



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5915

Introduced 2/16/2012, by Rep. Jim Watson

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Procurement Code. Provides that the Procurement Policy Board shall provide written notice of an alleged conflict of interest to the contractor. Provides that the contractor shall have 30 days to provide a written response to the notice and may request a hearing before the Board. Provides that a State contract may be awarded as a sole source procurement unless a vendor requests a public hearing (rather than, a State contract may not be awarded as a sole source procurement unless approved by the chief procurement officer following a public hearing). Provides that a State contract shall include the general type of work to be performed by all known subcontractors (rather than the expected amount of money the subcontractor will receive under the contract). Provides that the chief procurement officer shall verify the status of a business entity's certificate of registration with the State Board of Elections through the Board's website (rather than, a copy of the certificate of registration must accompany any bid or proposal). Provides that, for certain certifications required for State contracts, if a false certification is made by a subcontractor, the contractor's submitted bid and contract may not be declared void, unless the contractor refuses to terminate the subcontract. Makes changes to a provision concerning procurement communications reporting requirements. Effective immediately.

LRB097 17964 PJG 63187 b

FISCAL NOTE ACT
MAY APPLY

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 1-15.107, 1-15.108, 5-5, 20-10, 20-25,
6 20-120, 20-155, 20-160, 50-5, 50-10, 50-10.5, 50-11, 50-12,
7 50-14, 50-35, 50-39, and 50-60 as follows:

8 (30 ILCS 500/1-15.107)

9 Sec. 1-15.107. Subcontract. "Subcontract" means a contract
10 between a person and a person who has ~~or is seeking~~ a contract
11 subject to this Code, pursuant to which the subcontractor
12 provides to the contractor ~~or another subcontractor~~ some or all
13 of the ~~goods,~~ services, real property, remuneration, or other
14 monetary forms of consideration that are the subject of the
15 primary contract and includes, among other things, subleases
16 from a lessee of a State agency.

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

19 (30 ILCS 500/1-15.108)

20 Sec. 1-15.108. Subcontractor. "Subcontractor" means a
21 person or entity that enters into a contractual agreement with
22 a total value of \$25,000 or more with a person or entity who

1 has ~~or is seeking~~ a contract subject to this Code pursuant to
2 which the person or entity provides some or all of the ~~goods,~~
3 services, real property, remuneration, or other monetary forms
4 of consideration that are the subject of the primary State
5 contract, including subleases from a lessee of a State
6 contract.

7 (Source: P.A. 96-920, eff. 7-1-10.)

8 (30 ILCS 500/5-5)

9 Sec. 5-5. Procurement Policy Board.

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

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

24 Upon a three-fifths vote of its members, the Board may
25 review a contract. Upon a three-fifths vote of its members, the

1 Board may propose procurement rules for consideration by chief
2 procurement officers. These proposals shall be published in
3 each volume of the Procurement Bulletin. Except as otherwise
4 provided by law, the Board shall act upon the vote of a
5 majority of its members who have been appointed and are
6 serving.

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

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

21 (d) Terms. Of the initial appointees, the Governor shall
22 designate one member, as Chairman, to serve a one-year term,
23 the President of the Senate and the Speaker of the House shall
24 each appoint one member to serve 3-year terms, and the Minority
25 Leader of the House and the Minority Leader of the Senate shall
26 each appoint one member to serve 2-year terms. Subsequent terms

1 shall be 4 years. Members may be reappointed for succeeding
2 terms.

3 (e) Reimbursement. Members shall receive no compensation
4 but shall be reimbursed for any expenses reasonably incurred in
5 the performance of their duties.

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

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

14 (h) Procurement recommendations. Upon a three-fifths vote
15 of its members, the Board may review a proposal, bid, or
16 contract and issue a recommendation to void a contract or
17 reject a proposal or bid based on any violation of this Code or
18 the existence of a conflict of interest as described in
19 subsections (b) and (d) of Section 50-35. A chief procurement
20 officer or State purchasing officer shall notify the Board if
21 an alleged ~~a~~ conflict of interest is identified, discovered, or
22 reasonably suspected to exist. Any person or entity may notify
23 the Board of an alleged ~~a~~ conflict of interest. Upon receipt of
24 a notice of suspected violation or conflict of interest, the
25 Board shall provide written notice of the alleged violation to
26 the contractor or subcontractor on that contract. If the

1 alleged violation is by the subcontractor, written notice shall
2 also be provided to the contractor. The contractor or
3 subcontractor shall have 30 days to provide a written response
4 to the notice, and a hearing before the Board on the alleged
5 violation shall be held upon request by the contractor or
6 subcontractor. A recommendation of the Board shall be delivered
7 to the appropriate chief procurement officer and Executive
8 Ethics Commission within 5 days and must be published in the
9 next volume of the Procurement Bulletin.

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

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

17 (30 ILCS 500/20-10)

18 (Text of Section from P.A. 96-159, 96-588, 97-96, and
19 97-198)

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

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

24 (b) Invitation for bids. An invitation for bids shall be
25 issued and shall include a purchase description and the

1 material contractual terms and conditions applicable to the
2 procurement.

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

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

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

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

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

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

18 (1) a description of the agency's needs;

19 (2) a determination that the anticipated cost will be
20 fair and reasonable;

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

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

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

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

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

12 (i) Alternative procedures. Notwithstanding any other
13 provision of this Act to the contrary, the Director of the
14 Illinois Power Agency may create alternative bidding
15 procedures to be used in procuring professional services under
16 subsection (a) of Section 1-75 and subsection (d) of Section
17 1-78 of the Illinois Power Agency Act and Section 16-111.5(c)
18 of the Public Utilities Act and to procure renewable energy
19 resources under Section 1-56 of the Illinois Power Agency Act.
20 These alternative procedures shall be set forth together with
21 the other criteria contained in the invitation for bids, and
22 shall appear in the appropriate volume of the Illinois
23 Procurement Bulletin.

