



Sen. Cristina Castro

Filed: 5/23/2024

10300HB5511sam001

LRB103 38791 JDS 73945 a

1 AMENDMENT TO HOUSE BILL 5511

2 AMENDMENT NO. _____. Amend House Bill 5511 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1.

5 Section 1-1. Short title. This Article may be cited as the
6 Progressive Design-Build Pilot Program Act. References in this
7 Article to "this Act" mean this Article.

8 Section 1-5. Legislative policy. It is the intent of the
9 General Assembly that the State construction agency shall
10 establish a Progressive Design-Build Pilot Program to use the
11 progressive design-build delivery method for up to 3 public
12 projects commencing prior to January 1, 2027 if it is shown to
13 be in the State's best interest for that particular project.
14 It shall be the policy of the State construction agency in the
15 procurement of progressive design-build services to publicly

1 announce all requirements for progressive design-build
2 services and to procure these services on the basis of
3 demonstrated competence and qualifications and with due regard
4 for the principles of competitive selection.

5 The State construction agency shall, prior to issuing
6 requests for qualifications, publish procedures for the
7 solicitation and award of contracts pursuant to this Act.

8 The State construction agency shall, for each public
9 project or projects permitted under this Act, make a written
10 determination, including a description as to the particular
11 advantages of the progressive design-build procurement method,
12 that it is in the best interests of this State to enter into a
13 progressive design-build contract for the project or projects.
14 In making that determination, the following factors shall be
15 considered:

16 (1) The probability that the progressive design-build
17 procurement method will be in the best interests of the
18 State by providing a material savings of time or cost over
19 the design-bid-build or other delivery system.

20 (2) The type and size of the project and its
21 suitability to the progressive design-build procurement
22 method.

23 (3) The ability of the State construction agency to
24 define and provide comprehensive scope and performance
25 criteria for the project.

26 No State construction agency may use the progressive

1 design-build procurement method unless the agency determines
2 in writing that the project will comply with the disadvantaged
3 business and equal employment practices of the State as
4 established in the Business Enterprise for Minorities, Women,
5 and Persons with Disabilities Act and Section 2-105 of the
6 Illinois Human Rights Act.

7 The State construction agency shall within 15 days after
8 the initial determination provide an advisory copy to the
9 Procurement Policy Board and maintain the full record of
10 determination for 5 years.

11 Section 1-10. Definitions. As used in this Act:

12 "Chief procurement office" means the offices to which the
13 chief procurement officers are appointed pursuant to Section
14 10-20 of the Illinois Procurement Code.

15 "Delivery system" means the design and construction
16 approach used to develop and construct a project.

17 "Design-bid-build" means the traditional delivery system
18 used on public projects in this State that incorporates the
19 Architectural, Engineering, and Land Surveying Qualifications
20 Based Selection Act and the principles of competitive
21 selection in the Illinois Procurement Code.

22 "Design professional" means any individual, sole
23 proprietorship, firm, partnership, joint venture, corporation,
24 professional corporation, or other entity that offers services
25 under the Illinois Architecture Practice Act of 1989, the

1 Professional Engineering Practice Act of 1989, the Structural
2 Engineering Practice Act of 1989, or the Illinois Professional
3 Land Surveyor Act of 1989.

4 "Evaluation criteria" means the requirements for the
5 selection process as defined in this Act and may include the
6 specialized experience, technical qualifications and
7 competence, capacity to perform, past performance, experience
8 with similar projects, assignment of personnel to the project,
9 and other appropriate factors. Price may not be used as a
10 factor in the evaluation of progressive design-build.

11 "Progressive design-build" means a project delivery
12 process in which both the design and construction of a project
13 are procured from a single entity that is selected through a
14 qualifications-based selection at the earliest feasible stage
15 of the project.

16 "Progressive design-build contract" means a contract for a
17 public project under this Act between the State construction
18 agency and a progressive design-build entity to furnish
19 architecture, engineering, land surveying, and related
20 services as required, and to furnish the labor, materials,
21 equipment, and other construction services for the project. A
22 progressive design-build contract may be conditioned upon
23 subsequent refinements in scope and price and may allow the
24 State construction agency to make modifications in the project
25 scope without invalidating the progressive design-build
26 contract.

1 "Progressive design-build entity" means any individual,
2 sole proprietorship, firm, partnership, joint venture,
3 corporation, professional corporation, or other entity that
4 proposes to design and construct any public project under this
5 Act. A progressive design-build entity and associated
6 progressive design-build professionals shall conduct
7 themselves in accordance with the laws of this State and the
8 related provisions of the Illinois Administrative Code, as
9 referenced by the licensed design professionals Acts of this
10 State.

11 "Qualification" means a statement of qualifications
12 submitted by a proposer in response to a request for
13 qualifications.

14 "Request for qualifications" means a document issued by
15 the State construction agency to solicit qualifications from
16 proposers in accordance with the progressive design-build
17 project delivery method.

18 "Scope and performance criteria" means the requirements
19 for the public project, including, but not limited to, the
20 intended usage, capacity, size, scope, quality and performance
21 standards, and other programmatic criteria that are expressed
22 in performance-oriented requirements that can be reasonably
23 inferred and are suited to allow a progressive design-build
24 entity to develop a proposal.

25 "State construction agency" means the Capital Development
26 Board.

1 Section 1-15. Requests for qualifications.

2 (a) When the State construction agency elects to use the
3 progressive design-build delivery method, it must issue a
4 notice of intent to receive requests for qualifications for
5 the project at least 14 days before issuing the request for
6 qualifications. The State construction agency must publish the
7 advance notice in the official procurement bulletin of the
8 State or the professional services bulletin of the State
9 construction agency, if any. The agency is encouraged to use
10 publication of the notice in related construction industry
11 service publications. A brief description of the proposed
12 procurement must be included in the notice. The State
13 construction agency must provide a copy of the request for
14 qualifications to any party requesting a copy.

15 (b) The request for qualifications shall be prepared for
16 each project and must contain, without limitation, the
17 following information:

18 (1) The name of the State construction agency.

19 (2) A preliminary schedule for the completion of the
20 contract.

21 (3) The proposed budget for the project, the source of
22 funds, and the currently available funds at the time the
23 request for qualifications is submitted.

24 (4) Prequalification criteria for progressive
25 design-build entities wishing to submit proposals. The

1 State construction agency shall include, at a minimum, its
2 normal prequalification, licensing, registration, and
3 other requirements, but nothing contained herein precludes
4 the use of additional prequalification criteria by the
5 State construction agency.

6 (5) Material requirements of the contract, including,
7 but not limited to, the proposed terms and conditions,
8 required performance and payment bonds, insurance, and the
9 entity's plan to comply with the utilization goals for
10 business enterprises established in the Business
11 Enterprise for Minorities, Women, and Persons with
12 Disabilities Act, and with Section 2-105 of the Illinois
13 Human Rights Act.

14 (6) The performance criteria.

15 (7) The evaluation criteria for the solicitation.

16 (c) The State construction agency may include any other
17 relevant information that it chooses to supply. The
18 progressive design-build entity shall be entitled to rely upon
19 the accuracy of this documentation in the development of its
20 qualifications.

21 (d) The date that qualifications are due must be at least
22 21 calendar days after the date of the issuance of the request
23 for qualifications. In the event the cost of the project is
24 estimated to exceed \$10,000,000, then the qualifications due
25 date must be at least 28 calendar days after the date of the
26 issuance of the request for qualifications.

1 Section 1-20. Development of scope and performance
2 criteria. The State construction agency shall develop a
3 request for qualifications, which shall include preliminary
4 scopes, descriptions of the areas of technical expertise
5 needed, and requirements for experience. The request must be
6 in sufficient detail and contain adequate information to
7 reasonably apprise the qualified progressive design-build
8 entities of the State construction agency's overall
9 programmatic needs and goals, including criteria, general
10 budget parameters, schedule, and delivery requirements.

11 Section 1-25. Selection committee.

12 (a) When the State construction agency elects to use the
13 progressive design-build delivery method, it shall establish a
14 committee to evaluate and select the progressive design-build
15 entity. The committee, under the discretion of the State
16 construction agency, shall consist of at least 5 but no more
17 than 7 members and shall include at least one licensed design
18 professional and 2 members of the public. Public members may
19 not be employed or associated with any firm holding a contract
20 with the State construction agency. Within 30 days of
21 receiving notice, one public member shall be nominated by
22 associations representing the general design or construction
23 industry and one member shall be nominated by associations
24 that represent minority or woman-owned design or construction

1 industry businesses. If either group fails to nominate a
2 suitable candidate within the 30-day period, the State
3 construction agency shall nominate an appropriate public
4 member.

5 (b) The members of the selection committee must certify
6 for each request for qualifications that no conflict of
7 interest exists between the members and the progressive
8 design-build entities submitting qualifications.

9 If a conflict is discovered before qualifications are
10 reviewed, the member must be replaced before any review of
11 qualifications. If a conflict is discovered after
12 qualifications are reviewed, the member with the conflict
13 shall be removed and the committee may continue with only one
14 public member.

15 If at least 5 members remain, the remaining committee
16 members may complete the selection process.

17 Section 1-30. Procedures for selection.

18 (a) The State construction agency must use a 2-phase
19 procedure for the selection of the successful progressive
20 design-build entity. Phase I of the procedure will evaluate
21 and shortlist for interviews the progressive design-build
22 entities based on qualifications, and Phase II will evaluate
23 shortlisted teams based on scoring of specific criteria
24 addressed in their presentations and interviews.

25 (b) The State construction agency shall include in the

1 request for qualifications the evaluating factors to be used
2 in Phase I. These factors are in addition to any
3 prequalification requirements of progressive design-build
4 entities that the agency has set forth. Each request for
5 qualifications shall establish the relative importance
6 assigned to each evaluation factor and subfactor, including
7 any weighting of criteria to be employed by the State
8 construction agency. The State construction agency must
9 maintain a record of the evaluation scoring to be disclosed in
10 event of a protest regarding the solicitation.

11 The State construction agency shall include the following
12 criteria in every Phase I evaluation of progressive
13 design-build entities: (1) experience of personnel; (2)
14 successful experience with similar project types; (3)
15 financial capability; (4) timeliness of past performance; (5)
16 experience with similarly sized projects; (6) successful
17 reference checks of the firm; (7) commitment to assign
18 personnel for the duration of the project and qualifications
19 of the entity's consultants; and (8) ability or past
20 performance in meeting or exhausting good faith efforts to
21 meet the utilization goals for business enterprises
22 established in the Business Enterprise for Minorities, Women,
23 and Persons with Disabilities Act and with Section 2-105 of
24 the Illinois Human Rights Act. The State construction agency
25 may include any additional relevant criteria in Phase I that
26 it deems necessary for a proper qualification review.

