

SB3907



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3907

Introduced 2/28/2024, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10

Amends the Illinois Procurement Code. Provides that contracts for bond underwriting services entered into by the Illinois State Toll Highway Authority in connection with the competitive bid or negotiated sale of bonds in which the State is not obligated. Provides that such contracts shall be awarded through a competitive process authorized by the members of the Illinois State Toll Highway Authority and are subject to specified provisions of the Code as well as the final approval by the members of the Illinois State Toll Highway Authority of the terms of the contract.

LRB103 38581 MXP 68717 b

A BILL FOR

1 AN ACT concerning State government.

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 (C) Contracts for bond underwriting services entered
8 into by the Illinois State Toll Highway Authority in
9 connection with the competitive bid or negotiated sale of
10 bonds in which the State is not obligated. Such contracts
11 shall be awarded through a competitive process authorized
12 by the members of the Illinois State Toll Highway
13 Authority and are subject to Sections 5-30, 20-160, 50-13,
14 50-20, 50-35, and 50-37 of this Code, except to the extent
15 that the provisions of those Sections reference other
16 Sections of this Code, as well as the final approval by the
17 members of the Illinois State Toll Highway Authority of
18 the terms of the contract.

19 (13) Contracts for services, commodities, and
20 equipment to support the delivery of timely forensic
21 science services in consultation with and subject to the
22 approval of the Chief Procurement Officer as provided in
23 subsection (d) of Section 5-4-3a of the Unified Code of
24 Corrections, except for the requirements of Sections
25 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
26 Code; however, the Chief Procurement Officer may, in

1 writing with justification, waive any certification
2 required under Article 50 of this Code. For any contracts
3 for services which are currently provided by members of a
4 collective bargaining agreement, the applicable terms of
5 the collective bargaining agreement concerning
6 subcontracting shall be followed.

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

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

12 (15) Contracts with a railroad or utility that
13 requires the State to reimburse the railroad or utilities
14 for the relocation of utilities for construction or other
15 public purpose. Contracts included within this paragraph
16 (15) shall include, but not be limited to, those
17 associated with: relocations, crossings, installations,
18 and maintenance. For the purposes of this paragraph (15),
19 "railroad" means any form of non-highway ground
20 transportation that runs on rails or electromagnetic
21 guideways and "utility" means: (1) public utilities as
22 defined in Section 3-105 of the Public Utilities Act, (2)
23 telecommunications carriers as defined in Section 13-202
24 of the Public Utilities Act, (3) electric cooperatives as
25 defined in Section 3.4 of the Electric Supplier Act, (4)
26 telephone or telecommunications cooperatives as defined in

1 Section 13-212 of the Public Utilities Act, (5) rural
2 water or waste water systems with 10,000 connections or
3 less, (6) a holder as defined in Section 21-201 of the
4 Public Utilities Act, and (7) municipalities owning or
5 operating utility systems consisting of public utilities
6 as that term is defined in Section 11-117-2 of the
7 Illinois Municipal Code.

8 (16) Procurement expenditures necessary for the
9 Department of Public Health to provide the delivery of
10 timely newborn screening services in accordance with the
11 Newborn Metabolic Screening Act.

12 (17) Procurement expenditures necessary for the
13 Department of Agriculture, the Department of Financial and
14 Professional Regulation, the Department of Human Services,
15 and the Department of Public Health to implement the
16 Compassionate Use of Medical Cannabis Program and Opioid
17 Alternative Pilot Program requirements and ensure access
18 to medical cannabis for patients with debilitating medical
19 conditions in accordance with the Compassionate Use of
20 Medical Cannabis Program Act.

21 (18) This Code does not apply to any procurements
22 necessary for the Department of Agriculture, the
23 Department of Financial and Professional Regulation, the
24 Department of Human Services, the Department of Commerce
25 and Economic Opportunity, and the Department of Public
26 Health to implement the Cannabis Regulation and Tax Act if

1 the applicable agency has made a good faith determination
2 that it is necessary and appropriate for the expenditure
3 to fall within this exemption and if the process is
4 conducted in a manner substantially in accordance with the
5 requirements of Sections 20-160, 25-60, 30-22, 50-5,
6 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
7 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
8 Section 50-35, compliance applies only to contracts or
9 subcontracts over \$100,000. Notice of each contract
10 entered into under this paragraph (18) that is related to
11 the procurement of goods and services identified in
12 paragraph (1) through (9) of this subsection shall be
13 published in the Procurement Bulletin within 14 calendar
14 days after contract execution. The Chief Procurement
15 Officer shall prescribe the form and content of the
16 notice. Each agency shall provide the Chief Procurement
17 Officer, on a monthly basis, in the form and content
18 prescribed by the Chief Procurement Officer, a report of
19 contracts that are related to the procurement of goods and
20 services identified in this subsection. At a minimum, this
21 report shall include the name of the contractor, a
22 description of the supply or service provided, the total
23 amount of the contract, the term of the contract, and the
24 exception to this Code utilized. A copy of any or all of
25 these contracts shall be made available to the Chief
26 Procurement Officer immediately upon request. The Chief

1 Procurement Officer shall submit a report to the Governor
2 and General Assembly no later than November 1 of each year
3 that includes, at a minimum, an annual summary of the
4 monthly information reported to the Chief Procurement
5 Officer. This exemption becomes inoperative 5 years after
6 June 25, 2019 (the effective date of Public Act 101-27).