24 (j) Reverse auction. Notwithstanding any other provision
25 of this Section and in accordance with rules adopted by the
26 ~~Director of Central Management Services as~~ chief procurement

1 officer, ~~a State purchasing officer under~~ that chief
2 procurement officer ~~officer's jurisdiction~~ may procure
3 supplies or services through a competitive electronic auction
4 bidding process after the ~~purchasing officer explains in~~
5 ~~writing to the~~ chief procurement officer determines ~~his or her~~
6 ~~determination~~ that the use of such a process will be in the
7 best interest of the State. The chief procurement officer shall
8 publish that determination in his or her next volume of the
9 Illinois Procurement Bulletin.

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

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

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

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

26 The contract shall be awarded within 60 days after the

1 auction by written notice to the lowest responsible bidder, or
2 all bids shall be rejected except as otherwise provided in this
3 Code. Extensions of the date for the award may be made by
4 mutual written consent of the State purchasing officer and the
5 lowest responsible bidder.

6 This subsection does not apply to (i) procurements of
7 professional and artistic services, (ii) ~~including but not~~
8 ~~limited to~~ telecommunications services, communication
9 ~~communications~~ services, ~~Internet services,~~ and information
10 services, and (iii) ~~(ii)~~ contracts for construction projects,
11 including design professional services.

12 (Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09;
13 96-588, eff. 8-18-09; 97-96, eff. 7-13-11.)

14 (Text of Section from P.A. 96-159, 96-795, 97-96, and
15 97-198)

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

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

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

24 (c) Public notice. Public notice of the invitation for bids
25 shall be published in the Illinois Procurement Bulletin at

1 least 14 days before the date set in the invitation for the
2 opening of bids.

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

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

21 (f) Correction or withdrawal of bids. Correction or
22 withdrawal of inadvertently erroneous bids before or after
23 award, or cancellation of awards of contracts based on bid
24 mistakes, shall be permitted in accordance with rules. After
25 bid opening, no changes in bid prices or other provisions of
26 bids prejudicial to the interest of the State or fair

1 competition shall be permitted. All decisions to permit the
2 correction or withdrawal of bids based on bid mistakes shall be
3 supported by written determination made by a State purchasing
4 officer.

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

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

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

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

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

8 (i) Alternative procedures. Notwithstanding any other
9 provision of this Act to the contrary, the Director of the
10 Illinois Power Agency may create alternative bidding
11 procedures to be used in procuring professional services under
12 subsection (a) of Section 1-75 and subsection (d) of Section
13 1-78 of the Illinois Power Agency Act and Section 16-111.5(c)
14 of the Public Utilities Act and to procure renewable energy
15 resources under Section 1-56 of the Illinois Power Agency Act.
16 These alternative procedures shall be set forth together with
17 the other criteria contained in the invitation for bids, and
18 shall appear in the appropriate volume of the Illinois
19 Procurement Bulletin.

20 (j) Reverse auction. Notwithstanding any other provision
21 of this Section and in accordance with rules adopted by the
22 chief procurement officer, that chief procurement officer may
23 procure supplies or services through a competitive electronic
24 auction bidding process after the chief procurement officer
25 determines that the use of such a process will be in the best
26 interest of the State. The chief procurement officer shall

1 publish that determination in his or her next volume of the
2 Illinois Procurement Bulletin.

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

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

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

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

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

25 This subsection does not apply to (i) procurements of
26 professional and artistic services, (ii) telecommunications

1 services, communication services, and information services,
2 and (iii) contracts for construction projects, including
3 design professional services.

4 (Source: P.A. 96-159, eff. 8-10-09; 96-795, eff. 7-1-10 (see
5 Section 5 of P.A. 96-793 for the effective date of changes made
6 by P.A. 96-795); 97-96, eff. 7-13-11.)

7 (30 ILCS 500/20-25)

8 Sec. 20-25. Sole source procurements.

9 (a) In accordance with standards set by rule, contracts may
10 be awarded without use of the specified method of source
11 selection when there is only one economically feasible source
12 for the item. A State contract may ~~not~~ be awarded as a sole
13 source procurement unless a vendor submits a written request
14 for ~~approved by the chief procurement officer following~~ a
15 public hearing at which the chief procurement officer and
16 purchasing agency present written justification for the
17 procurement method. The Procurement Policy Board, the sole
18 source contractor, and the public may present testimony.

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

25 (c) Notice of intent to enter into a sole source contract

1 shall be provided to the Procurement Policy Board and published
2 in the online electronic Bulletin at least 14 days before the
3 public hearing required in subsection (a). The notice shall
4 include the sole source procurement justification form
5 prescribed by the Board, a description of the item to be
6 procured, the intended sole source contractor, and the date,
7 time, and location of the public hearing. A copy of the notice
8 and all documents provided at the hearing shall be included in
9 the subsequent Procurement Bulletin.

10 (d) By August 1 each year, each chief procurement officer
11 shall file a report with the General Assembly identifying each
12 contract the officer sought under the sole source procurement
13 method and providing the justification given for seeking sole
14 source as the procurement method for each of those contracts.

15 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
16 for the effective date of changes made by P.A. 96-795); 96-920,
17 eff. 7-1-10.)