1 The State construction agency may not consider any
2 progressive design-build entity for evaluation or award if the
3 entity has any pecuniary interest in the project or has other
4 relationships or circumstances, including, but not limited to,
5 long-term leasehold, mutual performance, or development
6 contracts with the State construction agency, that may give
7 the progressive design-build entity a financial or tangible
8 advantage over other progressive design-build entities in the
9 preparation, evaluation, or performance of the progressive
10 design-build contract or that create the appearance of
11 impropriety. No proposal shall be considered that does not
12 include an entity's plan to comply with the requirements
13 established in the Business Enterprise for Minorities, Women,
14 and Persons with Disabilities Act, for both the design and
15 construction areas of performance, and with Section 2-105 of
16 the Illinois Human Rights Act.

17 Upon completion of the qualifications evaluation, the
18 State construction agency shall create a shortlist of the most
19 highly qualified progressive design-build entities. The State
20 construction agency, in its discretion, is not required to
21 shortlist the maximum number of entities as identified for
22 Phase II evaluation, provided however, no less than 2
23 progressive design-build entities nor more than 6 are selected
24 to present to the selection committee in an interview.

25 The State construction agency shall notify the entities
26 selected for the shortlist in writing. This notification shall

1 commence the period for the preparation for presentations and
2 interviews. The State construction agency must allow
3 sufficient time, no less than 28 calendar days, for the
4 shortlist entities to prepare their presentations.

5 (c) The State construction agency shall include in the
6 project advertisement the evaluating factors to be used in the
7 presentations and interviews. Each request for qualifications
8 shall establish the relative importance assigned to each
9 evaluation factor and subfactor, including any weighting of
10 criteria to be employed by the State construction agency. The
11 State construction agency must maintain a record of the
12 evaluation scoring to be disclosed in event of a protest
13 regarding the solicitation.

14 The State construction agency shall include the following
15 criteria in every Phase II evaluation of progressive
16 design-build entities: (1) experience with successful
17 completion of similar projects; (2) the design team's approach
18 to program analysis and schematic design; (3) record of budget
19 adherence on recently completed projects; (4) demonstration of
20 past innovation in meeting the scope and performance criteria
21 on past design-build projects; (5) completeness of the overall
22 project team; (6) collaborative experience of the team
23 members; and (7) their plan for achieving project goals for
24 participation. The State construction agency may include any
25 additional relevant technical evaluation factors it deems
26 necessary for proper selection.

1 Upon completion of the evaluation, the State construction
2 agency may award the progressive design-build contract to the
3 highest overall ranked entity. After qualifications have been
4 submitted, a progressive design-build entity shall not
5 replace, remove, or otherwise modify any firm identified as a
6 member of the proposer team unless authorized to do so by the
7 State construction agency.

8 Section 1-40. Submission of qualifications. Qualifications
9 must be properly identified and sealed. Qualifications may not
10 be reviewed until after the deadline for submission has passed
11 as set forth in the request for qualifications. All
12 progressive design-build entities submitting qualifications
13 shall be disclosed after the deadline for submission, and all
14 progressive design-build entities who are shortlisted for
15 interviews shall also be disclosed at the time of that
16 determination.

17 Qualifications shall include representative projects to
18 demonstrate past experience of the team members on similar
19 progressive design-build projects. Qualifications shall
20 include a list of all design professionals and other entities
21 as defined in Section 30-30 of the Illinois Procurement Code
22 to which any work may be subcontracted during the performance
23 of the contract. Any entity that will perform any of the 5
24 subdivisions of work defined in Section 30-30 of the Illinois
25 Procurement Code must meet prequalification standards of the

1 State construction agency.

2 Qualifications must meet all material requirements of the
3 request for qualifications, or they may be rejected as
4 nonresponsive. The State construction agency shall have the
5 right to reject any and all qualifications.

6 The State construction agency shall review the
7 qualifications for compliance with the performance criteria
8 and evaluation factors.

9 Qualifications may be withdrawn prior to evaluation for
10 any cause. After evaluation begins by the State construction
11 agency, clear and convincing evidence of error is required for
12 withdrawal.

13 Section 1-45. Award. The State construction agency may
14 award the contract to the highest overall ranked entity.
15 Notice of award shall be made in writing. Unsuccessful
16 entities shall also be notified in writing. The State
17 construction agency may not request a best and final offer
18 after the receipt of qualifications. The State construction
19 agency may negotiate with the selected progressive
20 design-build entity after award but prior to contract
21 execution for the purpose of securing better terms than
22 originally proposed, provided that the salient features of the
23 request for qualifications are not diminished.

24 Section 1-50. Labor.

1 (a) A contract or agreement under this Act shall require
2 the progressive design-build entity, or the construction
3 manager or general contractor of the progressive design-build
4 entity, and all subcontractors of the progressive design-build
5 entity to comply with Section 30-22 of the Illinois
6 Procurement Code as it applies to responsible bidders and to
7 present satisfactory evidence of that compliance to the State
8 construction agency.

9 (b) A contract or agreement under this Act shall require
10 the progressive design-build entity or the construction
11 manager or general contractor of the progressive design-build
12 entity to enter into a project labor agreement used by the
13 State construction agency.

14 (c) This Section does not apply to construction-related
15 professional services. As used in this Section, "professional
16 services" means those services within the scope of the
17 practice of architecture, professional engineering, structural
18 engineering, or registered land surveying, as defined by the
19 laws of this State.

20 Section 1-55. Transition to design-bid-build. At the
21 completion of design development, the progressive design-build
22 entity must provide a firm fixed price. The State construction
23 agency reserves the right to transition the project to the
24 design-bid-build method if the fixed price exceeds the project
25 budget, the progressive design-build entity's proposed

1 schedule is unreasonable, or if transitioning to the
2 design-bid-build method is in the best interests of the State.
3 The State construction agency will retain ownership of any
4 design documents completed by the progressive design-build
5 entity.

6 Section 1-60. Reports and evaluation. At the end of every
7 6-month period following the contract award, and again prior
8 to final contract payout and closure, a selected progressive
9 design-build entity shall detail, in a written report
10 submitted to the State agency, its efforts and success in
11 implementing the entity's plan to comply with the utilization
12 goals for business enterprises established in the Business
13 Enterprise for Minorities, Women, and Persons with
14 Disabilities Act and the provisions of Section 2-105 of the
15 Illinois Human Rights Act. If the entity's performance in
16 implementing the plan falls short of the performance measures
17 and outcomes set forth in the plans submitted by the entity
18 during the qualifications process, the entity shall, in a
19 detailed written report, inform the General Assembly and the
20 Governor whether and to what degree each progressive
21 design-build contract authorized under this Act promoted the
22 utilization goals for business enterprises established in the
23 Business Enterprise for Minorities, Women, and Persons with
24 Disabilities Act and the provisions of Section 2-105 of the
25 Illinois Human Rights Act.

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

4 (b) Except as provided in this Section, this Code shall
5 not apply to procurements made by or on behalf of public
6 institutions of higher education for any of the following:

7 (1) Memberships in professional, academic, research,
8 or athletic organizations on behalf of a public
9 institution of higher education, an employee of a public
10 institution of higher education, or a student at a public
11 institution of higher education.

12 (2) Procurement expenditures for events or activities
13 paid for exclusively by revenues generated by the event or
14 activity, gifts or donations for the event or activity,
15 private grants, or any combination thereof.

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

21 (4) Procurement expenditures necessary to provide
22 athletic, artistic or musical services, performances,
23 events, or productions by or for a public institution of
24 higher education.

25 (5) Procurement expenditures for periodicals, books,
26 subscriptions, database licenses, and other publications

1 procured for use by a university library or academic
2 department, except for expenditures related to procuring
3 textbooks for student use or materials for resale or
4 rental.

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

8 (7) Contracts for programming and broadcast license
9 rights for university-operated radio and television
10 stations.

11 (8) Procurement expenditures necessary to perform
12 sponsored research and other sponsored activities under
13 grants and contracts funded by the sponsor or by sources
14 other than State appropriations.

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

19 (10) Procurement expenditures for any ongoing software
20 license or maintenance agreement or competitively
21 solicited software purchase, when the software, license,
22 or maintenance agreement is available through only the
23 software creator or its manufacturer and not a reseller.

24 (11) Procurement expenditures incurred outside of the
25 United States for the recruitment of international
26 students.

1 (12) Procurement expenditures for contracts entered
2 into under the Public University Energy Conservation Act.

3 (13) Procurement expenditures for advertising
4 purchased directly from a media station or the owner of
5 the station for distribution of advertising.

6 Notice of each contract with an annual value of more than
7 \$100,000 entered into by a public institution of higher
8 education that is related to the procurement of goods and
9 services identified in items (1) through (13) of this
10 subsection shall be published in the Procurement Bulletin
11 within 14 calendar days after contract execution. The Chief
12 Procurement Officer shall prescribe the form and content of
13 the notice. Each public institution of higher education shall
14 provide the Chief Procurement Officer, on a monthly basis, in
15 the form and content prescribed by the Chief Procurement
16 Officer, a report of contracts that are related to the
17 procurement of goods and services identified in this
18 subsection. At a minimum, this report shall include the name
19 of the contractor, a description of the supply or service
20 provided, the total amount of the contract, the term of the
21 contract, and the exception to the Code utilized. A copy of any
22 or all of these contracts shall be made available to the Chief
23 Procurement Officer immediately upon request. The Chief
24 Procurement Officer shall submit a report to the Governor and
25 General Assembly no later than November 1 of each year that
26 shall include, at a minimum, an annual summary of the monthly

1 information reported to the Chief Procurement Officer.

2 (b-5) Except as provided in this subsection, the
3 provisions of this Code shall not apply to contracts for
4 medical supplies or to contracts for medical services
5 necessary for the delivery of care and treatment at medical,
6 dental, pharmaceutical, or veterinary teaching facilities used
7 by Southern Illinois University or the University of Illinois
8 or at any university-operated health care center or dispensary
9 that provides care, treatment, and medications for students,
10 faculty, and staff. Furthermore, the provisions of this Code
11 do not apply to the procurement by such a facility of any
12 additional supplies or services that the operator of the
13 facility deems necessary for the effective use and functioning
14 of the medical supplies or services that are otherwise exempt
15 from this Code under this subsection (b-5), including, but not
16 limited to, procurements necessary for compliance and
17 management of federal programs. However, other supplies and
18 services needed for these teaching facilities shall be subject
19 to the jurisdiction of the Chief Procurement Officer for
20 Public Institutions of Higher Education who may establish
21 expedited procurement procedures and may waive or modify
22 certification, contract, hearing, process and registration
23 requirements required by this ~~the~~ Code. All procurements made
24 under this subsection shall be documented and may require
25 publication in the Illinois Procurement Bulletin.

