

HB3735



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3735

Introduced 2/17/2023, by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10

Amends the Illinois Procurement Code. Provides that the Code does not apply to contracts with nonprofit trade associations representing the providers of public education programming, noncommercial sustaining announcements, public service announcements, and public awareness and education messaging if the programming, announcements, and messaging inform the public about ongoing measures to mitigate and prevent health and safety risks and hazards.

LRB103 29837 HLH 56245 b

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Section 1-10 as follows:

6 (30 ILCS 500/1-10)

7 Sec. 1-10. Application.

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

20 (b) This Code shall apply regardless of the source of the
21 funds with which the contracts are paid, including federal
22 assistance moneys. This Code shall not apply to:

23 (1) Contracts between the State and its political

1 subdivisions or other governments, or between State
2 governmental bodies, except as specifically provided in
3 this Code.

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

6 (3) Purchase of care, except as provided in Section
7 5-30.6 of the Illinois Public Aid Code and this Section.

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

12 (5) Collective bargaining contracts.

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

21 (7) Contracts necessary to prepare for anticipated
22 litigation, enforcement actions, or investigations,
23 provided that the chief legal counsel to the Governor
24 shall give his or her prior approval when the procuring
25 agency is one subject to the jurisdiction of the Governor,
26 and provided that the chief legal counsel of any other

1 procuring entity subject to this Code shall give his or
2 her prior approval when the procuring entity is not one
3 subject to the jurisdiction of the Governor.

4 (8) (Blank).

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

7 (10) (Blank).

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

14 (12) (A) Contracts for legal, financial, and other
15 professional and artistic services entered into by the
16 Illinois Finance Authority in which the State of Illinois
17 is not obligated. Such contracts shall be awarded through
18 a competitive process authorized by the members of the
19 Illinois Finance Authority and are subject to Sections
20 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,
21 as well as the final approval by the members of the
22 Illinois Finance Authority of the terms of the contract.

23 (B) Contracts for legal and financial services entered
24 into by the Illinois Housing Development Authority in
25 connection with the issuance of bonds in which the State
26 of Illinois is not obligated. Such contracts shall be

1 awarded through a competitive process authorized by the
2 members of the Illinois Housing Development Authority and
3 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
4 and 50-37 of this Code, as well as the final approval by
5 the members of the Illinois Housing Development Authority
6 of the terms of the contract.

7 (13) Contracts for services, commodities, and
8 equipment to support the delivery of timely forensic
9 science services in consultation with and subject to the
10 approval of the Chief Procurement Officer as provided in
11 subsection (d) of Section 5-4-3a of the Unified Code of
12 Corrections, except for the requirements of Sections
13 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
14 Code; however, the Chief Procurement Officer may, in
15 writing with justification, waive any certification
16 required under Article 50 of this Code. For any contracts
17 for services which are currently provided by members of a
18 collective bargaining agreement, the applicable terms of
19 the collective bargaining agreement concerning
20 subcontracting shall be followed.

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

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

26 (15) Contracts with a railroad or utility that

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

22 (16) Procurement expenditures necessary for the
23 Department of Public Health to provide the delivery of
24 timely newborn screening services in accordance with the
25 Newborn Metabolic Screening Act.

26 (17) Procurement expenditures necessary for the

1 Department of Agriculture, the Department of Financial and
2 Professional Regulation, the Department of Human Services,
3 and the Department of Public Health to implement the
4 Compassionate Use of Medical Cannabis Program and Opioid
5 Alternative Pilot Program requirements and ensure access
6 to medical cannabis for patients with debilitating medical
7 conditions in accordance with the Compassionate Use of
8 Medical Cannabis Program Act.

9 (18) This Code does not apply to any procurements
10 necessary for the Department of Agriculture, the
11 Department of Financial and Professional Regulation, the
12 Department of Human Services, the Department of Commerce
13 and Economic Opportunity, and the Department of Public
14 Health to implement the Cannabis Regulation and Tax Act if
15 the applicable agency has made a good faith determination
16 that it is necessary and appropriate for the expenditure
17 to fall within this exemption and if the process is
18 conducted in a manner substantially in accordance with the
19 requirements of Sections 20-160, 25-60, 30-22, 50-5,
20 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
21 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
22 Section 50-35, compliance applies only to contracts or
23 subcontracts over \$100,000. Notice of each contract
24 entered into under this paragraph (18) that is related to
25 the procurement of goods and services identified in
26 paragraph (1) through (9) of this subsection shall be

1 published in the Procurement Bulletin within 14 calendar
2 days after contract execution. The Chief Procurement
3 Officer shall prescribe the form and content of the
4 notice. Each agency shall provide the Chief Procurement
5 Officer, on a monthly basis, in the form and content
6 prescribed by the Chief Procurement Officer, a report of
7 contracts that are related to the procurement of goods and
8 services identified in this subsection. At a minimum, this
9 report shall include the name of the contractor, a
10 description of the supply or service provided, the total
11 amount of the contract, the term of the contract, and the
12 exception to this Code utilized. A copy of any or all of
13 these contracts shall be made available to the Chief
14 Procurement Officer immediately upon request. The Chief
15 Procurement Officer shall submit a report to the Governor
16 and General Assembly no later than November 1 of each year
17 that includes, at a minimum, an annual summary of the
18 monthly information reported to the Chief Procurement
19 Officer. This exemption becomes inoperative 5 years after
20 June 25, 2019 (the effective date of Public Act 101-27).