18 (30 ILCS 500/20-120)

19 Sec. 20-120. Subcontractors.

20 (a) Any contract granted under this Code shall state
21 whether the services of a subcontractor will ~~or may~~ be used.
22 The contract shall include the names and addresses of all known
23 subcontractors with subcontracts with an annual value of more
24 than \$25,000 and the general type of work to be performed by
25 these subcontractors. Upon the request of the chief procurement

1 officer appointed pursuant to subsection (a)(2) of Section
2 10-20, the ~~expected amount of money each will receive under the~~
3 ~~contract. For procurements subject to the authority of the~~
4 ~~chief procurement officer appointed pursuant to subsection~~
5 ~~(a)(2) of Section 10-20, the contract shall include only the~~
6 ~~names and addresses of all known subcontractors of the primary~~
7 ~~contractor with subcontracts with an annual value of more than~~
8 ~~\$25,000. The~~ contractor shall provide the chief procurement
9 officer ~~or State purchasing officer~~ a copy of a ~~any~~ subcontract
10 ~~with an annual value of more than \$25,000~~ so identified within
11 30 ~~20~~ days after the request is made. Prior to submission of
12 the subcontract to the chief procurement officer, a ~~execution~~
13 ~~of the State contract or after execution of the subcontract,~~
14 ~~whichever is later. A~~ subcontractor, or contractor on behalf of
15 a subcontractor, may redact ~~identify~~ information that is deemed
16 proprietary or confidential. ~~If the chief procurement officer~~
17 ~~determines the information is not relevant to the primary~~
18 ~~contract, the chief procurement officer may excuse the~~
19 ~~inclusion of the information. If the chief procurement officer~~
20 ~~determines the information is proprietary or could harm the~~
21 ~~business interest of the subcontractor, the chief procurement~~
22 ~~officer may, in his or her discretion, redact the information.~~
23 Redacted information shall not become part of the public
24 record.

25 (b) If at any time during the term of a contract, a
26 contractor adds or changes any subcontractors, he or she shall

1 promptly notify, in writing, the chief procurement officer,
2 State purchasing officer, or their designee of the names and
3 addresses ~~of and the expected amount of money~~ each new or
4 replaced subcontractor and the general type of work to be
5 performed. Upon the request of the chief procurement officer
6 appointed pursuant to subsection (a)(2) of Section 10-20, the
7 contractor shall provide the chief procurement officer a copy
8 of any new or amended subcontract so identified within 30 days
9 after the request is made. Prior to submission of the new or
10 amended subcontract to the chief procurement officer, a
11 subcontractor or contractor on behalf of a subcontractor may
12 redact information that is deemed proprietary or confidential.
13 ~~will receive. The contractor shall provide to the responsible~~
14 ~~chief procurement officer a copy of the subcontract within 20~~
15 ~~days after the execution of the subcontract.~~

16 (c) In addition to any other requirements of this Code, a
17 subcontract subject to this Section must include all of the
18 subcontractor's certifications required by Article 50 of the
19 Code.

20 (d) This Section applies to procurements solicited on or
21 after the effective date of this amendatory Act of the 96th
22 General Assembly. The changes made to this Section by this
23 amendatory Act of the 97th General Assembly apply to
24 procurements solicited on or after the effective date of this
25 amendatory Act of the 97th General Assembly.

26 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793

1 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

2 (30 ILCS 500/20-155)

3 Sec. 20-155. Solicitation and contract documents.

4 (a) After award of a contract and subject to provisions of
5 the Freedom of Information Act, the procuring agency shall make
6 available for public inspection and copying all pre-award,
7 post-award, administration, and close-out documents relating
8 to that particular contract.

9 (b) A procurement file shall be maintained for all
10 contracts, regardless of the method of procurement. The
11 procurement file shall contain the basis on which the award is
12 made, all submitted bids and proposals, all evaluation
13 materials, score sheets and all other documentation related to
14 or prepared in conjunction with evaluation, negotiation, and
15 the award process. The procurement file shall contain a written
16 determination, signed by the chief procurement officer or State
17 purchasing officer, setting forth the reasoning for the
18 contract award decision. The procurement file shall not include
19 trade secrets or other competitively sensitive, confidential,
20 or proprietary information. The procurement file shall be open
21 to public inspection within 7 business days following award of
22 the contract.

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

1 (30 ILCS 500/20-160)

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

4 (a) For purposes of this Section, the terms "business
5 entity", "contract", "State contract", "contract with a State
6 agency", "State agency", "affiliated entity", and "affiliated
7 person" have the meanings ascribed to those terms in Section
8 50-37.

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

20 (c) Within 30 days after the effective date of this
21 amendatory Act of the 95th General Assembly, each business
22 entity (i) whose aggregate bids and proposals on State
23 contracts annually total more than \$50,000, (ii) whose
24 aggregate bids and proposals on State contracts combined with
25 the business entity's aggregate annual total value of State
26 contracts exceed \$50,000, or (iii) whose contracts with State

1 agencies, in the aggregate, annually total more than \$50,000
2 shall register with the State Board of Elections in accordance
3 with Section 9-35 of the Election Code. A business entity
4 required to register under this subsection shall submit a copy
5 of the certificate of registration to the applicable chief
6 procurement officer within 90 days after the effective date of
7 this amendatory Act of the 95th General Assembly. A business
8 entity required to register under this subsection due to item
9 (i) or (ii) has a continuing duty to ensure that the
10 registration is accurate during the period beginning on the
11 date of registration and ending on the day after the date the
12 contract is awarded; any change in information must be reported
13 to the State Board of Elections 5 business days following such
14 change or no later than a day before the contract is awarded,
15 whichever date is earlier. A business entity required to
16 register under this subsection due to item (iii) has a
17 continuing duty to ensure that the registration is accurate in
18 accordance with subsection (e).