26 (b-10) Procurements made by or on behalf of the University

1 of Illinois for investment services may be entered into or
2 renewed without being subject to the requirements of this
3 Code. Notice of intent to renew a contract shall be published
4 in the Illinois Public Higher Education Procurement Bulletin
5 at least 14 days prior to the execution of a renewal, and the
6 University of Illinois shall hold a public hearing for
7 interested parties to provide public comment. Any contract
8 extended, renewed, or entered pursuant to this exception shall
9 be published in the Illinois Public Higher Education
10 Procurement Bulletin within 5 days of contract execution.

11 (c) Procurements made by or on behalf of public
12 institutions of higher education for the fulfillment of a
13 grant shall be made in accordance with the requirements of
14 this Code to the extent practical.

15 Upon the written request of a public institution of higher
16 education, the Chief Procurement Officer may waive contract,
17 registration, certification, and hearing requirements of this
18 Code if, based on the item to be procured or the terms of a
19 grant, compliance is impractical. The public institution of
20 higher education shall provide the Chief Procurement Officer
21 with specific reasons for the waiver, including the necessity
22 of contracting with a particular potential contractor, and
23 shall certify that an effort was made in good faith to comply
24 with the provisions of this Code. The Chief Procurement
25 Officer shall provide written justification for any waivers.
26 By November 1 of each year, the Chief Procurement Officer

1 shall file a report with the General Assembly identifying each
2 contract approved with waivers and providing the justification
3 given for any waivers for each of those contracts. Notice of
4 each waiver made under this subsection shall be published in
5 the Procurement Bulletin within 14 calendar days after
6 contract execution. The Chief Procurement Officer shall
7 prescribe the form and content of the notice.

8 (d) Notwithstanding this Section, a waiver of the
9 registration requirements of Section 20-160 does not permit a
10 business entity and any affiliated entities or affiliated
11 persons to make campaign contributions if otherwise prohibited
12 by Section 50-37. The total amount of contracts awarded in
13 accordance with this Section shall be included in determining
14 the aggregate amount of contracts or pending bids of a
15 business entity and any affiliated entities or affiliated
16 persons.

17 (e) Notwithstanding subsection (e) of Section 50-10.5 of
18 this Code, the Chief Procurement Officer, with the approval of
19 the Executive Ethics Commission, may permit a public
20 institution of higher education to accept a bid or enter into a
21 contract with a business that assisted the public institution
22 of higher education in determining whether there is a need for
23 a contract or assisted in reviewing, drafting, or preparing
24 documents related to a bid or contract, provided that the bid
25 or contract is essential to research administered by the
26 public institution of higher education and it is in the best

1 interest of the public institution of higher education to
2 accept the bid or contract. For purposes of this subsection,
3 "business" includes all individuals with whom a business is
4 affiliated, including, but not limited to, any officer, agent,
5 employee, consultant, independent contractor, director,
6 partner, manager, or shareholder of a business. The Executive
7 Ethics Commission may promulgate rules and regulations for the
8 implementation and administration of the provisions of this
9 subsection (e).

10 (f) As used in this Section:

11 "Grant" means non-appropriated funding provided by a
12 federal or private entity to support a project or program
13 administered by a public institution of higher education and
14 any non-appropriated funding provided to a sub-recipient of
15 the grant.

16 "Public institution of higher education" means Chicago
17 State University, Eastern Illinois University, Governors State
18 University, Illinois State University, Northeastern Illinois
19 University, Northern Illinois University, Southern Illinois
20 University, University of Illinois, Western Illinois
21 University, and, for purposes of this Code only, the Illinois
22 Mathematics and Science Academy.

23 (g) (Blank).

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

25 (1) Public Act 98-1076, which took effect on January
26 1, 2015, changed the repeal date set for this Section from

1 December 31, 2014 to December 31, 2016.

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

8 (3) This amendatory Act of the 100th General Assembly
9 manifests the intention of the General Assembly to remove
10 the repeal of this Section.

11 (4) This Section was originally enacted to protect,
12 promote, and preserve the general welfare. Any
13 construction of this Section that results in the repeal of
14 this Section on December 31, 2014 would be inconsistent
15 with the manifest intent of the General Assembly and
16 repugnant to the context of this Code.

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

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

26 All actions taken in reliance on or pursuant to this

1 Section by any public institution of higher education, person,
2 or entity are hereby validated.

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

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

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

16 (Source: P.A. 102-16, eff. 6-17-21; 102-721, eff. 5-6-22;
17 102-1119, eff. 1-23-23; 103-570, eff. 1-1-24.)

18 (30 ILCS 500/10-20)

19 Sec. 10-20. Independent chief procurement officers.

20 (a) Appointment. Within 60 calendar days after July 1,
21 2010 (the effective date of Public Act 96-795) ~~this amendatory~~
22 ~~Act of the 96th General Assembly,~~ the Executive Ethics
23 Commission, with the advice and consent of the Senate shall
24 appoint or approve 4 chief procurement officers, one for each
25 of the following categories:

1 (1) for procurements for construction and
2 construction-related services committed by law to the
3 jurisdiction or responsibility of the Capital Development
4 Board;

5 (2) for procurements for all construction,
6 construction-related services, operation of any facility,
7 and the provision of any service or activity committed by
8 law to the jurisdiction or responsibility of the Illinois
9 Department of Transportation, including the direct or
10 reimbursable expenditure of all federal funds for which
11 the Department of Transportation is responsible or
12 accountable for the use thereof in accordance with federal
13 law, regulation, or procedure, the chief procurement
14 officer recommended for approval under this item appointed
15 by the Secretary of Transportation after consent by the
16 Executive Ethics Commission;

17 (3) for all procurements made by a public institution
18 of higher education; and

19 (4) for all other procurement needs of State agencies.

20 The ~~For fiscal year 2024, the~~ Executive Ethics Commission
21 shall set aside from its appropriation those amounts necessary
22 for the use of the 4 chief procurement officers for the
23 ordinary and contingent expenses of their respective
24 procurement offices. From the amounts set aside by the
25 Commission, each chief procurement officer shall control the
26 internal operations of his or her procurement office and shall

1 procure the necessary equipment, materials, and services to
2 perform the duties of that office, including hiring necessary
3 procurement personnel, legal advisors, and other employees,
4 and may establish, in the exercise of the chief procurement
5 officer's discretion, the compensation of the office's
6 employees, which includes the State purchasing officers and
7 any legal advisors. The Executive Ethics Commission shall have
8 no control over the employees of the chief procurement
9 officers. The Executive Ethics Commission shall provide
10 administrative support services, including payroll, for each
11 procurement office.

12 (b) Terms and independence. Each chief procurement officer
13 appointed under this Section shall serve for a term of 5 years
14 beginning on the date of the officer's appointment. The chief
15 procurement officer may be removed for cause after a hearing
16 by the Executive Ethics Commission. The Governor or the
17 director of a State agency directly responsible to the
18 Governor may institute a complaint against the officer by
19 filing such complaint with the Commission. The Commission
20 shall have a hearing based on the complaint. The officer and
21 the complainant shall receive reasonable notice of the hearing
22 and shall be permitted to present their respective arguments
23 on the complaint. After the hearing, the Commission shall make
24 a finding on the complaint and may take disciplinary action,
25 including but not limited to removal of the officer.

26 The salary of a chief procurement officer shall be

1 established by the Executive Ethics Commission and may not be
2 diminished during the officer's term. The salary may not
3 exceed the salary of the director of a State agency for which
4 the officer serves as chief procurement officer.

5 (c) Qualifications. In addition to any other requirement
6 or qualification required by State law, each chief procurement
7 officer must within 12 months of employment be a Certified
8 Professional Public Buyer or a Certified Public Purchasing
9 Officer, pursuant to certification by the Universal Public
10 Purchasing Certification Council, and must reside in Illinois.

11 (d) Fiduciary duty. Each chief procurement officer owes a
12 fiduciary duty to the State.

13 (e) Vacancy. In case of a vacancy in one or more of the
14 offices of a chief procurement officer under this Section
15 during the recess of the Senate, the Executive Ethics
16 Commission shall make a temporary appointment until the next
17 meeting of the Senate, when the Executive Ethics Commission
18 shall nominate some person to fill the office, and any person
19 so nominated who is confirmed by the Senate shall hold office
20 during the remainder of the term and until his or her successor
21 is appointed and qualified. If the Senate is not in session at
22 the time Public Act 96-920 ~~this amendatory Act of the 96th~~
23 ~~General Assembly~~ takes effect, the Executive Ethics Commission
24 shall make a temporary appointment as in the case of a vacancy.

25 (f) (Blank).

26 (g) (Blank).

1 (Source: P.A. 103-8, eff. 6-7-23; revised 9-26-23.)

2 (30 ILCS 500/20-20)

3 Sec. 20-20. Small purchases.

4 (a) Amount. Any individual procurement of supplies or
5 services not exceeding \$100,000 and any procurement of
6 construction not exceeding \$100,000, or any individual
7 procurement of professional or artistic services not exceeding
8 \$100,000 may be made without competitive source selection.
9 Procurements shall not be artificially divided so as to
10 constitute a small purchase under this Section. Any
11 procurement of construction not exceeding \$100,000 may be made
12 by an alternative competitive source selection. The
13 construction agency shall establish rules for an alternative
14 competitive source selection process. This Section does not
15 apply to construction-related professional services contracts
16 awarded in accordance with the provisions of the
17 Architectural, Engineering, and Land Surveying Qualifications
18 Based Selection Act.

19 (b) Adjustment. Each July 1, the small purchase maximum
20 established in subsection (a) shall be adjusted for inflation
21 as determined by the Consumer Price Index for All Urban
22 Consumers as determined by the United States Department of
23 Labor and rounded to the nearest \$100.

24 (c) Based upon rules proposed by the Board and rules
25 promulgated by the chief procurement officers, the small

1 purchase maximum established in subsection (a) may be
2 modified.

3 (d) Certification. All small purchases with an annual
4 value that exceeds \$50,000 shall be accompanied by Standard
5 Illinois Certifications in a form prescribed by each Chief
6 Procurement Officer.

7 (e) Cumulative small purchases. Cumulative small purchases
8 under \$1,000 made in a previously non-contemplated manner by
9 the same or separate individuals or departments within an
10 agency or university that exceed the small purchase threshold
11 do not constitute stringing and are allowable under this Code.

