor that create a negative or reduced valuation pay application or pay estimate due to a reduction of contract quantities or work not performed or provided by the subcontractor or material supplier; the interception or withholding of funds for reasons not related to the subcontractor's or material supplier's work on the contract; anticipated claims or assessments of third parties not a party related to the contract or subcontract; asserted claims or assessments of third parties that are not authorized by court order, administrative tribunal, or statute. "Reasonable cause" further does not include the withholding, offset, or reduction of payment, in whole or in part, due to the assessment of liquidated damages or penalties assessed by the Department of Transportation against the

contractor, unless the subcontractor's performance or supplied materials were the sole and proximate cause of the liquidated damage or penalty.

(Source: P.A. 94-672, eff. 1-1-06; 94-972, eff. 7-1-07.)

Section 27. The Business Enterprise for Minorities, Females, and Persons with Disabilities Act is amended by adding Section 8g as follows:

(30 ILCS 575/8g new)

Sec. 8g. Special Committee on Minority, Female, Persons with Disabilities, and Veterans Contracting.

(a) There is created a Special Committee on Minority, Female, Persons with Disabilities, and Veterans Contracting under the Council. The Special Committee shall review Illinois' procurement laws regarding contracting with minority-owned businesses, female-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses to determine what changes should be made to increase participation of these businesses in State procurements.

(b) The Special Committee shall consist of the following members:

(1) 3 persons each to be appointed by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate; only one Special

Committee member of each appointee under this paragraph may be a current member of the General Assembly;

(2) the Director of Central Management Services, or his or her designee;

(3) the chairperson of the Council, or his or her designee; and

(4) each chief procurement officer.

(c) The Special Committee shall conduct at least 3 hearings, with at least one hearing in Springfield and one in Chicago. Each hearing shall be open to the public and notice of the hearings shall be posted on the websites of the Procurement Policy Board, the Department of Central Management Services, and the General Assembly at least 6 days prior to the hearing.

Section 30. The Illinois Human Rights Act is amended by changing Section 2-101 as follows:

(775 ILCS 5/2-101) (from Ch. 68, par. 2-101)

Sec. 2-101. Definitions. The following definitions are applicable strictly in the context of this Article.

(A) Employee.

(1) "Employee" includes:

(a) Any individual performing services for remuneration within this State for an employer;

(b) An apprentice;

(c) An applicant for any apprenticeship.

For purposes of subsection (D) of Section 2-102 of this Act, "employee" also includes an unpaid intern. An unpaid intern is a person who performs work for an employer under the following circumstances:

(i) the employer is not committed to hiring the person performing the work at the conclusion of the intern's tenure;

(ii) the employer and the person performing the work agree that the person is not entitled to wages for the work performed; and

(iii) the work performed:

(I) supplements training given in an educational environment that may enhance the employability of the intern;

(II) provides experience for the benefit of the person performing the work;

(III) does not displace regular employees;

(IV) is performed under the close supervision of existing staff; and

(V) provides no immediate advantage to the employer providing the training and may occasionally impede the operations of the employer.

(2) "Employee" does not include:

(a) (Blank);

(b) Individuals employed by persons who are not

"employers" as defined by this Act;

(c) Elected public officials or the members of their immediate personal staffs;

(d) Principal administrative officers of the State or of any political subdivision, municipal corporation or other governmental unit or agency;

(e) A person in a vocational rehabilitation facility certified under federal law who has been designated an evaluatee, trainee, or work activity client.

(B) Employer.

(1) "Employer" includes:

(a) Any person employing 15 or more employees within Illinois during 20 or more calendar weeks within the calendar year of or preceding the alleged violation;

(b) Any person employing one or more employees when a complainant alleges civil rights violation due to unlawful discrimination based upon his or her physical or mental disability unrelated to ability, pregnancy, or sexual harassment;

(c) The State and any political subdivision, municipal corporation or other governmental unit or agency, without regard to the number of employees;

(d) Any party to a public contract without regard to the number of employees;

(e) A joint apprenticeship or training committee without regard to the number of employees.

(2) "Employer" does not include any religious corporation, association, educational institution, society, or non-profit nursing institution conducted by and for those who rely upon treatment by prayer through spiritual means in accordance with the tenets of a recognized church or religious denomination with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, society or non-profit nursing institution of its activities.

(C) Employment Agency. "Employment Agency" includes both public and private employment agencies and any person, labor organization, or labor union having a hiring hall or hiring office regularly undertaking, with or without compensation, to procure opportunities to work, or to procure, recruit, refer or place employees.

(D) Labor Organization. "Labor Organization" includes any organization, labor union, craft union, or any voluntary unincorporated association designed to further the cause of the rights of union labor which is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or apprenticeships or applications for apprenticeships, or of other mutual aid or protection in

connection with employment, including apprenticeships or applications for apprenticeships.

(E) Sexual Harassment. "Sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(F) Religion. "Religion" with respect to employers includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(G) Public Employer. "Public employer" means the State, an agency or department thereof, unit of local government, school district, instrumentality or political subdivision.

(H) Public Employee. "Public employee" means an employee of the State, agency or department thereof, unit of local government, school district, instrumentality or political subdivision. "Public employee" does not include public officers or employees of the General Assembly or agencies

thereof.

(I) Public Officer. "Public officer" means a person who is elected to office pursuant to the Constitution or a statute or ordinance, or who is appointed to an office which is established, and the qualifications and duties of which are prescribed, by the Constitution or a statute or ordinance, to discharge a public duty for the State, agency or department thereof, unit of local government, school district, instrumentality or political subdivision.

(J) Eligible Bidder. "Eligible bidder" means a person who, prior to contract award or prior to bid opening for State contracts for construction or construction-related services ~~a bid opening~~, has filed with the Department a properly completed, sworn and currently valid employer report form, pursuant to the Department's regulations. The provisions of this Article relating to eligible bidders apply only to bids on contracts with the State and its departments, agencies, boards, and commissions, and the provisions do not apply to bids on contracts with units of local government or school districts.

(K) Citizenship Status. "Citizenship status" means the status of being:

- (1) a born U.S. citizen;
- (2) a naturalized U.S. citizen;
- (3) a U.S. national; or
- (4) a person born outside the United States and not a U.S. citizen who is not an unauthorized alien and who is

protected from discrimination under the provisions of Section 1324b of Title 8 of the United States Code, as now or hereafter amended.

(Source: P.A. 98-1037, eff. 1-1-15; 98-1050, eff. 1-1-15; 99-78, eff. 7-20-15; 99-758, eff. 1-1-17.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect upon becoming law.