19 (d) Any business entity, not required under subsection (c)
20 to register within 30 days after the effective date of this
21 amendatory Act of the 95th General Assembly, whose aggregate
22 bids and proposals on State contracts annually total more than
23 \$50,000, or whose aggregate bids and proposals on State
24 contracts combined with the business entity's aggregate annual
25 total value of State contracts exceed \$50,000, shall register
26 with the State Board of Elections in accordance with Section

1 9-35 of the Election Code prior to submitting to a State agency
2 the bid or proposal whose value causes the business entity to
3 fall within the monetary description of this subsection. A
4 business entity required to register under this subsection has
5 a continuing duty to ensure that the registration is accurate
6 during the period beginning on the date of registration and
7 ending on the day after the date the contract is awarded. Any
8 change in information must be reported to the State Board of
9 Elections within 5 business days following such change or no
10 later than a day before the contract is awarded, whichever date
11 is earlier.

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

1 assessed.

2 Also, if a business entity required to register under this
3 subsection has a pending bid or proposal, any change in
4 information shall be reported to the State Board of Elections
5 within 5 business days following such change or no later than a
6 day before the contract is awarded, whichever date is earlier.

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

13 (g) Upon the submission of a bid or proposal ~~A copy of a~~
14 ~~certificate of registration must accompany any bid or proposal~~
15 ~~for a contract with a State agency~~ by a business entity
16 required to register under this Section, the ~~—A~~ chief
17 procurement officer shall verify the status of the business
18 entity's certificate of registration through the State Board of
19 Elections website ~~not accept a bid or proposal unless the~~
20 ~~certificate is submitted to the agency with the bid or~~
21 ~~proposal.~~

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

26 In addition to any penalty under Section 9-35 of the

1 Election Code, intentional, willful, or material failure to
2 disclose information required for registration shall render
3 the contract, bid, proposal, or other procurement relationship
4 voidable by the chief procurement officer if he or she deems it
5 to be in the best interest of the State of Illinois.

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

8 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
9 for the effective date of changes made by P.A. 96-795); 96-848,
10 eff. 1-1-10; 97-333, eff. 8-12-11.)

11 (30 ILCS 500/50-5)

12 Sec. 50-5. Bribery.

13 (a) Prohibition. No person or business shall be awarded a
14 contract or subcontract under this Code who:

15 (1) has been convicted under the laws of Illinois or
16 any other state of bribery or attempting to bribe an
17 officer or employee of the State of Illinois or any other
18 state in that officer's or employee's official capacity; or

19 (2) has made an admission of guilt of that conduct that
20 is a matter of record but has not been prosecuted for that
21 conduct.

22 (b) Businesses. No business shall be barred from
23 contracting with any unit of State or local government, or
24 subcontracting under such a contract, as a result of a
25 conviction under this Section of any employee or agent of the

1 business if the employee or agent is no longer employed by the
2 business and:

3 (1) the business has been finally adjudicated not
4 guilty; or

5 (2) the business demonstrates to the governmental
6 entity with which it seeks to contract or which is a
7 signatory to the contract to which the subcontract relates,
8 and that entity finds that the commission of the offense
9 was not authorized, requested, commanded, or performed by a
10 director, officer, or high managerial agent on behalf of
11 the business as provided in paragraph (2) of subsection (a)
12 of Section 5-4 of the Criminal Code of 1961.

13 (c) Conduct on behalf of business. For purposes of this
14 Section, when an official, agent, or employee of a business
15 committed the bribery or attempted bribery on behalf of the
16 business and in accordance with the direction or authorization
17 of a responsible official of the business, the business shall
18 be chargeable with the conduct.

19 (d) Certification. Every bid submitted to and contract
20 executed by the State and every subcontract subject to Section
21 20-120 of this Code shall contain a certification by the
22 contractor or the subcontractor, respectively, that the
23 contractor or subcontractor is not barred from being awarded a
24 contract or subcontract under this Section and acknowledges
25 that the chief procurement officer may declare the related
26 contract void if any certifications required by this Section

1 are false. If the false certification is made by a
2 subcontractor, then the contractor's submitted bid and the
3 executed contract may not be declared void, unless the
4 contractor refuses to terminate the subcontract upon the
5 State's request after a finding that the subcontract's
6 certification was false. A contractor or subcontractor who
7 makes a false statement, material to the certification, commits
8 a Class 3 felony.

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

11 (30 ILCS 500/50-10)

12 Sec. 50-10. Felons.

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

21 (b) Every bid submitted to and contract executed by the
22 State and every subcontract subject to Section 20-120 of this
23 Code shall contain a certification by the bidder or contractor
24 or subcontractor, respectively, that the bidder, contractor,
25 or subcontractor is not barred from being awarded a contract or

1 subcontract under this Section and acknowledges that the chief
2 procurement officer may declare the related contract void if
3 any of the certifications required by this Section are false.
4 If the false certification is made by a subcontractor, then the
5 contractor's submitted bid and the executed contract may not be
6 declared void, unless the contractor refuses to terminate the
7 subcontract upon the State's request after a finding that the
8 subcontract's certification was false.