12 (Source: P.A. 102-721, eff. 1-1-23; 102-1115, eff. 1-23-23
13 (See Section 99-999 of P.A. 102-1115 for effective date of
14 P.A. 102-1115); 102-1119, eff. 1-23-23.)

15 (30 ILCS 500/20-60)

16 Sec. 20-60. Duration of contracts.

17 (a) Maximum duration. A contract may be entered into for
18 any period of time deemed to be in the best interests of the
19 State but not exceeding 10 years inclusive, beginning January
20 1, 2010, of proposed contract renewals; provided, however, in
21 connection with the issuance of certificates of participation
22 or bonds, the governing board of a public institution of
23 higher education may enter into contracts in excess of 10
24 years but not to exceed 30 years for the purpose of financing
25 or refinancing real or personal property. Third parties may

1 lease State-owned dark fiber networks for any period of time
2 deemed to be in the best interest of the State, but not
3 exceeding 20 years. The length of a lease for real property or
4 capital improvements shall be in accordance with the
5 provisions of Section 40-25. The length of energy conservation
6 program contracts or energy savings contracts or leases shall
7 be in accordance with the provisions of Section 25-45. A
8 contract for bond or mortgage insurance awarded by the
9 Illinois Housing Development Authority, however, may be
10 entered into for any period of time less than or equal to the
11 maximum period of time that the subject bond or mortgage may
12 remain outstanding. Contracts may be entered into that extend
13 beyond the active term of the award, so long as the contract
14 was entered into prior to the award expiration date and does
15 not exceed 10 years.

16 (b) Subject to appropriation. All contracts made or
17 entered into shall recite that they are subject to termination
18 and cancellation in any year for which the General Assembly
19 fails to make an appropriation to make payments under the
20 terms of the contract.

21 (c) The chief procurement officer shall file a proposed
22 extension or renewal of a contract with the Procurement Policy
23 Board and the Commission on Equity and Inclusion prior to
24 entering into any extension or renewal if the cost associated
25 with the extension or renewal exceeds \$249,999. The
26 Procurement Policy Board or the Commission on Equity and

1 Inclusion may object to the proposed extension or renewal
2 within 14 calendar days and require a hearing before the Board
3 or the Commission on Equity and Inclusion prior to entering
4 into the extension or renewal. If the Procurement Policy Board
5 or the Commission on Equity and Inclusion does not object
6 within 14 calendar days or takes affirmative action to
7 recommend the extension or renewal, the chief procurement
8 officer may enter into the extension or renewal of a contract.
9 This subsection does not apply to any emergency procurement,
10 any procurement under Article 40, or any procurement exempted
11 by Section 1-10(b) of this Code. If any State agency contract
12 is paid for in whole or in part with federal-aid funds, grants,
13 or loans and the provisions of this subsection would result in
14 the loss of those federal-aid funds, grants, or loans, then
15 the contract is exempt from the provisions of this subsection
16 in order to remain eligible for those federal-aid funds,
17 grants, or loans, and the State agency shall file notice of
18 this exemption with the Procurement Policy Board or the
19 Commission on Equity and Inclusion prior to entering into the
20 proposed extension or renewal. Nothing in this subsection
21 permits a chief procurement officer to enter into an extension
22 or renewal in violation of subsection (a). By August 1 each
23 year, the Procurement Policy Board and the Commission on
24 Equity and Inclusion shall each file a report with the General
25 Assembly identifying for the previous fiscal year (i) the
26 proposed extensions or renewals that were filed and whether

1 such extensions and renewals were objected to and (ii) the
2 contracts exempt from this subsection.

3 (d) Notwithstanding the provisions of subsection (a) of
4 this Section, the Department of Innovation and Technology may
5 enter into leases for dark fiber networks for any period of
6 time deemed to be in the best interests of the State but not
7 exceeding 20 years inclusive. The Department of Innovation and
8 Technology may lease dark fiber networks from third parties
9 only for the primary purpose of providing services (i) to the
10 offices of Governor, Lieutenant Governor, Attorney General,
11 Secretary of State, Comptroller, or Treasurer and State
12 agencies, as defined under Section 5-15 of the Civil
13 Administrative Code of Illinois or (ii) for anchor
14 institutions, as defined in Section 7 of the Illinois Century
15 Network Act. Dark fiber network lease contracts shall be
16 subject to all other provisions of this Code and any
17 applicable rules or requirements, including, but not limited
18 to, publication of lease solicitations, use of standard State
19 contracting terms and conditions, and approval of vendor
20 certifications and financial disclosures.

21 (e) As used in this Section, "dark fiber network" means a
22 network of fiber optic cables laid but currently unused by a
23 third party that the third party is leasing for use as network
24 infrastructure.

25 (f) No vendor shall be eligible for renewal of a contract
26 when that vendor has failed to meet the goals agreed to in the

1 vendor's utilization plan, as defined in Section 2 of the
2 Business Enterprise for Minorities, Women, and Persons with
3 Disabilities Act, unless the State agency or public
4 institution of higher education has determined that the vendor
5 made good faith efforts toward meeting the contract goals. If
6 the State agency or public institution of higher education
7 determines that the vendor made good faith efforts, the agency
8 or public institution of higher education may issue a waiver
9 after concurrence by the chief procurement officer, which
10 shall not be unreasonably withheld or impair a State agency
11 determination to execute the renewal. The form and content of
12 the waiver shall be prescribed by each chief procurement
13 officer, but shall not impair a State agency or public
14 institution of higher education determination to execute the
15 renewal. The chief procurement officer shall post the
16 completed form on his or her official website within 5
17 business days after receipt from the State agency or public
18 institution of higher education. The chief procurement officer
19 shall maintain on his or her official website a database of
20 waivers granted under this Section with respect to contracts
21 under his or her jurisdiction. The database shall be updated
22 periodically and shall be searchable by contractor name and by
23 contracting State agency or public institution of higher
24 education.

25 (Source: P.A. 102-29, eff. 6-25-21; 102-721, eff. 1-1-23;
26 103-570, eff. 1-1-24.)

1 (30 ILCS 500/20-180 new)

2 Sec. 20-180. Electronic procurement systems. Nothing in
3 this Code prohibits State agencies from accepting bids or
4 proposals for competitive solicitations submitted solely via
5 an electronic procurement system as long as the electronic
6 system integrates with that portfolio's procurement bulletin
7 and all other provisions of this Code are met. A State agency
8 may not adopt a rule that prohibits a State agency from
9 accepting bids or proposals for competitive solicitations
10 submitted solely via an electronic procurement system as long
11 as the electronic procurement system integrates with that
12 portfolio's procurement bulletin and all other provisions of
13 this Code are met.

14 (30 ILCS 500/30-17 new)

15 Sec. 30-17. Job order contracting.

16 (a) In this Section:

17 "Indefinite quantity contract" means a contract for an
18 indefinite quantity of services for a fixed time or for a job
19 order contract.

20 "Job order contracting" means an indefinite quantity
21 contract pursuant to which a contractor may perform an ongoing
22 series of individual tasks at different facilities, locations,
23 and sites under the jurisdiction of a State construction
24 agency.

1 (b) Construction agencies may procure construction
2 contracts via job order contracting through the use of
3 competitive sealed bidding in accordance with Section 30-15.

4 (30 ILCS 500/50-57 new)

5 Sec. 50-57. Curability.

6 (a) If, during an active procurement, a violation or
7 deficiency of this Code, or of the procurement rules,
8 regulations, policies, or practices promulgated by a chief
9 procurement officer under this Code occurs, then, at the
10 request of the State purchasing officer and agency head, the
11 chief procurement officer may determine that curing the
12 violation or deficiency is in the best interest of the State.
13 The request to cure shall be in writing and include a clear
14 description of the violation or deficiency. The State
15 purchasing officer and agency head shall request a cure only
16 when the integrity, transparency, and efficiency of the
17 procurement can be maintained. In making a determination, the
18 chief procurement officer shall consider the harm to
19 stakeholders and the value to the State in permitting the cure
20 and the seriousness of the violation or deficiency. The
21 determination shall be in writing and include the basis for
22 permitting or denying the request. If a cure is permitted, the
23 determination shall include a clear description of the action
24 necessary to cure the violation or deficiency.

25 (b) The chief procurement officer shall post all

1 determinations on his or her official website within 14 days
2 after completion of the procurement. The chief procurement
3 officer shall report to the Governor and General Assembly, by
4 no later than November 1 of each year, a summary of
5 determinations for the previous fiscal year. Permitting a cure
6 does not absolve any person, as defined in Section 1-15.55,
7 from any penalties in law. Each chief procurement officer may
8 adopt rules to implement and administer this Section.

9 Section 2-10. The State Property Control Act is amended by
10 changing Section 7a as follows:

11 (30 ILCS 605/7a)

12 Sec. 7a. Surplus furniture. It is declared to be the
13 public policy of this State, and the General Assembly
14 determines, that it is in the best interest of the people of
15 this State to expend the least amount of funds possible on the
16 purchase of furniture.

17 Agencies that desire to purchase new furniture shall first
18 check with the administrator if any of the surplus furniture
19 under the administrator's control can be used in place of new
20 furniture. If an agency finds that it is unable to use the
21 surplus property, the agency may proceed with the new
22 furniture purchase. The ~~the~~ agency shall file annually, not
23 later than January 31 of the next year, a report ~~an affidavit~~
24 with the administrator ~~prior to any purchase,~~ specifying the

1 types of new furniture purchased ~~to be bought~~, the quantities
2 of each type of new furniture, the cost per type, and the total
3 cost per category. The report affidavit shall also clearly
4 state why the furniture was ~~must be~~ purchased new as opposed to
5 obtained from the administrator's surplus. The reports
6 ~~affidavits~~ shall be made available by the administrator for
7 public inspection and copying.

8 This Section applies only to the purchase of an item of
9 furniture with a purchase price of \$1,500 ~~\$500~~ or more.

10 (Source: P.A. 88-515; 88-656, eff. 9-16-94.)

11 Section 2-15. The Counties Code is amended by changing
12 Sections 5-1022 and 6-1003 as follows:

13 (55 ILCS 5/5-1022)

14 Sec. 5-1022. Competitive bids.

15 (a) Any purchase by a county with fewer than 2,000,000
16 inhabitants, or an elected official in a county with fewer
17 than 2,000,000 inhabitants, including an elected official with
18 control of the internal operations of the office, of services,
19 materials, equipment, or supplies in excess of \$30,000, other
20 than professional services, shall be contracted for in one of
21 the following ways:

22 (1) by a contract let to the lowest responsible bidder
23 after advertising for bids in a newspaper published within
24 the county or, if no newspaper is published within the

1 county, then a newspaper having general circulation within
2 the county; ~~or~~

3 (2) by a contract let without advertising for bids in
4 the case of an emergency if authorized by the county
5 board; or—

6 (3) by a contract let without advertising for bids in
7 the case of the expedited replacement of a disabled,
8 inoperable, or damaged patrol vehicle of the sheriff's
9 department if authorized by the county board.