21 (19) Acquisition of modifications or adjustments,
22 limited to assistive technology devices and assistive
23 technology services, adaptive equipment, repairs, and
24 replacement parts to provide reasonable accommodations (i)
25 that enable a qualified applicant with a disability to
26 complete the job application process and be considered for

1 the position such qualified applicant desires, (ii) that
2 modify or adjust the work environment to enable a
3 qualified current employee with a disability to perform
4 the essential functions of the position held by that
5 employee, (iii) to enable a qualified current employee
6 with a disability to enjoy equal benefits and privileges
7 of employment as are enjoyed by other similarly situated
8 employees without disabilities, and (iv) that allow a
9 customer, client, claimant, or member of the public
10 seeking State services full use and enjoyment of and
11 access to its programs, services, or benefits.

12 For purposes of this paragraph (19):

13 "Assistive technology devices" means any item, piece
14 of equipment, or product system, whether acquired
15 commercially off the shelf, modified, or customized, that
16 is used to increase, maintain, or improve functional
17 capabilities of individuals with disabilities.

18 "Assistive technology services" means any service that
19 directly assists an individual with a disability in
20 selection, acquisition, or use of an assistive technology
21 device.

22 "Qualified" has the same meaning and use as provided
23 under the federal Americans with Disabilities Act when
24 describing an individual with a disability.

25 (20) Procurement expenditures necessary for the
26 Illinois Commerce Commission to hire third-party

1 facilitators pursuant to Sections 16-105.17 and 16-108.18
2 of the Public Utilities Act or an ombudsman pursuant to
3 Section 16-107.5 of the Public Utilities Act, a
4 facilitator pursuant to Section 16-105.17 of the Public
5 Utilities Act, or a grid auditor pursuant to Section
6 16-105.10 of the Public Utilities Act.

7 (21) Procurement expenditures for the purchase,
8 renewal, and expansion of software, software licenses, or
9 software maintenance agreements that support the efforts
10 of the Illinois State Police to enforce, regulate, and
11 administer the Firearm Owners Identification Card Act, the
12 Firearm Concealed Carry Act, the Firearms Restraining
13 Order Act, the Firearm Dealer License Certification Act,
14 the Law Enforcement Agencies Data System (LEADS), the
15 Uniform Crime Reporting Act, the Criminal Identification
16 Act, the Uniform Conviction Information Act, and the Gun
17 Trafficking Information Act, or establish or maintain
18 record management systems necessary to conduct human
19 trafficking investigations or gun trafficking or other
20 stolen firearm investigations. This paragraph (21) applies
21 to contracts entered into on or after the effective date
22 of this amendatory Act of the 102nd General Assembly and
23 the renewal of contracts that are in effect on the
24 effective date of this amendatory Act of the 102nd General
25 Assembly.

26 (22) Contracts with nonprofit trade associations

1 representing the providers of public education
2 programming, noncommercial sustaining announcements,
3 public service announcements, and public awareness and
4 education messaging if the programming, announcements, and
5 messaging inform the public about ongoing measures to
6 mitigate and prevent health and safety risks and hazards.

7 Notwithstanding any other provision of law, for contracts
8 with an annual value of more than \$100,000 entered into on or
9 after October 1, 2017 under an exemption provided in any
10 paragraph of this subsection (b), except paragraph (1), (2),
11 or (5), each State agency shall post to the appropriate
12 procurement bulletin the name of the contractor, a description
13 of the supply or service provided, the total amount of the
14 contract, the term of the contract, and the exception to the
15 Code utilized. The chief procurement officer shall submit a
16 report to the Governor and General Assembly no later than
17 November 1 of each year that shall include, at a minimum, an
18 annual summary of the monthly information reported to the
19 chief procurement officer.

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

24 (d) Except for Section 20-160 and Article 50 of this Code,
25 and as expressly required by Section 9.1 of the Illinois
26 Lottery Law, the provisions of this Code do not apply to the

1 procurement process provided for under Section 9.1 of the
2 Illinois Lottery Law.

3 (e) This Code does not apply to the process used by the
4 Capital Development Board to retain a person or entity to
5 assist the Capital Development Board with its duties related
6 to the determination of costs of a clean coal SNG brownfield
7 facility, as defined by Section 1-10 of the Illinois Power
8 Agency Act, as required in subsection (h-3) of Section 9-220
9 of the Public Utilities Act, including calculating the range
10 of capital costs, the range of operating and maintenance
11 costs, or the sequestration costs or monitoring the
12 construction of clean coal SNG brownfield facility for the
13 full duration of construction.

14 (f) (Blank).

15 (g) (Blank).

16 (h) This Code does not apply to the process to procure or
17 contracts entered into in accordance with Sections 11-5.2 and
18 11-5.3 of the Illinois Public Aid Code.

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

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

1 Board Act.

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

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

12 (m) This Code shall apply regardless of the source of
13 funds with which contracts are paid, including federal
14 assistance moneys. Except as specifically provided in this
15 Code, this Code shall not apply to procurement expenditures
16 necessary for the Department of Public Health to conduct the
17 Healthy Illinois Survey in accordance with Section 2310-431 of
18 the Department of Public Health Powers and Duties Law of the
19 Civil Administrative Code of Illinois.

20 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
21 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff
22 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,
23 eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;
24 102-1116, eff. 1-10-23.)