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

11 (30 ILCS 500/50-10.5)

12 Sec. 50-10.5. Prohibited bidders and contractors.

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

20 (b) Every bid submitted to and contract executed by the
21 State and every subcontract subject to Section 20-120 of this
22 Code shall contain a certification by the bidder, contractor,
23 or subcontractor, respectively, that the bidder, contractor,
24 or subcontractor is not barred from being awarded a contract or
25 subcontract under this Section and acknowledges that the chief

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

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

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

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

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

19 (e) No person or business shall bid or enter into a
20 contract under this Code if the person or business:

21 ~~(1) assisted the State of Illinois or a State agency in~~
22 ~~determining whether there is a need for a contract except~~
23 ~~as part of a response to a publicly issued request for~~
24 ~~information; or~~

25 ~~(2) assisted an employee of the State of Illinois who,~~
26 ~~by the nature of his or her duties, has the authority to~~

1 participate personally and substantially in the decision
2 to award a State contract ~~or a State agency~~ by reviewing,
3 drafting, or preparing any invitation for bids, a request
4 for proposal, or request for information or provided
5 similar assistance except as part of a publicly issued
6 opportunity to review drafts of all or part of these
7 documents.

8 This subsection does not prohibit a person or business from
9 submitting a bid or proposal or entering into a contract if the
10 person or business: (i) initiates a communication with an
11 employee to provide general information about products,
12 services, or industry best practices and, if applicable, that
13 communication is documented in accordance with Section 50-39 or
14 (ii) responds to a communication initiated by an employee of
15 the State for the purposes of providing information to evaluate
16 new products, trends, services, or technologies.

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

22 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
23 for the effective date of changes made by P.A. 96-795); 96-920,
24 eff. 7-1-10.)

1 Sec. 50-11. Debt delinquency.

2 (a) No person shall submit a bid for or enter into a
3 contract or subcontract under this Code if that person knows or
4 should know that he or she or any affiliate is delinquent in
5 the payment of any debt to the State, unless the person or
6 affiliate has entered into a deferred payment plan to pay off
7 the debt. For purposes of this Section, the phrase "delinquent
8 in the payment of any debt" shall be determined by the Debt
9 Collection Bureau. For purposes of this Section, the term
10 "affiliate" means any entity that (1) directly, indirectly, or
11 constructively controls another entity, (2) is directly,
12 indirectly, or constructively controlled by another entity, or
13 (3) is subject to the control of a common entity. For purposes
14 of this subsection (a), a person controls an entity if the
15 person owns, directly or individually, more than 10% of the
16 voting securities of that entity. As used in this subsection
17 (a), the term "voting security" means a security that (1)
18 confers upon the holder the right to vote for the election of
19 members of the board of directors or similar governing body of
20 the business or (2) is convertible into, or entitles the holder
21 to receive upon its exercise, a security that confers such a
22 right to vote. A general partnership interest is a voting
23 security.

24 (b) Every bid submitted to and contract executed by the
25 State and every subcontract subject to Section 20-120 of this
26 Code shall contain a certification by the bidder, contractor,

1 or subcontractor, respectively, that the contractor or the
2 subcontractor and its affiliate is not barred from being
3 awarded a contract or subcontract under this Section and
4 acknowledges that the chief procurement officer may declare the
5 related contract void if any of the certifications completed
6 pursuant to this subsection (b) are false. If the false
7 certification is made by a subcontractor, then the contractor's
8 submitted bid and the executed contract may not be declared
9 void, unless the contractor refuses to terminate the
10 subcontract upon the State's request after a finding that the
11 subcontract's certification was false.

12 (Source: P.A. 96-493, eff. 1-1-10; 96-795, eff. 7-1-10 (see
13 Section 5 of P.A. 96-793 for effective date of changes made by
14 P.A. 96-795); 96-1000, eff. 7-2-10.)

15 (30 ILCS 500/50-12)

16 Sec. 50-12. Collection and remittance of Illinois Use Tax.

17 (a) No person shall enter into a contract with a State
18 agency or enter into a subcontract under this Code unless the
19 person and all affiliates of the person collect and remit
20 Illinois Use Tax on all sales of tangible personal property
21 into the State of Illinois in accordance with the provisions of
22 the Illinois Use Tax Act regardless of whether the person or
23 affiliate is a "retailer maintaining a place of business within
24 this State" as defined in Section 2 of the Use Tax Act. For
25 purposes of this Section, the term "affiliate" means any entity

1 that (1) directly, indirectly, or constructively controls
2 another entity, (2) is directly, indirectly, or constructively
3 controlled by another entity, or (3) is subject to the control
4 of a common entity. For purposes of this subsection (a), an
5 entity controls another entity if it owns, directly or
6 individually, more than 10% of the voting securities of that
7 entity. As used in this subsection (a), the term "voting
8 security" means a security that (1) confers upon the holder the
9 right to vote for the election of members of the board of
10 directors or similar governing body of the business or (2) is
11 convertible into, or entitles the holder to receive upon its
12 exercise, a security that confers such a right to vote. A
13 general partnership interest is a voting security.

14 (b) Every bid submitted and contract executed by the State
15 and every subcontract subject to Section 20-120 of this Code
16 shall contain a certification by the bidder, contractor, or
17 subcontractor, respectively, that the bidder, contractor, or
18 subcontractor is not barred from bidding for or entering into a
19 contract under subsection (a) of this Section and acknowledges
20 that the chief procurement officer may declare the related
21 contract void if any of the certifications completed pursuant
22 to this subsection (b) are false. If the false certification is
23 made by a subcontractor, then the contractor's submitted bid
24 and the executed contract may not be declared void, unless the
25 contractor refuses to terminate the subcontract upon the
26 State's request after a finding that the subcontract's

1 certification was false.