10 (b) In determining the lowest responsible bidder, the
11 county board shall take into consideration the qualities of
12 the articles supplied; their conformity with the
13 specifications; their suitability to the requirements of the
14 county; the availability of support services; the uniqueness
15 of the service, materials, equipment, or supplies as it
16 applies to networked, integrated computer systems; the
17 compatibility to existing equipment; and the delivery terms.
18 In addition, the county board may take into consideration the
19 bidder's active participation in an applicable apprenticeship
20 program registered with the United States Department of Labor.
21 The county board also may take into consideration whether a
22 bidder is a private enterprise or a State-controlled
23 enterprise and, notwithstanding any other provision of this
24 Section or a lower bid by a State-controlled enterprise, may
25 let a contract to the lowest responsible bidder that is a
26 private enterprise.

1 (c) This Section does not apply to contracts by a county
2 with the federal government or to purchases of used equipment,
3 purchases at auction or similar transactions which by their
4 very nature are not suitable to competitive bids, pursuant to
5 an ordinance adopted by the county board.

6 (d) Notwithstanding the provisions of this Section, a
7 county may let without advertising for bids in the case of
8 purchases and contracts, when individual orders do not exceed
9 \$35,000, for the use, purchase, delivery, movement, or
10 installation of data processing equipment, software, or
11 services and telecommunications and inter-connect equipment,
12 software, and services.

13 (e) A county may require, as a condition of any contract
14 for goods and services, that persons awarded a contract with
15 the county and all affiliates of the person collect and remit
16 Illinois Use Tax on all sales of tangible personal property
17 into the State of Illinois in accordance with the provisions
18 of the Illinois Use Tax Act regardless of whether the person or
19 affiliate is a "retailer maintaining a place of business
20 within this State" as defined in Section 2 of the Use Tax Act.
21 For purposes of this subsection (e), the term "affiliate"
22 means any entity that (1) directly, indirectly, or
23 constructively controls another entity, (2) is directly,
24 indirectly, or constructively controlled by another entity, or
25 (3) is subject to the control of a common entity. For purposes
26 of this subsection (e), an entity controls another entity if

1 it owns, directly or individually, more than 10% of the voting
2 securities of that entity. As used in this subsection (e), the
3 term "voting security" means a security that (1) confers upon
4 the holder the right to vote for the election of members of the
5 board of directors or similar governing body of the business
6 or (2) is convertible into, or entitles the holder to receive
7 upon its exercise, a security that confers such a right to
8 vote. A general partnership interest is a voting security.

9 (f) Bids submitted to, and contracts executed by, the
10 county may require a certification by the bidder or contractor
11 that the bidder or contractor is not barred from bidding for or
12 entering into a contract under this Section and that the
13 bidder or contractor acknowledges that the county may declare
14 the contract void if the certification completed pursuant to
15 this subsection (f) is false.

16 (Source: P.A. 103-14, eff. 1-1-24; 103-286, eff. 7-28-23;
17 revised 12-12-23.)

18 (55 ILCS 5/6-1003) (from Ch. 34, par. 6-1003)

19 Sec. 6-1003. Further appropriations barred; transfers.
20 After the adoption of the county budget, no further
21 appropriations shall be made at any other time during such
22 fiscal year, except as provided in this Division.
23 Appropriations in excess of those authorized by the budget in
24 order to meet an immediate emergency may be made at any meeting
25 of the board by a two-thirds vote of all the members

1 constituting such board, the vote to be taken by ayes and nays
2 and entered on the record of the meeting. After the adoption of
3 the county budget, transfers of appropriations may be made
4 without a vote of the board; however, transfers of
5 appropriations affecting personnel and capital may be made at
6 any meeting of the board by a two-thirds vote of all the
7 members constituting such board, the vote to be taken by ayes
8 and nays and entered on the record of the meeting, provided for
9 any type of transfer that the total amount appropriated for
10 the fund is not affected.

11 This Section applies to all elected officials, including
12 elected officials with control of the internal operations of
13 their office.

14 (Source: P.A. 99-356, eff. 8-13-15; 99-642, eff. 7-28-16.)

15 ARTICLE 3.

16 Section 3-5. The Department of Natural Resources Act is
17 amended by changing Section 1-20 and by adding Section 1-50 as
18 follows:

19 (20 ILCS 801/1-20)

20 Sec. 1-20. Real property. The Department has the power:

21 (a) To transfer jurisdiction of any realty under the
22 control of the Department to any other Department of the State
23 Government, or to any authority, commission or other agency of

1 the State, and to acquire or accept federal lands, when such
2 transfer, acquisition or acceptance is advantageous to the
3 State and is approved in writing by the Governor.

4 (b) To lease, from time to time, any land or property, with
5 or without appurtenances, of which the Department has
6 jurisdiction, and which are not immediately to be used or
7 developed by the State; provided that no such lease be for a
8 longer period of time than that in which it can reasonably be
9 expected the State will not have use for such property, and
10 further provided that no such lease be for a longer period of
11 time than 10 ~~5~~ years.

12 (c) To lease any land or property over which the
13 Department has jurisdiction for the purpose of creating,
14 operating, or maintaining a commercial solar energy system, as
15 defined in Section 10-720 of the Property Tax Code, or a clean
16 energy project, as defined in the Department of Natural
17 Resources (Conservation) Law of the Civil Administrative Code
18 of Illinois. A lease under this subsection (c) shall not be for
19 a period longer than 40 years. The Department shall
20 competitively bid any project authorized pursuant to this
21 subsection (c) pursuant to the requirements of Section 20-15
22 and subsections (c) and (f) of Section 20-10 of the Illinois
23 Procurement Code. No person or business shall submit
24 specifications to the Department pursuant to this subsection
25 (c) unless requested to do so by an employee of the State. No
26 person or business who contracts with a State agency to write

1 specifications for any project pursuant to this subsection (c)
2 shall submit a bid or proposal, review or evaluate any
3 prospective proposals from the competitive bidding process, or
4 receive a contract for any project issued pursuant to this
5 subsection (c). If practical, the Department shall require
6 that any land or property over which the Department has
7 jurisdiction and that is used for the purpose of creating,
8 operating, or maintaining a commercial solar energy system
9 shall have implemented on it and maintained management
10 practices that would qualify the land or property as a
11 beneficial habitat under the Pollinator-Friendly Solar Site
12 Act. The Department shall prioritize commercial solar energy
13 system sites based on their suitability and economic
14 feasibility for solar use. The Department shall then
15 prioritize commercial solar energy system sites with a
16 significant history of disturbance, such as former strip mines
17 or previously developed sites. The Department may consider any
18 land use that is lost from the installation of a commercial
19 solar energy system in making a determination regarding the
20 suitability of a site. At least 60 days before entering into a
21 lease for a commercial solar energy system under this
22 subsection (c), the Department shall post in the Illinois
23 Register and on the Department's website notice of the
24 Department's intent to enter into the lease and shall provide
25 a copy of the notice to a municipality if the leased area is
26 located within the borders of the municipality. The notice

1 shall include the specific location and size of the proposed
2 commercial solar energy system. The Department shall consider
3 and respond to all public comments regarding the posting that
4 are received by the Department within 30 days of the posting.

5 (Source: P.A. 89-445, eff. 2-7-96.)

6 (20 ILCS 801/1-50 new)

7 Sec. 1-50. Administrative rules. The Department of Natural
8 Resources may adopt rules necessary to carry out its duties
9 under this Act.

10 Section 3-10. The Department of Natural Resources
11 (Conservation) Law of the Civil Administrative Code of
12 Illinois is amended by changing Sections 805-5, 805-230, and
13 805-235 and by adding Sections 805-280 and 805-580 as follows:

14 (20 ILCS 805/805-5)

15 Sec. 805-5. Definitions. In this Law:

16 "Clean energy" means energy that is generated, by design
17 or operation, in a manner that is substantially free of carbon
18 dioxide emissions or in a manner that otherwise contributes to
19 the reduction in emissions of environmentally hazardous
20 materials or reduces the volume of environmentally dangerous
21 materials.

22 "Clean energy project" means a project that is undertaken
23 to acquire, construct, refurbish, create, develop, or

1 redevelop any facility, equipment, machinery, or real or
2 personal property and that will aid, assist, or encourage the
3 development or implementation of clean energy in the State.

4 "Department" means the Department of Natural Resources.

5 "Director" means the Director of Natural Resources.

6 (Source: P.A. 91-239, eff. 1-1-00.)

7 (20 ILCS 805/805-230) (was 20 ILCS 805/63a18)

8 Sec. 805-230. Developing recreational areas. The
9 Department has the power to lease from individuals,
10 corporations, or any other form of private ownership, from any
11 municipality, public corporation, or political subdivision of
12 this State, or from the United States any lands or waters for
13 the purpose of developing outdoor recreational areas for
14 public use and to acquire all necessary property or
15 rights-of-way for the purposes of ingress or egress to those
16 lands and waters and to construct buildings and other
17 recreational facilities, including roadways, bridges, ~~and~~
18 parking areas, commercial solar energy systems, and clean
19 energy projects that the Department deems necessary or
20 desirable for maximum utilization of recreational facilities
21 for public use of the areas.

22 (Source: P.A. 91-239, eff. 1-1-00.)

23 (20 ILCS 805/805-235) (was 20 ILCS 805/63a6)

24 Sec. 805-235. Lease of lands acquired by the Department;

1 disposition of obsolete buildings. The Department has the
2 power to do and perform each and every act or thing considered
3 by the Director to be necessary or desirable to fulfill and
4 carry out the intent and purpose of all laws pertaining to the
5 Department, including the right to rehabilitate or sell at
6 public auction buildings or structures affixed to lands over
7 which the Department has acquired jurisdiction when in the
8 judgment of the Director those buildings or structures are
9 obsolete, inadequate, or unusable for the purposes of the
10 Department and to lease those lands with or without
11 appurtenances for a consideration in money or in kind for a
12 period of time not in excess of 10 ~~5~~ years for the purposes and
13 upon the terms and conditions that the Director considers to
14 be in the best interests of the State when those lands are not
15 immediately to be used or developed by the State. All those
16 sales shall be made subject to the written approval of the
17 Governor. The funds derived from those sales and from those
18 leases shall be deposited in the State Parks Fund, except that
19 funds derived from those sales and from those leases on lands
20 managed and operated principally as wildlife or fisheries
21 areas by the Department shall be deposited in the Wildlife and
22 Fish Fund.

