

SB2004



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2004

Introduced 2/15/2019, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10
30 ILCS 500/1-15.100
30 ILCS 500/1-13 rep.

Amends the Illinois Procurement Code. Provides that the Code does not apply to any procurements made by public institutions of higher education. Repeals a Section concerning the applicability of the Code to public institutions of higher education. Defines terms. Makes conforming changes.

LRB101 08736 RJF 53823 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 Sections 1-10 and 1-15.100 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 provision
12 of a contract, entered into based on a solicitation prior to
13 the implementation date of this Code as described in Article
14 99, including but not limited to any covenant entered into with
15 respect to any revenue bonds or similar instruments. All
16 procurements for which contracts are solicited between the
17 effective date of Articles 50 and 99 and July 1, 1998 shall be
18 substantially in accordance with this Code and its intent.

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

22 (1) Contracts between the State and its political
23 subdivisions or other governments, or between State

1 governmental bodies, except as specifically provided in
2 this Code.

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

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

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

11 (5) Collective bargaining contracts.

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

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

1 prior approval when the procuring entity is not one subject
2 to the jurisdiction of the Governor.

3 (8) (Blank).

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

6 (10) (Blank).

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

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

23 (13) Contracts for services, commodities, and
24 equipment to support the delivery of timely forensic
25 science services in consultation with and subject to the
26 approval of the Chief Procurement Officer as provided in

1 subsection (d) of Section 5-4-3a of the Unified Code of
2 Corrections, except for the requirements of Sections
3 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
4 Code; however, the Chief Procurement Officer may, in
5 writing with justification, waive any certification
6 required under Article 50 of this Code. For any contracts
7 for services which are currently provided by members of a
8 collective bargaining agreement, the applicable terms of
9 the collective bargaining agreement concerning
10 subcontracting shall be followed.

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

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

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

1 telecommunications carriers as defined in Section 13-202
2 of the Public Utilities Act, (3) electric cooperatives as
3 defined in Section 3.4 of the Electric Supplier Act, (4)
4 telephone or telecommunications cooperatives as defined in
5 Section 13-212 of the Public Utilities Act, (5) rural water
6 or waste water systems with 10,000 connections or less, (6)
7 a holder as defined in Section 21-201 of the Public
8 Utilities Act, and (7) municipalities owning or operating
9 utility systems consisting of public utilities as that term
10 is defined in Section 11-117-2 of the Illinois Municipal
11 Code.

12 (16) Procurement expenditures necessary for the
13 Department of Public Health to provide the delivery of
14 timely newborn screening services in accordance with the
15 Newborn Metabolic Screening Act.

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

25 Notwithstanding any other provision of law, for contracts
26 entered into on or after October 1, 2017 under an exemption

1 provided in any paragraph of this subsection (b), except
2 paragraph (1), (2), or (5), each State agency shall post to the
3 appropriate procurement bulletin the name of the contractor, a
4 description of the supply or service provided, the total amount
5 of the contract, the term of the contract, and the exception to
6 the Code utilized. The chief procurement officer shall submit a
7 report to the Governor and General Assembly no later than
8 November 1 of each year that shall include, at a minimum, an
9 annual summary of the monthly information reported to the chief
10 procurement officer.

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

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

20 (e) This Code does not apply to the process used by the
21 Capital Development Board to retain a person or entity to
22 assist the Capital Development Board with its duties related to
23 the determination of costs of a clean coal SNG brownfield
24 facility, as defined by Section 1-10 of the Illinois Power
25 Agency Act, as required in subsection (h-3) of Section 9-220 of
26 the Public Utilities Act, including calculating the range of

1 capital costs, the range of operating and maintenance costs, or
2 the sequestration costs or monitoring the construction of clean
3 coal SNG brownfield facility for the full duration of
4 construction.

5 (f) (Blank).

6 (g) (Blank).

7 (h) This Code does not apply to the process to procure or
8 contracts entered into in accordance with Sections 11-5.2 and
9 11-5.3 of the Illinois Public Aid Code.

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

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

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

23 (l) This Code does not apply to the processes used by the
24 Illinois Student Assistance Commission to procure supplies and
25 services paid for from the private funds of the Illinois
26 Prepaid Tuition Fund. As used in this subsection (l), "private

1 funds" means funds derived from deposits paid into the Illinois
2 Prepaid Tuition Trust Fund and the earnings thereon.

3 (m) This Code does not apply to any procurements made by
4 public institutions of higher education. For the purposes of
5 this subsection (m), "public institution of higher education"
6 means Chicago State University, Eastern Illinois University,
7 Governors State University, Illinois State University,
8 Northeastern Illinois University, Northern Illinois
9 University, Southern Illinois University, University of
10 Illinois, Western Illinois University, and, for purposes of
11 this Code only, the Illinois Mathematics and Science Academy.

12 (Source: P.A. 99-801, eff. 1-1-17; 100-43, eff. 8-9-17;
13 100-580, eff. 3-12-18; 100-757, eff. 8-10-18; 100-1114, eff.
14 8-28-18; revised 10-18-18.)

15 (30 ILCS 500/1-15.100)

16 Sec. 1-15.100. State agency. "State agency" means and
17 includes all boards, commissions, agencies, institutions,
18 authorities, and bodies politic and corporate of the State,
19 created by or in accordance with the constitution or statute,
20 and of the executive branch of State government ~~and does~~
21 ~~include colleges, universities, and institutions under the~~
22 ~~jurisdiction of the governing boards of the University of~~
23 ~~Illinois, Southern Illinois University, Illinois State~~
24 ~~University, Eastern Illinois University, Northern Illinois~~
25 ~~University, Western Illinois University, Chicago State~~

1 ~~University, Governor State University, Northeastern Illinois~~
2 ~~University, and the Board of Higher Education.~~ However, this
3 term does not apply to public employee retirement systems or
4 investment boards that are subject to fiduciary duties imposed
5 by the Illinois Pension Code or to the University of Illinois
6 Foundation. "State agency" does not include units of local
7 government, school districts, community colleges under the
8 Public Community College Act, and the Illinois Comprehensive
9 Health Insurance Board.

10 (Source: P.A. 90-572, eff. 2-6-98; revised 10-11-18.)

11 (30 ILCS 500/1-13 rep.)

12 Section 10. The Illinois Procurement Code is amended by
13 repealing Section 1-13.