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

4 (30 ILCS 500/50-14)

5 Sec. 50-14. Environmental Protection Act violations.

6 (a) Unless otherwise provided, no person or business found
7 by a court or the Pollution Control Board to have committed a
8 willful or knowing violation of the Environmental Protection
9 Act shall do business with the State of Illinois or any State
10 agency or enter into a subcontract that is subject to this Code
11 from the date of the order containing the finding of violation
12 until 5 years after that date, unless the person or business
13 can show that no person involved in the violation continues to
14 have any involvement with the business.

15 (b) A person or business otherwise barred from doing
16 business with the State of Illinois or any State agency or
17 subcontracting under this Code by subsection (a) may be allowed
18 to do business with the State of Illinois or any State agency
19 if it is shown that there is no practicable alternative to the
20 State to contracting with that person or business.

21 (c) Every bid submitted to and contract executed by the
22 State and every subcontract subject to Section 20-120 of this
23 Code shall contain a certification by the bidder, contractor,
24 or subcontractor, respectively, that the bidder, contractor,
25 or subcontractor is not barred from being awarded a contract or

1 subcontract under this Section and acknowledges that the
2 contracting State agency may declare the related contract void
3 if any of the certifications completed pursuant to this
4 subsection (c) are false. If the false certification is made by
5 a subcontractor, then the contractor's submitted bid and the
6 executed contract may not be declared void, unless the
7 contractor refuses to terminate the subcontract upon the
8 State's request after a finding that the subcontract's
9 certification was false.

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

12 (30 ILCS 500/50-35)

13 Sec. 50-35. Financial disclosure and potential conflicts
14 of interest.

15 (a) All offers from responsive bidders or offerors with an
16 annual value of more than \$25,000, and all subcontracts
17 identified as provided by Section 20-120 of this Code, shall be
18 accompanied by disclosure of the financial interests of the
19 contractor, bidder, or proposer and each subcontractor to be
20 used. The financial disclosure of each successful bidder or
21 offeror and its subcontractors shall be incorporated as a
22 material term of the contract and shall become part of the
23 publicly available contract or procurement file maintained by
24 the appropriate chief procurement officer. Each disclosure
25 under this Section ~~and Section 50-34~~ shall be signed and made

1 under penalty of perjury by an authorized officer or employee
2 on behalf of the bidder or offeror, and must be filed with the
3 Procurement Policy Board.

4 (b) Disclosure shall include any ownership or distributive
5 income share that is in excess of 5%, or an amount greater than
6 60% of the annual salary of the Governor, of the disclosing
7 entity or its parent entity, whichever is less, unless the
8 contractor, bidder, or subcontractor (i) is a publicly traded
9 entity subject to Federal 10K reporting, in which case it may
10 submit its 10K disclosure in place of the prescribed
11 disclosure, or (ii) is a privately held entity that is exempt
12 from Federal 10k reporting but has more than 200 shareholders,
13 in which case it may submit the information that Federal 10k
14 reporting companies are required to report under 17 CFR 229.401
15 and list the names of any person or entity holding any
16 ownership share that is in excess of 5% in place of the
17 prescribed disclosure. The form of disclosure shall be
18 prescribed by the applicable chief procurement officer and must
19 include at least the names, addresses, and dollar or
20 proportionate share of ownership of each person identified in
21 this Section, their instrument of ownership or beneficial
22 relationship, and notice of any potential conflict of interest
23 resulting from the current ownership or beneficial
24 relationship of each person identified in this Section having
25 in addition any of the following relationships:

26 (1) State employment, currently or in the previous 3

1 years, including contractual employment of services.

2 (2) State employment of spouse, father, mother, son, or
3 daughter, including contractual employment for services in
4 the previous 2 years.

5 (3) Elective status; the holding of elective office of
6 the State of Illinois, the government of the United States,
7 any unit of local government authorized by the Constitution
8 of the State of Illinois or the statutes of the State of
9 Illinois currently or in the previous 3 years.

10 (4) Relationship to anyone holding elective office
11 currently or in the previous 2 years; spouse, father,
12 mother, son, or daughter.

13 (5) Appointive office; the holding of any appointive
14 government office of the State of Illinois, the United
15 States of America, or any unit of local government
16 authorized by the Constitution of the State of Illinois or
17 the statutes of the State of Illinois, which office
18 entitles the holder to compensation in excess of expenses
19 incurred in the discharge of that office currently or in
20 the previous 3 years.

21 (6) Relationship to anyone holding appointive office
22 currently or in the previous 2 years; spouse, father,
23 mother, son, or daughter.

24 (7) Employment, currently or in the previous 3 years,
25 as or by any registered lobbyist of the State government.

26 (8) Relationship to anyone who is or was a registered

1 lobbyist in the previous 2 years; spouse, father, mother,
2 son, or daughter.

3 (9) Compensated employment, currently or in the
4 previous 3 years, by any registered election or re-election
5 committee registered with the Secretary of State or any
6 county clerk in the State of Illinois, or any political
7 action committee registered with either the Secretary of
8 State or the Federal Board of Elections.

9 (10) Relationship to anyone; spouse, father, mother,
10 son, or daughter; who is or was a compensated employee in
11 the last 2 years of any registered election or re-election
12 committee registered with the Secretary of State or any
13 county clerk in the State of Illinois, or any political
14 action committee registered with either the Secretary of
15 State or the Federal Board of Elections.