23 (Source: P.A. 91-239, eff. 1-1-00.)

24 (20 ILCS 805/805-280 new)

25 Sec. 805-280. Leases for the purpose of creating,

1 operating, or maintaining a commercial solar energy system or
2 clean energy project. The Department may lease any land or
3 property over which the Department has jurisdiction for the
4 purpose of creating, operating, or maintaining a commercial
5 solar energy system, as defined in Section 10-720 of the
6 Property Tax Code, or a clean energy project. The lease shall
7 not be for a period longer than 40 years. The Department shall
8 competitively bid any project authorized pursuant to this
9 Section pursuant to the requirements of Section 20-15, and
10 subsections (c) and (f) of Section 20-10 of the Illinois
11 Procurement Code. No person or business shall submit
12 specifications to the Department pursuant to this Section
13 unless requested to do so by an employee of the State. No
14 person or business who contracts with a State agency to write
15 specifications for any project pursuant to this Section shall
16 submit a bid or proposal, review or evaluate any prospective
17 proposals from the competitive bidding process, or receive a
18 contract for any project issued pursuant to this Section. The
19 Department shall require that any lease must provide for a
20 signed project labor agreement for the length of the lease
21 term. A project labor agreement entered into under this
22 Section shall be entered into with the local building and
23 construction trades council having geographic jurisdiction
24 over the project. If practical, the Department shall require
25 that any land or property over which the Department has
26 jurisdiction that is used for the purpose of creating,

1 operating, or maintaining a commercial solar energy system
2 shall have implemented on it and maintained management
3 practices that would qualify the land or property as a
4 beneficial habitat under the Pollinator-Friendly Solar Site
5 Act. The Department shall require that any lease must include
6 a signed project labor agreement for the length of the lease
7 term. The Department shall prioritize commercial solar energy
8 system sites based on their suitability and economic
9 feasibility for solar use. The Department shall then
10 prioritize commercial solar energy system sites with a
11 significant history of disturbance, such as former strip mines
12 or previously developed sites. The Department may consider any
13 land use that is lost from the installation of a commercial
14 solar energy system in making a determination for the
15 suitability of a site.

16 (20 ILCS 805/805-580 new)

17 Sec. 805-580. Electric vehicle charging stations.

18 (a) The Department may provide for at least one electric
19 vehicle charging station, as defined in the Electric Vehicle
20 Act, at any State park or other real property that is owned by
21 the Department where electrical service will reasonably
22 permit. The Department is authorized to charge user fees for
23 the use of such electric vehicle charging stations.

24 (b) The Department may adopt and publish specifications
25 detailing the kind and type of electric vehicle charging

1 stations to be provided and may adopt rules governing the fees
2 for use of electric vehicle charging stations at State parks
3 or other real property that is owned by the Department.

4 Section 3-15. The State Parks Act is amended by changing
5 Sections 2, 3, 3a, and 4 as follows:

6 (20 ILCS 835/2) (from Ch. 105, par. 466)

7 Sec. 2. It shall be the policy of the State of Illinois to
8 acquire a system of State parks which shall embody the
9 following purposes and objectives:

10 (1) To preserve the most important historic sites and
11 events that ~~which~~ are connected with the peoples who are
12 geographically and culturally affiliated to the land now
13 known as the State of Illinois ~~early pioneer or Indian~~
14 ~~history,~~ so that their ~~such~~ history ~~of the Indians,~~
15 ~~explorers, missionaries and settlers~~ may be preserved, not
16 only as a tribute to those peoples that came before us ~~who~~
17 ~~made possible the building of the State of Illinois and of~~
18 ~~the Union,~~ but also as a part of the education of present
19 and future Illinois citizens.

20 (2) To set aside as public reservations those
21 locations which have unusual scenic attractions caused by
22 geologic or topographic formations, such as canyons,
23 gorges, caves, dunes, beaches, moraines, palisades,
24 examples of Illinois prairie, and points of scientific

1 interest to botanists and naturalists. These areas should
2 be large in size and whenever practicable shall be not
3 less than 1,000 acres in extent. However, smaller areas
4 may be acquired wherever conditions do not warrant the
5 acquisition of the larger acreage.

6 (3) To preserve large forested areas and marginal
7 lands along the rivers, small water courses, and lakes for
8 a recreation use different from that given by the typical
9 city park, and so that these tracts may remain unchanged
10 by civilization, so far as possible, and be kept for
11 future generations. Such areas also, should be acquired in
12 units of 1,000 acres or more and may be available as fish
13 and game preserves. However, smaller areas may be acquired
14 wherever conditions do not warrant the acquisition of the
15 larger acreage.

16 (4) To connect these parks with each other by a system
17 of scenic parkways with widths varying from 100 to 1,000
18 feet, as a supplement to and completion of the State
19 highway system. Where the present State highway routes may
20 serve this purpose, their location, alignment and design
21 should be studied with this plan in view. At suitable
22 locations along these highways, pure water supplies and
23 shelters and comfort facilities of attractive design may
24 be installed for the convenience of the public.

25 The Department of Natural Resources is authorized on ~~in~~
26 behalf of the State of Illinois to accept by donation or

1 bequest, to purchase or acquire by condemnation proceedings in
2 the manner provided for the exercise of the power of eminent
3 domain under the Eminent Domain Act, or by contract for deed
4 payable over a period of time not to exceed 10 years, or in any
5 other legal manner, the title to all such lands, waters or
6 regions, and the easements appurtenant or contributory
7 thereto, which shall be in accord with such policy in respect
8 to a system of State parks, for the purpose of which the
9 General Assembly may make an appropriation. Purchases by
10 contract for deed under this Section shall not exceed
11 \$20,000,000 in total purchase price for land under contract at
12 any one given time.

13 (Source: P.A. 94-1055, eff. 1-1-07.)

14 (20 ILCS 835/3) (from Ch. 105, par. 467)

15 Sec. 3. (a) As used in this Section, "artificial
16 landscaping" does not include any landscaping or other site
17 modification or use resulting from any lease entered into by
18 the Department of Natural Resources for the creation,
19 operation, or maintenance of a commercial solar energy system,
20 as defined in Section 10-720 of the Property Tax Code, or a
21 clean energy project, as defined in the Department of Natural
22 Resources (Conservation) Law of the Civil Administrative Code
23 of Illinois. Instead, these site modifications and uses are
24 hereby deemed to support conservation of the original
25 character of the parks.

1 (b) In maintaining the State parks, the Department of
2 Natural Resources shall conserve the original character as
3 distinguished from the artificial landscaping of such parks.

4 (Source: P.A. 89-445, eff. 2-7-96.)

5 (20 ILCS 835/3a) (from Ch. 105, par. 467a)

6 Sec. 3a. The Department of Natural Resources shall not
7 dispose of any portion of a State park except as specifically
8 authorized by law. This prohibition shall not restrict the
9 Department from conveyance of easements, leases, and other
10 lesser interests in land.

11 (Source: P.A. 89-445, eff. 2-7-96.)

12 (20 ILCS 835/4) (from Ch. 105, par. 468)

13 Sec. 4. The Department of Natural Resources has the power:

14 (1) To make rules and regulations necessary to carry out
15 its duties under this Act, including rules and regulations for
16 the use, care, improvement, control and administration of
17 lands under its jurisdiction, and to enforce the same.

18 (2) To employ such custodians, keepers, clerks,
19 assistants, laborers and subordinates as may be necessary to
20 carry out the provisions of this Act.

21 (3) To lay out, construct and maintain all needful roads,
22 parking areas, paths or trails, bridges, and docks, camp or
23 lodge sites, picnic areas, beach houses, lodges and cabins and
24 any other structures and improvements necessary and

1 appropriate in any state park or easement thereto; and to
2 provide water supplies, heat and light, and sanitary
3 facilities for the public and living quarters for the
4 custodians and keepers of state parks.

5 (4) To replant any devastated native plant areas of any
6 State park or increase or supplement the same when necessary
7 with plant material indigenous to such park.

8 (5) To cooperate with the United States government and
9 with other states in matters relating to the care,
10 improvement, control and administration of national or
11 interstate parks.

12 (6) To cooperate and contract with any agency,
13 organization or individual in a manner consistent with the
14 purposes of this Act and the powers granted the Department
15 herein.

16 (7) To accept and administer gifts, grants and legacies of
17 money, securities or property to be used by the Department of
18 Natural Resources for the purposes of this Act and according
19 to the tenor of such gift, grant or legacy.

20 (8) To enter into leases that allow for the creation,
21 operation, or maintenance of a commercial solar energy system,
22 as defined in Section 10-720 of the Property Tax Code, or a
23 clean energy project, as defined in the Department of Natural
24 Resources (Conservation) Law of the Civil Administrative Code
25 of Illinois. If practical, the Department shall require that
26 any land or property over which the Department has

1 jurisdiction that is used for the purpose of creating,
2 operating, or maintaining a commercial solar energy system
3 shall have implemented on it and maintained management
4 practices that would qualify the land or property as a
5 beneficial habitat under the Pollinator-Friendly Solar Site
6 Act. The Department shall require that any lease must include
7 a signed project labor agreement for the length of the lease
8 term. A project labor agreement entered into under this
9 Section shall be entered into with the local building and
10 construction trades council having geographic jurisdiction
11 over the project. The Department shall prioritize commercial
12 solar energy system sites based on their suitability and
13 economic feasibility for solar use. The Department shall then
14 prioritize commercial solar energy system sites with a
15 significant history of disturbance, such as former strip mines
16 or previously developed sites. In making a determination for
17 the suitability of a site, the Department may consider any
18 land use that is lost from the installation of a commercial
19 solar energy system.

20 (Source: P.A. 89-445, eff. 2-7-96.)

21 ARTICLE 5.

22 Section 5-5. The Illinois Procurement Code is amended by
23 changing Section 20-60 as follows:

1 (30 ILCS 500/20-60)

2 Sec. 20-60. Duration of contracts.

3 (a) Maximum duration. A contract may be entered into for
4 any period of time deemed to be in the best interests of the
5 State but not exceeding 10 years inclusive, beginning January
6 1, 2010, of proposed contract renewals; provided, however, in
7 connection with the issuance of certificates of participation
8 or bonds, the governing board of a public institution of
9 higher education may enter into contracts in excess of 10
10 years but not to exceed 30 years for the purpose of financing
11 or refinancing real or personal property. Third parties may
12 lease State-owned communications infrastructure, including
13 dark fiber networks, conduit, and excess communication tower
14 capacity, for any period of time deemed to be in the best
15 interest of the State, but not exceeding 20 years. The length
16 of a lease for real property or capital improvements shall be
17 in accordance with the provisions of Section 40-25. The length
18 of energy conservation program contracts or energy savings
19 contracts or leases shall be in accordance with the provisions
20 of Section 25-45. A contract for bond or mortgage insurance
21 awarded by the Illinois Housing Development Authority,
22 however, may be entered into for any period of time less than
23 or equal to the maximum period of time that the subject bond or
24 mortgage may remain outstanding.

