



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1951

Introduced 2/15/2019, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10
30 ILCS 500/1-12
30 ILCS 500/1-13

Amends the Illinois Procurement Code. Provides that for contracts with an annual value of more than \$100,000 (currently, all contracts) entered into under an exemption, each State agency shall post to the appropriate procurement bulletin the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. Provides that notice of each contract with an annual value of more than \$100,000 (currently, all contracts) entered into by a State agency that is related to the procurement of artistic or musical goods and services shall be published in the Illinois Procurement Bulletin within 14 calendar days after contract execution. Provides that notice of each contract with an annual value of more than \$100,000 (currently, all contracts) entered into by a public institution of higher education that is related to the procurement of specified goods and services shall be published in the Procurement Bulletin within 14 calendar days after contract execution.

LRB101 10717 RJF 55829 b

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, 1-12, and 1-13 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 with an annual value of more than \$100,000 entered into on or

1 after October 1, 2017 under an exemption provided in any
2 paragraph of this subsection (b), except paragraph (1), (2), or
3 (5), each State agency shall post to the appropriate
4 procurement bulletin the name of the contractor, a description
5 of the supply or service provided, the total amount of the
6 contract, the term of the contract, and the exception to the
7 Code utilized. The chief procurement officer shall submit a
8 report to the Governor and General Assembly no later than
9 November 1 of each year that shall include, at a minimum, an
10 annual summary of the monthly information reported to the chief
11 procurement officer.

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

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

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

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

6 (f) (Blank).

7 (g) (Blank).

8 (h) This Code does not apply to the process to procure or
9 contracts entered into in accordance with Sections 11-5.2 and
10 11-5.3 of the Illinois Public Aid Code.

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

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

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

24 (l) This Code does not apply to the processes used by the
25 Illinois Student Assistance Commission to procure supplies and
26 services paid for from the private funds of the Illinois

1 Prepaid Tuition Fund. As used in this subsection (1), "private
2 funds" means funds derived from deposits paid into the Illinois
3 Prepaid Tuition Trust Fund and the earnings thereon.

4 (Source: P.A. 99-801, eff. 1-1-17; 100-43, eff. 8-9-17;
5 100-580, eff. 3-12-18; 100-757, eff. 8-10-18; 100-1114, eff.
6 8-28-18; revised 10-18-18.)

7 (30 ILCS 500/1-12)

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

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

13 (b) Notice of each contract with an annual value of more
14 than \$100,000 entered into by a State agency that is related to
15 the procurement of goods and services identified in this
16 Section shall be published in the Illinois Procurement Bulletin
17 within 14 calendar days after contract execution. The chief
18 procurement officer shall prescribe the form and content of the
19 notice. Each State agency shall provide the chief procurement
20 officer, on a monthly basis, in the form and content prescribed
21 by the chief procurement officer, a report of contracts that
22 are related to the procurement of supplies and services
23 identified in this Section. At a minimum, this report shall
24 include the name of the contractor, a description of the supply
25 or service provided, the total amount of the contract, the term

1 of the contract, and the exception to the Code utilized. A copy
2 of any or all of these contracts shall be made available to the
3 chief procurement officer immediately upon request. The chief
4 procurement officer shall submit a report to the Governor and
5 General Assembly no later than November 1 of each year that
6 shall include, at a minimum, an annual summary of the monthly
7 information reported to the chief procurement officer.

8 (c) (Blank).

9 (d) The General Assembly finds and declares that:

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

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

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

22 This Section shall be deemed to have been in continuous
23 effect since August 3, 2012 (the effective date of Public Act
24 97-895), and it shall continue to be in effect henceforward
25 until it is otherwise lawfully repealed. All previously enacted
26 amendments to this Section taking effect on or after December

1 31, 2016, are hereby validated.

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

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

11 In this amendatory Act of the 100th General Assembly, the
12 base text of this Section is set forth as amended by Public Act
13 98-1076. Striking and underscoring is used only to show changes
14 being made to the base text.

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

18 (Source: P.A. 100-43, eff. 8-9-17.)