16 (b-1) The disclosure required under this Section must also
17 include the name and address of each lobbyist required to
18 register under the Lobbyist Registration Act and other agent of
19 the bidder or offeror who is not identified under subsections
20 (a) and (b), ~~and who~~ has communicated, is communicating, or may
21 communicate with any State officer or employee concerning the
22 bid or offer, and is not an employee of the bidder or offeror.
23 The disclosure under this subsection is a continuing obligation
24 and must be promptly supplemented for accuracy throughout the
25 process and throughout the term of the contract if the bid or
26 offer is successful.

1 (b-2) The disclosure required under this Section must also
2 include, for each of the persons identified in subsection (b)
3 or (b-1), each of the following that occurred within the
4 previous 10 years: debarment from contracting with any
5 governmental entity; professional licensure discipline;
6 ~~bankruptcies; adverse civil judgments and~~ administrative
7 findings; and criminal felony convictions. The disclosure
8 under this subsection is a continuing obligation and must be
9 promptly supplemented for accuracy throughout the process and
10 throughout the term of the contract if the bid or offer is
11 successful.

12 (c) The disclosure in subsection (b) is not intended to
13 prohibit or prevent any contract. The disclosure is meant to
14 fully and publicly disclose any potential conflict to the chief
15 procurement officers, State purchasing officers, their
16 designees, and executive officers so they may adequately
17 discharge their duty to protect the State.

18 (d) When a potential for a conflict of interest is
19 identified, discovered, or reasonably suspected, the chief
20 procurement officer or State procurement officer shall send the
21 contract to the Procurement Policy Board. In accordance with
22 the objectives of subsection (c), the Procurement Policy Board
23 shall provide written notice to the contractor or subcontractor
24 that is identified, discovered, or reasonably suspected of
25 having such potential for a conflict of interest. The
26 contractor or subcontractor shall have 30 days to respond in

1 writing to the Board, and a hearing before the Board will be
2 granted upon the contractor's or subcontractor's request. Upon
3 consideration, the ~~The~~ Board shall recommend, in writing,
4 whether to allow or void the contract, bid, offer, or
5 subcontract weighing the best interest of the State of
6 Illinois. All recommendations shall be submitted to the chief
7 procurement officer. ~~The chief procurement officer must hold a~~
8 ~~public hearing if the Procurement Policy Board makes a~~
9 ~~recommendation to (i) void a contract or (ii) void a bid or~~
10 ~~offer and the chief procurement officer selected or intends to~~
11 ~~award the contract to the bidder or offeror. A chief~~
12 procurement officer is prohibited from awarding a contract
13 before a hearing if the Board recommendation does not support a
14 bid or offer. ~~The recommendation and proceedings of any~~
15 ~~hearing, if applicable, shall become part of the contract, bid,~~
16 ~~or proposal file and shall be available to the public.~~

17 (e) These thresholds and disclosure do not relieve the
18 chief procurement officer, the State purchasing officer, or
19 their designees from reasonable care and diligence for any
20 contract, bid, offer, or proposal. The chief procurement
21 officer, the State purchasing officer, or their designees shall
22 be responsible for using any reasonably known and publicly
23 available information to discover any undisclosed potential
24 conflict of interest and act to protect the best interest of
25 the State of Illinois.

26 (f) Inadvertent or accidental failure to fully disclose

1 shall render the contract, bid, proposal, subcontract, or
2 relationship voidable by the chief procurement officer if he or
3 she deems it in the best interest of the State of Illinois and,
4 at his or her discretion, may be cause for barring from future
5 contracts, bids, proposals, subcontracts, or relationships
6 with the State for a period of up to 2 years.

7 (g) Intentional, willful, or material failure to disclose
8 shall render the contract, bid, proposal, subcontract, or
9 relationship voidable by the chief procurement officer if he or
10 she deems it in the best interest of the State of Illinois and
11 shall result in debarment from future contracts, bids,
12 proposals, subcontracts, or relationships for a period of not
13 less than 2 years and not more than 10 years. Reinstatement
14 after 2 years and before 10 years must be reviewed and
15 commented on in writing by the Governor of the State of
16 Illinois, or by an executive ethics board or commission he or
17 she might designate. The comment shall be returned to the
18 responsible chief procurement officer who must rule in writing
19 whether and when to reinstate.

20 (h) In addition, all disclosures shall note any other
21 current or pending contracts, proposals, subcontracts, leases,
22 or other ongoing procurement relationships the bidding,
23 proposing, offering, or subcontracting entity has with any
24 other unit of State government and shall clearly identify the
25 unit and the contract, proposal, lease, or other relationship.

26 (i) The contractor or bidder has a continuing obligation to

1 supplement the disclosure required by this Section throughout
2 the bidding process or during the term of any contract.

3 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
4 for the effective date of changes made by P.A. 96-795); 96-920,
5 eff. 7-1-10; 97-490, eff. 8-22-11.)

6 (30 ILCS 500/50-39)

7 Sec. 50-39. Procurement communications reporting
8 requirement.

9 (a) Any written or oral communication received by a State
10 employee who, by the nature of his or her duties, has the
11 authority to participate personally and substantially in the
12 decision to award a State contract and that imparts or requests
13 material information or makes a material argument regarding
14 potential action concerning an active a procurement matter,
15 including, but not limited to, an application, a contract, or a
16 project, shall be reported to the Procurement Policy Board,
17 and, with respect to the Illinois Power Agency, by the
18 initiator of the communication, and may be reported also by the
19 recipient. For purposes of this Section, "active procurement
20 matter" means a procurement process beginning with publication
21 in the Illinois Procurement Bulletin; "material information"
22 means information that a reasonable person would deem important
23 in determining his or her course of action and pertains to
24 significant issues, including, but not limited to, price,
25 quantity, and terms of payment or performance; and "material

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

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

19 (1) The names of any party to the communication.