25 (b) Subject to appropriation. All contracts made or
26 entered into shall recite that they are subject to termination

1 and cancellation in any year for which the General Assembly
2 fails to make an appropriation to make payments under the
3 terms of the contract.

4 (c) The chief procurement officer shall file a proposed
5 extension or renewal of a contract with the Procurement Policy
6 Board and the Commission on Equity and Inclusion prior to
7 entering into any extension or renewal if the cost associated
8 with the extension or renewal exceeds \$249,999. The
9 Procurement Policy Board or the Commission on Equity and
10 Inclusion may object to the proposed extension or renewal
11 within 14 calendar days and require a hearing before the Board
12 or the Commission on Equity and Inclusion prior to entering
13 into the extension or renewal. If the Procurement Policy Board
14 or the Commission on Equity and Inclusion does not object
15 within 14 calendar days or takes affirmative action to
16 recommend the extension or renewal, the chief procurement
17 officer may enter into the extension or renewal of a contract.
18 This subsection does not apply to any emergency procurement,
19 any procurement under Article 40, or any procurement exempted
20 by Section 1-10(b) of this Code. If any State agency contract
21 is paid for in whole or in part with federal-aid funds, grants,
22 or loans and the provisions of this subsection would result in
23 the loss of those federal-aid funds, grants, or loans, then
24 the contract is exempt from the provisions of this subsection
25 in order to remain eligible for those federal-aid funds,
26 grants, or loans, and the State agency shall file notice of

1 this exemption with the Procurement Policy Board or the
2 Commission on Equity and Inclusion prior to entering into the
3 proposed extension or renewal. Nothing in this subsection
4 permits a chief procurement officer to enter into an extension
5 or renewal in violation of subsection (a). By August 1 each
6 year, the Procurement Policy Board and the Commission on
7 Equity and Inclusion shall each file a report with the General
8 Assembly identifying for the previous fiscal year (i) the
9 proposed extensions or renewals that were filed and whether
10 such extensions and renewals were objected to and (ii) the
11 contracts exempt from this subsection.

12 (d) Notwithstanding the provisions of subsection (a) of
13 this Section, the Department of Innovation and Technology may
14 enter into leases for dark fiber networks for any period of
15 time deemed to be in the best interests of the State but not
16 exceeding 20 years inclusive. The Department of Innovation and
17 Technology may lease dark fiber networks from third parties
18 only for the primary purpose of providing services (i) to the
19 offices of Governor, Lieutenant Governor, Attorney General,
20 Secretary of State, Comptroller, or Treasurer and State
21 agencies, as defined under Section 5-15 of the Civil
22 Administrative Code of Illinois or (ii) for anchor
23 institutions, as defined in Section 7 of the Illinois Century
24 Network Act. Dark fiber network lease contracts shall be
25 subject to all other provisions of this Code and any
26 applicable rules or requirements, including, but not limited

1 to, publication of lease solicitations, use of standard State
2 contracting terms and conditions, and approval of vendor
3 certifications and financial disclosures.

4 (e) As used in this Section, "dark fiber network" means a
5 network of fiber optic cables laid but currently unused by a
6 third party that the third party is leasing for use as network
7 infrastructure.

8 (f) No vendor shall be eligible for renewal of a contract
9 when that vendor has failed to meet the goals agreed to in the
10 vendor's utilization plan, as defined in Section 2 of the
11 Business Enterprise for Minorities, Women, and Persons with
12 Disabilities Act, unless the State agency or public
13 institution of higher education has determined that the vendor
14 made good faith efforts toward meeting the contract goals. If
15 the State agency or public institution of higher education
16 determines that the vendor made good faith efforts, the agency
17 or public institution of higher education may issue a waiver
18 after concurrence by the chief procurement officer, which
19 shall not be unreasonably withheld or impair a State agency
20 determination to execute the renewal. The form and content of
21 the waiver shall be prescribed by each chief procurement
22 officer, but shall not impair a State agency or public
23 institution of higher education determination to execute the
24 renewal. The chief procurement officer shall post the
25 completed form on his or her official website within 5
26 business days after receipt from the State agency or public

1 institution of higher education. The chief procurement officer
2 shall maintain on his or her official website a database of
3 waivers granted under this Section with respect to contracts
4 under his or her jurisdiction. The database shall be updated
5 periodically and shall be searchable by contractor name and by
6 contracting State agency or public institution of higher
7 education.

8 (Source: P.A. 102-29, eff. 6-25-21; 102-721, eff. 1-1-23;
9 103-570, eff. 1-1-24.)

10 ARTICLE 7.

11 Section 7-5. The Illinois Procurement Code is amended by
12 changing Section 45-45 and by adding Section 45-46 as follows:

13 (30 ILCS 500/45-45)

14 Sec. 45-45. Small businesses.

15 (a) Set-asides. Each chief procurement officer has
16 authority to designate as small business set-asides a fair
17 proportion of construction, supply, and service contracts for
18 award to small businesses in Illinois. Advertisements for bids
19 or offers for those contracts shall specify designation as
20 small business set-asides. In awarding the contracts, only
21 bids or offers from qualified small businesses shall be
22 considered.

23 (b) Small business. "Small business" means a business that

1 is independently owned and operated and that is not dominant
2 in its field of operation. The chief procurement officer shall
3 establish a detailed definition by rule, using in addition to
4 the foregoing criteria other criteria, including the number of
5 employees and the dollar volume of business. When computing
6 the size status of a potential contractor, annual sales and
7 receipts of the potential contractor and all of its affiliates
8 shall be included. The maximum number of employees and the
9 maximum dollar volume that a small business may have under the
10 rules promulgated by the chief procurement officer may vary
11 from industry to industry to the extent necessary to reflect
12 differing characteristics of those industries, subject to the
13 following limitations:

14 (1) No wholesale business is a small business if its
15 annual sales for its most recently completed fiscal year
16 exceed \$13,000,000.

17 (2) No retail business or business selling services is
18 a small business if its annual sales and receipts exceed
19 \$8,000,000.

20 (3) No manufacturing business is a small business if
21 it employs more than 250 persons.

22 (4) No construction business is a small business if
23 its annual sales and receipts exceed \$45,000,000
24 ~~\$14,000,000~~.

25 (c) Fair proportion. For the purpose of subsection (a),
26 for State agencies of the executive branch, a fair proportion

1 of construction contracts shall be no less than 25% nor more
2 than 40% of the annual total contracts for construction.

3 (d) Withdrawal of designation. A small business set-aside
4 designation may be withdrawn by the purchasing agency when
5 deemed in the best interests of the State. Upon withdrawal,
6 all bids or offers shall be rejected, and the bidders or
7 offerors shall be notified of the reason for rejection. The
8 contract shall then be awarded in accordance with this Code
9 without the designation of small business set-aside. Each
10 chief procurement officer shall make the annual report
11 available on his or her official website. Each chief
12 procurement officer shall also issue a press release in
13 conjunction with the small business annual report that
14 includes an executive summary of the annual report and a link
15 to the annual report on the chief procurement officer's
16 website.

17 (e) Small business specialist. Each chief procurement
18 officer shall designate one or more individuals to serve as
19 its small business specialist. The small business specialists
20 shall collectively work together to accomplish the following
21 duties:

22 (1) Compiling and maintaining a comprehensive list of
23 potential small contractors. In this duty, he or she shall
24 cooperate with the Federal Small Business Administration
25 in locating potential sources for various products and
26 services.

1 (2) Assisting small businesses in complying with the
2 procedures for bidding on State contracts.

3 (3) Examining requests from State agencies for the
4 purchase of property or services to help determine which
5 invitations to bid are to be designated small business
6 set-asides.

7 (4) Making recommendations to the chief procurement
8 officer for the simplification of specifications and terms
9 in order to increase the opportunities for small business
10 participation.

11 (5) Assisting in investigations by purchasing agencies
12 to determine the responsibility of bidders or offerors on
13 small business set-asides.

14 (f) Small business annual report. Each small business
15 specialist designated under subsection (e) shall annually
16 before November 1 report in writing to the General Assembly
17 concerning the awarding of contracts to small businesses. The
18 report shall include the total value of awards made in the
19 preceding fiscal year under the designation of small business
20 set-aside. The report shall also include the total value of
21 awards made to businesses owned by minorities, women, and
22 persons with disabilities, as defined in the Business
23 Enterprise for Minorities, Women, and Persons with
24 Disabilities Act, in the preceding fiscal year under the
25 designation of small business set-aside.

26 The requirement for reporting to the General Assembly

1 shall be satisfied by filing copies of the report as required
2 by Section 3.1 of the General Assembly Organization Act.

3 (Source: P.A. 103-570, eff. 1-1-24.)

4 (30 ILCS 500/45-46 new)

5 Sec. 45-46. Mid-size businesses.

6 (a) As used in the Section, "mid-size business" means a
7 business that is independently owned and operated and that is
8 not dominant in its field of operation. "Mid-size business"
9 includes a construction business with annual sales and
10 receipts in excess of \$45,000,000 but not over \$67,500,000.

11 (a-5) This Section applies only to procurements by the
12 Illinois State Toll Highway Authority for construction
13 contracts, construction-related contracts, and construction
14 support contracts.

15 (b) The chief procurement officer shall adopt rules to
16 establish additional criteria to designate mid-size businesses
17 for the purposes of the mid-size business set-asides described
18 in subsection (c), including the number of employees and
19 dollar volume of the business. When computing the size status
20 of a potential contractor, annual sales and receipts of the
21 potential contractor and all of its affiliates shall be
22 included. The maximum number of employees and the maximum
23 annual sales and receipts that a mid-size business may have
24 under the rules adopted by the chief procurement officer may
25 vary from industry to industry, to the extent necessary to

1 reflect differing characteristics of those industries, subject
2 to the limitation that no business shall qualify as a mid-size
3 business if its annual sales and receipts exceed \$67,500,000.

4 (c) The applicable chief procurement officer shall
5 designate a fair proportion, as determined by the applicable
6 chief procurement officer in consultation with the Illinois
7 State Toll Highway Authority, of construction,
8 construction-related, and construction support contracts as
9 mid-size business set-asides for award to mid-size businesses
10 in Illinois. Advertisements for bids or offers for these
11 contracts shall specify designation as mid-size business
12 set-asides. In awarding the contracts, only bids or offers
13 from qualified mid-size businesses shall be considered. The
14 Illinois State Toll Highway Authority shall prepare an annual
15 report setting forth the use of this Section during the
16 preceding fiscal year and shall provide that report to the
17 applicable chief procurement officer no later than March 1 of
18 each calendar year. This Section is repealed on January 1,
19 2029.