19 (30 ILCS 500/1-13)

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

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

25 (b) Except as provided in this Section, this Code shall not

1 apply to procurements made by or on behalf of public
2 institutions of higher education for any of the following:

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

8 (2) Procurement expenditures for events or activities
9 paid for exclusively by revenues generated by the event or
10 activity, gifts or donations for the event or activity,
11 private grants, or any combination thereof.

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

17 (4) Procurement expenditures necessary to provide
18 athletic, artistic or musical services, performances,
19 events, or productions by or for a public institution of
20 higher education.

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

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

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

7 (8) Procurement expenditures necessary to perform
8 sponsored research and other sponsored activities under
9 grants and contracts funded by the sponsor or by sources
10 other than State appropriations.

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

15 Notice of each contract with an annual value of more than
16 \$100,000 entered into by a public institution of higher
17 education that is related to the procurement of goods and
18 services identified in items (1) through (9) of this subsection
19 shall be published in the Procurement Bulletin within 14
20 calendar days after contract execution. The Chief Procurement
21 Officer shall prescribe the form and content of the notice.
22 Each public institution of higher education shall provide the
23 Chief Procurement Officer, on a monthly basis, in the form and
24 content prescribed by the Chief Procurement Officer, a report
25 of contracts that are related to the procurement of goods and
26 services identified in this subsection. At a minimum, this

1 report shall include the name of the contractor, a description
2 of the supply or service provided, the total amount of the
3 contract, the term of the contract, and the exception to the
4 Code utilized. A copy of any or all of these contracts shall be
5 made available to the Chief Procurement Officer immediately
6 upon request. 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 (b-5) Except as provided in this subsection, the provisions
12 of this Code shall not apply to contracts for medical supplies,
13 and to contracts for medical services necessary for the
14 delivery of care and treatment at medical, dental, or
15 veterinary teaching facilities utilized by Southern Illinois
16 University or the University of Illinois and at any
17 university-operated health care center or dispensary that
18 provides care, treatment, and medications for students,
19 faculty and staff. Other supplies and services needed for these
20 teaching facilities shall be subject to the jurisdiction of the
21 Chief Procurement Officer for Public Institutions of Higher
22 Education who may establish expedited procurement procedures
23 and may waive or modify certification, contract, hearing,
24 process and registration requirements required by the Code. All
25 procurements made under this subsection shall be documented and
26 may require publication in the Illinois Procurement Bulletin.

1 (c) Procurements made by or on behalf of public
2 institutions of higher education for the fulfillment of a grant
3 shall be made in accordance with the requirements of this Code
4 to the extent practical.

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

24 (d) Notwithstanding this Section, a waiver of the
25 registration requirements of Section 20-160 does not permit a
26 business entity and any affiliated entities or affiliated

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

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

25 (f) As used in this Section:

26 "Grant" means non-appropriated funding provided by a

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

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

12 (g) (Blank).

13 (h) The General Assembly finds and declares that:

14 (1) Public Act 98-1076, which took effect on January 1,
15 2015, changed the repeal date set for this Section from
16 December 31, 2014 to December 31, 2016.

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

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

26 (4) This Section was originally enacted to protect,

1 promote, and preserve the general welfare. Any
2 construction of this Section that results in the repeal of
3 this Section on December 31, 2014 would be inconsistent
4 with the manifest intent of the General Assembly and
5 repugnant to the context of this Code.

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

9 This Section shall be deemed to have been in continuous
10 effect since December 20, 2011 (the effective date of Public
11 Act 97-643), and it shall continue to be in effect henceforward
12 until it is otherwise lawfully repealed. All previously enacted
13 amendments to this Section taking effect on or after December
14 31, 2014, are hereby validated.

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

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

24 In this amendatory Act of the 100th General Assembly, the
25 base text of the reenacted Section is set forth as amended by
26 Public Act 98-1076. Striking and underscoring is used only to

1 show changes being made to the base text.

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

5 (Source: P.A. 100-43, eff. 8-9-17.)