20 (2) The date on which the communication occurred.

21 (3) The time at which the communication occurred.

22 (4) The duration of the communication.

23 (5) The method (written, oral, etc.) of the
24 communication.

25 (6) A summary of the substantive content of the
26 communication.

1 These communications do not include the following: (i)
2 statements by a person publicly made in a public forum; (ii)
3 statements regarding matters of procedure and practice, such as
4 format, the number of copies required, the manner of filing,
5 and the status of a matter; ~~and~~ (iii) statements made by a
6 State employee of the agency to the agency head or other
7 employees of that agency, ~~or~~ to the employees of the Executive
8 Ethics Commission, or to an employee of another State agency
9 who, through the communication, is either exercising his or her
10 experience or expertise in the subject matter of the particular
11 procurement in the normal course of business or exercising
12 oversight or supervisory or management authority over the
13 procurement in the normal course of business; (iv) unsolicited
14 communications providing general information about products,
15 services, or industry best practices before those products or
16 services become involved in a procurement matter; (v)
17 communications received in response to procurement
18 solicitations, including, but not limited to, vendor responses
19 to a request for information, request for proposal, request for
20 qualifications, invitation for bid, or a small purchase, sole
21 source, or emergency solicitation, or questions and answers
22 posted to the Procurement Bulletins to supplement the
23 procurement action, provided that the communications are made
24 in accordance with the instructions contained in the
25 procurement solicitation, procedures, or guidelines; (vi)
26 communications that are privileged, protected, or confidential

1 under law; and (vii) communications that are part of a formal
2 procurement process as set out by statute, rule, or the
3 solicitation, guidelines, or procedures, including, but not
4 limited to, the posting of procurement opportunities, the
5 process for approving a procurement business case or its
6 equivalent, fiscal approval, submission of bids, the
7 finalizing of contract terms and conditions with an awardee or
8 apparent awardee, and similar formal procurement processes.

9 The provisions of this Section shall not apply to
10 communications regarding the administration and implementation
11 of an existing contract, except communications regarding
12 change orders or the renewal or extension of a contract.

13 (b) The report required by subsection (a) shall be
14 submitted monthly and include at least the following: (i) the
15 date and time of each communication; (ii) the identity of each
16 person from whom the written or oral communication was
17 received, the individual or entity represented by that person,
18 and any action the person requested or recommended; (iii) the
19 identity and job title of the person to whom each communication
20 was made; (iv) if a response is made, the identity and job
21 title of the person making each response; (v) a detailed
22 summary of the points made by each person involved in the
23 communication; (vi) the duration of the communication; (vii)
24 the location or locations of all persons involved in the
25 communication and, if the communication occurred by telephone,
26 the telephone numbers for the callers and recipients of the

1 communication; and (viii) any other pertinent information. No
2 proprietary or confidential information shall be included in
3 any communication reported to the Procurement Policy Board.

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

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

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

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

23 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
24 for the effective date of changes made by P.A. 96-795); 96-920,
25 eff. 7-1-10; 97-333, eff. 8-12-11; 97-618, eff. 10-26-11.)

1 (30 ILCS 500/50-60)

2 Sec. 50-60. Voidable contracts.

3 (a) If any contract or amendment thereto is entered into or
4 purchase or expenditure of funds is made at any time in
5 violation of this Code or any other law, the contract or
6 amendment thereto may be declared void by the chief procurement
7 officer or may be ratified and affirmed, provided the chief
8 procurement officer determines that ratification is in the best
9 interests of the State. If the contract is ratified and
10 affirmed, it shall be without prejudice to the State's rights
11 to any appropriate damages.

12 (b) If, during the term of a contract, the chief
13 procurement officer determines that the contractor is
14 delinquent in the payment of debt as set forth in Section 50-11
15 of this Code, the chief procurement officer may declare the
16 contract void if it determines that voiding the contract is in
17 the best interests of the State. The Debt Collection Bureau
18 shall adopt rules for the implementation of this subsection
19 (b).

20 (c) If, during the term of a contract, the chief
21 procurement officer determines that the contractor is in
22 violation of Section 50-10.5 of this Code, the chief
23 procurement officer shall declare the contract void.

24 (d) If, during the term of a contract, the contracting
25 agency learns from an annual certification or otherwise
26 determines that the contractor no longer qualifies to enter

1 into State contracts by reason of Section 50-5, 50-10, 50-12,
2 50-14, or 50-14.5 of this Article, the chief procurement
3 officer may declare the contract void if it determines that
4 voiding the contract is in the best interests of the State.

5 (e) If, during the term of a contract, the chief
6 procurement officer learns from an annual certification or
7 otherwise determines that a subcontractor subject to Section
8 20-120 no longer qualifies to enter into State contracts by
9 reason of Section 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, or
10 50-14.5 of this Article, the chief procurement officer may
11 declare the related contract void if it determines that voiding
12 the contract is in the best interests of the State. However,
13 the related contract shall not be declared void unless the
14 contractor refuses to terminate the subcontract upon the
15 State's request after a finding that the subcontractor no
16 longer qualifies to enter into State contracts by reason of one
17 of the Sections listed in this subsection.

18 (f) The changes to this Section made by Public Act 96-795
19 apply to actions taken by the chief procurement officer on or
20 after July 1, 2010.

21 (Source: P.A. 96-493, eff. 1-1-10; 96-795, eff. 7-1-10 (see
22 Section 5 of P.A. 96-793 for the effective date of changes made
23 by P.A. 96-795); 96-1000, eff. 7-2-10.)

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

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