

SB0108



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0108

Introduced 2/3/2021, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10

Amends the Illinois Procurement Code. Provides that the Code does not apply to an intergovernmental agreement when the purpose of the agreement is to allow one unit of government to use space that is owned or controlled by another unit of government. Effective immediately.

LRB102 03582 RJF 13595 b

A BILL FOR

1 AN ACT concerning finance.

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

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

6 (30 ILCS 500/1-10)

7 Sec. 1-10. Application.

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

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

23 (1) Contracts between the State and its political

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

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

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

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

12 (5) Collective bargaining contracts.

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

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

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

4 (8) (Blank).

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

7 (10) (Blank).

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

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

24 (13) Contracts for services, commodities, and
25 equipment to support the delivery of timely forensic
26 science services in consultation with and subject to the

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

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

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

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

1 defined in Section 3-105 of the Public Utilities Act, (2)
2 telecommunications carriers as defined in Section 13-202
3 of the Public Utilities Act, (3) electric cooperatives as
4 defined in Section 3.4 of the Electric Supplier Act, (4)
5 telephone or telecommunications cooperatives as defined in
6 Section 13-212 of the Public Utilities Act, (5) rural
7 water or waste water systems with 10,000 connections or
8 less, (6) a holder as defined in Section 21-201 of the
9 Public Utilities Act, and (7) municipalities owning or
10 operating utility systems consisting of public utilities
11 as that term is defined in Section 11-117-2 of the
12 Illinois Municipal Code.

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

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

26 (18) This Code does not apply to any procurements

1 necessary for the Department of Agriculture, the
2 Department of Financial and Professional Regulation, the
3 Department of Human Services, the Department of Commerce
4 and Economic Opportunity, and the Department of Public
5 Health to implement the Cannabis Regulation and Tax Act if
6 the applicable agency has made a good faith determination
7 that it is necessary and appropriate for the expenditure
8 to fall within this exemption and if the process is
9 conducted in a manner substantially in accordance with the
10 requirements of Sections 20-160, 25-60, 30-22, 50-5,
11 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
12 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
13 Section 50-35, compliance applies only to contracts or
14 subcontracts over \$100,000. Notice of each contract
15 entered into under this paragraph (18) that is related to
16 the procurement of goods and services identified in
17 paragraph (1) through (9) of this subsection shall be
18 published in the Procurement Bulletin within 14 calendar
19 days after contract execution. The Chief Procurement
20 Officer shall prescribe the form and content of the
21 notice. Each agency shall provide the Chief Procurement
22 Officer, on a monthly basis, in the form and content
23 prescribed by the Chief Procurement Officer, a report of
24 contracts that are related to the procurement of goods and
25 services identified in this subsection. At a minimum, this
26 report shall include the name of the contractor, a

1 description of the supply or service provided, the total
2 amount of the contract, the term of the contract, and the
3 exception to this Code utilized. A copy of any or all of
4 these contracts shall be made available to the Chief
5 Procurement Officer immediately upon request. The Chief
6 Procurement Officer shall submit a report to the Governor
7 and General Assembly no later than November 1 of each year
8 that includes, at a minimum, an annual summary of the
9 monthly information reported to the Chief Procurement
10 Officer. This exemption becomes inoperative 5 years after
11 June 25, 2019 (the effective date of Public Act 101-27)
12 ~~this amendatory Act of the 101st General Assembly.~~

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

25 (c) This Code does not apply to the electric power
26 procurement process provided for under Section 1-75 of the

1 Illinois Power Agency Act and Section 16-111.5 of the Public
2 Utilities Act.

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

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

19 (f) (Blank).

20 (g) (Blank).

21 (h) This Code does not apply to the process to procure or
22 contracts entered into in accordance with Sections 11-5.2 and
23 11-5.3 of the Illinois Public Aid Code.

24 (i) Each chief procurement officer may access records
25 necessary to review whether a contract, purchase, or other
26 expenditure is or is not subject to the provisions of this

1 Code, unless such records would be subject to attorney-client
2 privilege.

3 (j) This Code does not apply to the process used by the
4 Capital Development Board to retain an artist or work or works
5 of art as required in Section 14 of the Capital Development
6 Board Act.

7 (k) This Code does not apply to the process to procure
8 contracts, or contracts entered into, by the State Board of
9 Elections or the State Electoral Board for hearing officers
10 appointed pursuant to the Election Code.

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

17 (m) This Code does not apply to an intergovernmental
18 agreement when the purpose of the agreement is to allow one
19 unit of government to use space that is owned or controlled by
20 another unit of government.

21 (Source: P.A. 100-43, eff. 8-9-17; 100-580, eff. 3-12-18;
22 100-757, eff. 8-10-18; 100-1114, eff. 8-28-18; 101-27, eff.
23 6-25-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; revised
24 9-17-19.)

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