7 (19) Acquisition of modifications or adjustments,
8 limited to assistive technology devices and assistive
9 technology services, adaptive equipment, repairs, and
10 replacement parts to provide reasonable accommodations (i)
11 that enable a qualified applicant with a disability to
12 complete the job application process and be considered for
13 the position such qualified applicant desires, (ii) that
14 modify or adjust the work environment to enable a
15 qualified current employee with a disability to perform
16 the essential functions of the position held by that
17 employee, (iii) to enable a qualified current employee
18 with a disability to enjoy equal benefits and privileges
19 of employment as are enjoyed by other similarly situated
20 employees without disabilities, and (iv) that allow a
21 customer, client, claimant, or member of the public
22 seeking State services full use and enjoyment of and
23 access to its programs, services, or benefits.

24 For purposes of this paragraph (19):

25 "Assistive technology devices" means any item, piece
26 of equipment, or product system, whether acquired

1 commercially off the shelf, modified, or customized, that
2 is used to increase, maintain, or improve functional
3 capabilities of individuals with disabilities.

4 "Assistive technology services" means any service that
5 directly assists an individual with a disability in
6 selection, acquisition, or use of an assistive technology
7 device.

8 "Qualified" has the same meaning and use as provided
9 under the federal Americans with Disabilities Act when
10 describing an individual with a disability.

11 (20) Procurement expenditures necessary for the
12 Illinois Commerce Commission to hire third-party
13 facilitators pursuant to Sections 16-105.17 and 16-108.18
14 of the Public Utilities Act or an ombudsman pursuant to
15 Section 16-107.5 of the Public Utilities Act, a
16 facilitator pursuant to Section 16-105.17 of the Public
17 Utilities Act, or a grid auditor pursuant to Section
18 16-105.10 of the Public Utilities Act.

19 (21) Procurement expenditures for the purchase,
20 renewal, and expansion of software, software licenses, or
21 software maintenance agreements that support the efforts
22 of the Illinois State Police to enforce, regulate, and
23 administer the Firearm Owners Identification Card Act, the
24 Firearm Concealed Carry Act, the Firearms Restraining
25 Order Act, the Firearm Dealer License Certification Act,
26 the Law Enforcement Agencies Data System (LEADS), the

1 Uniform Crime Reporting Act, the Criminal Identification
2 Act, the Illinois Uniform Conviction Information Act, and
3 the Gun Trafficking Information Act, or establish or
4 maintain record management systems necessary to conduct
5 human trafficking investigations or gun trafficking or
6 other stolen firearm investigations. This paragraph (21)
7 applies to contracts entered into on or after January 10,
8 2023 (the effective date of Public Act 102-1116) and the
9 renewal of contracts that are in effect on January 10,
10 2023 (the effective date of Public Act 102-1116).

11 (22) Contracts for project management services and
12 system integration services required for the completion of
13 the State's enterprise resource planning project. This
14 exemption becomes inoperative 5 years after June 7, 2023
15 (the effective date of the changes made to this Section by
16 Public Act 103-8). This paragraph (22) applies to
17 contracts entered into on or after June 7, 2023 (the
18 effective date of the changes made to this Section by
19 Public Act 103-8) and the renewal of contracts that are in
20 effect on June 7, 2023 (the effective date of the changes
21 made to this Section by Public Act 103-8).

22 (23) Procurements necessary for the Department of
23 Insurance to implement the Illinois Health Benefits
24 Exchange Law if the Department of Insurance has made a
25 good faith determination that it is necessary and
26 appropriate for the expenditure to fall within this

1 exemption. The procurement process shall be conducted in a
2 manner substantially in accordance with the requirements
3 of Sections 20-160 and 25-60 and Article 50 of this Code. A
4 copy of these contracts shall be made available to the
5 Chief Procurement Officer immediately upon request. This
6 paragraph is inoperative 5 years after June 27, 2023 (the
7 effective date of Public Act 103-103).

8 (24) ~~(22)~~ Contracts for public education programming,
9 noncommercial sustaining announcements, public service
10 announcements, and public awareness and education
11 messaging with the nonprofit trade associations of the
12 providers of those services that inform the public on
13 immediate and ongoing health and safety risks and hazards.

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

1 (c) This Code does not apply to the electric power
2 procurement process provided for under Section 1-75 of the
3 Illinois Power Agency Act and Section 16-111.5 of the Public
4 Utilities Act. This Code does not apply to the procurement of
5 technical and policy experts pursuant to Section 1-129 of the
6 Illinois Power Agency Act.

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

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

23 (f) (Blank).

24 (g) (Blank).

25 (h) This Code does not apply to the process to procure or
26 contracts entered into in accordance with Sections 11-5.2 and

1 11-5.3 of the Illinois Public Aid Code.

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

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

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

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

21 (m) This Code shall apply regardless of the source of
22 funds with which contracts are paid, including federal
23 assistance moneys. Except as specifically provided in this
24 Code, this Code shall not apply to procurement expenditures
25 necessary for the Department of Public Health to conduct the
26 Healthy Illinois Survey in accordance with Section 2310-431 of

1 the Department of Public Health Powers and Duties Law of the
2 Civil Administrative Code of Illinois.

3 (Source: P.A. 102-175, eff. 7-29-21; 102-483, eff 1-1-22;
4 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff.
5 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;
6 102-1116, eff. 1-10-23; 103-8, eff. 6-7-23; 103-103, eff.
7 6-27-23; 103-570, eff. 1-1-24; 103-580, eff. 12-8-23; revised
8 1-2-24.)