20 ARTICLE 10.

21 Section 10-5. The Freedom of Information Act is amended by
22 changing Section 7 as follows:

23 (5 ILCS 140/7)

1 Sec. 7. Exemptions.

2 (1) When a request is made to inspect or copy a public
3 record that contains information that is exempt from
4 disclosure under this Section, but also contains information
5 that is not exempt from disclosure, the public body may elect
6 to redact the information that is exempt. The public body
7 shall make the remaining information available for inspection
8 and copying. Subject to this requirement, the following shall
9 be exempt from inspection and copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and
12 regulations implementing federal or State law.

13 (b) Private information, unless disclosure is required
14 by another provision of this Act, a State or federal law,
15 or a court order.

16 (b-5) Files, documents, and other data or databases
17 maintained by one or more law enforcement agencies and
18 specifically designed to provide information to one or
19 more law enforcement agencies regarding the physical or
20 mental status of one or more individual subjects.

21 (c) Personal information contained within public
22 records, the disclosure of which would constitute a
23 clearly unwarranted invasion of personal privacy, unless
24 the disclosure is consented to in writing by the
25 individual subjects of the information. "Unwarranted
26 invasion of personal privacy" means the disclosure of

1 information that is highly personal or objectionable to a
2 reasonable person and in which the subject's right to
3 privacy outweighs any legitimate public interest in
4 obtaining the information. The disclosure of information
5 that bears on the public duties of public employees and
6 officials shall not be considered an invasion of personal
7 privacy.

8 (d) Records in the possession of any public body
9 created in the course of administrative enforcement
10 proceedings, and any law enforcement or correctional
11 agency for law enforcement purposes, but only to the
12 extent that disclosure would:

13 (i) interfere with pending or actually and
14 reasonably contemplated law enforcement proceedings
15 conducted by any law enforcement or correctional
16 agency that is the recipient of the request;

17 (ii) interfere with active administrative
18 enforcement proceedings conducted by the public body
19 that is the recipient of the request;

20 (iii) create a substantial likelihood that a
21 person will be deprived of a fair trial or an impartial
22 hearing;

23 (iv) unavoidably disclose the identity of a
24 confidential source, confidential information
25 furnished only by the confidential source, or persons
26 who file complaints with or provide information to

1 administrative, investigative, law enforcement, or
2 penal agencies; except that the identities of
3 witnesses to traffic crashes, traffic crash reports,
4 and rescue reports shall be provided by agencies of
5 local government, except when disclosure would
6 interfere with an active criminal investigation
7 conducted by the agency that is the recipient of the
8 request;

9 (v) disclose unique or specialized investigative
10 techniques other than those generally used and known
11 or disclose internal documents of correctional
12 agencies related to detection, observation, or
13 investigation of incidents of crime or misconduct, and
14 disclosure would result in demonstrable harm to the
15 agency or public body that is the recipient of the
16 request;

17 (vi) endanger the life or physical safety of law
18 enforcement personnel or any other person; or

19 (vii) obstruct an ongoing criminal investigation
20 by the agency that is the recipient of the request.

21 (d-5) A law enforcement record created for law
22 enforcement purposes and contained in a shared electronic
23 record management system if the law enforcement agency
24 that is the recipient of the request did not create the
25 record, did not participate in or have a role in any of the
26 events which are the subject of the record, and only has

1 access to the record through the shared electronic record
2 management system.

3 (d-6) Records contained in the Officer Professional
4 Conduct Database under Section 9.2 of the Illinois Police
5 Training Act, except to the extent authorized under that
6 Section. This includes the documents supplied to the
7 Illinois Law Enforcement Training Standards Board from the
8 Illinois State Police and Illinois State Police Merit
9 Board.

10 (d-7) Information gathered or records created from the
11 use of automatic license plate readers in connection with
12 Section 2-130 of the Illinois Vehicle Code.

13 (e) Records that relate to or affect the security of
14 correctional institutions and detention facilities.

15 (e-5) Records requested by persons committed to the
16 Department of Corrections, Department of Human Services
17 Division of Mental Health, or a county jail if those
18 materials are available in the library of the correctional
19 institution or facility or jail where the inmate is
20 confined.

21 (e-6) Records requested by persons committed to the
22 Department of Corrections, Department of Human Services
23 Division of Mental Health, or a county jail if those
24 materials include records from staff members' personnel
25 files, staff rosters, or other staffing assignment
26 information.

1 (e-7) Records requested by persons committed to the
2 Department of Corrections or Department of Human Services
3 Division of Mental Health if those materials are available
4 through an administrative request to the Department of
5 Corrections or Department of Human Services Division of
6 Mental Health.

7 (e-8) Records requested by a person committed to the
8 Department of Corrections, Department of Human Services
9 Division of Mental Health, or a county jail, the
10 disclosure of which would result in the risk of harm to any
11 person or the risk of an escape from a jail or correctional
12 institution or facility.

13 (e-9) Records requested by a person in a county jail
14 or committed to the Department of Corrections or
15 Department of Human Services Division of Mental Health,
16 containing personal information pertaining to the person's
17 victim or the victim's family, including, but not limited
18 to, a victim's home address, home telephone number, work
19 or school address, work telephone number, social security
20 number, or any other identifying information, except as
21 may be relevant to a requester's current or potential case
22 or claim.

23 (e-10) Law enforcement records of other persons
24 requested by a person committed to the Department of
25 Corrections, Department of Human Services Division of
26 Mental Health, or a county jail, including, but not

1 limited to, arrest and booking records, mug shots, and
2 crime scene photographs, except as these records may be
3 relevant to the requester's current or potential case or
4 claim.

5 (f) Preliminary drafts, notes, recommendations,
6 memoranda, and other records in which opinions are
7 expressed, or policies or actions are formulated, except
8 that a specific record or relevant portion of a record
9 shall not be exempt when the record is publicly cited and
10 identified by the head of the public body. The exemption
11 provided in this paragraph (f) extends to all those
12 records of officers and agencies of the General Assembly
13 that pertain to the preparation of legislative documents.

14 (g) Trade secrets and commercial or financial
15 information obtained from a person or business where the
16 trade secrets or commercial or financial information are
17 furnished under a claim that they are proprietary,
18 privileged, or confidential, and that disclosure of the
19 trade secrets or commercial or financial information would
20 cause competitive harm to the person or business, and only
21 insofar as the claim directly applies to the records
22 requested.

23 The information included under this exemption includes
24 all trade secrets and commercial or financial information
25 obtained by a public body, including a public pension
26 fund, from a private equity fund or a privately held

1 company within the investment portfolio of a private
2 equity fund as a result of either investing or evaluating
3 a potential investment of public funds in a private equity
4 fund. The exemption contained in this item does not apply
5 to the aggregate financial performance information of a
6 private equity fund, nor to the identity of the fund's
7 managers or general partners. The exemption contained in
8 this item does not apply to the identity of a privately
9 held company within the investment portfolio of a private
10 equity fund, unless the disclosure of the identity of a
11 privately held company may cause competitive harm.

12 Nothing contained in this paragraph (g) shall be
13 construed to prevent a person or business from consenting
14 to disclosure.

15 (h) Proposals and bids for any contract, grant, or
16 agreement, including information which if it were
17 disclosed would frustrate procurement or give an advantage
18 to any person proposing to enter into a contractor
19 agreement with the body, until an award or final selection
20 is made. Information prepared by or for the body in
21 preparation of a bid solicitation shall be exempt until an
22 award or final selection is made.

23 (i) Valuable formulae, computer geographic systems,
24 designs, drawings, and research data obtained or produced
25 by any public body when disclosure could reasonably be
26 expected to produce private gain or public loss. The

1 exemption for "computer geographic systems" provided in
2 this paragraph (i) does not extend to requests made by
3 news media as defined in Section 2 of this Act when the
4 requested information is not otherwise exempt and the only
5 purpose of the request is to access and disseminate
6 information regarding the health, safety, welfare, or
7 legal rights of the general public.

8 (j) The following information pertaining to
9 educational matters:

10 (i) test questions, scoring keys, and other
11 examination data used to administer an academic
12 examination;

13 (ii) information received by a primary or
14 secondary school, college, or university under its
15 procedures for the evaluation of faculty members by
16 their academic peers;

17 (iii) information concerning a school or
18 university's adjudication of student disciplinary
19 cases, but only to the extent that disclosure would
20 unavoidably reveal the identity of the student; and

21 (iv) course materials or research materials used
22 by faculty members.

23 (k) Architects' plans, engineers' technical
24 submissions, and other construction related technical
25 documents for projects not constructed or developed in
26 whole or in part with public funds and the same for

1 projects constructed or developed with public funds,
2 including, but not limited to, power generating and
3 distribution stations and other transmission and
4 distribution facilities, water treatment facilities,
5 airport facilities, sport stadiums, convention centers,
6 and all government owned, operated, or occupied buildings,
7 but only to the extent that disclosure would compromise
8 security.

9 (l) Minutes of meetings of public bodies closed to the
10 public as provided in the Open Meetings Act until the
11 public body makes the minutes available to the public
12 under Section 2.06 of the Open Meetings Act.

13 (m) Communications between a public body and an
14 attorney or auditor representing the public body that
15 would not be subject to discovery in litigation, and
16 materials prepared or compiled by or for a public body in
17 anticipation of a criminal, civil, or administrative
18 proceeding upon the request of an attorney advising the
19 public body, and materials prepared or compiled with
20 respect to internal audits of public bodies.

21 (n) Records relating to a public body's adjudication
22 of employee grievances or disciplinary cases; however,
23 this exemption shall not extend to the final outcome of
24 cases in which discipline is imposed.

25 (o) Administrative or technical information associated
26 with automated data processing operations, including, but

1 not limited to, software, operating protocols, computer
2 program abstracts, file layouts, source listings, object
3 modules, load modules, user guides, documentation
4 pertaining to all logical and physical design of
5 computerized systems, employee manuals, and any other
6 information that, if disclosed, would jeopardize the
7 security of the system or its data or the security of
8 materials exempt under this Section.

9 (p) Records relating to collective negotiating matters
10 between public bodies and their employees or
11 representatives, except that any final contract or
12 agreement shall be subject to inspection and copying.

13 (q) Test questions, scoring keys, and other
14 examination data used to determine the qualifications of
15 an applicant for a license or employment.

16 (r) The records, documents, and information relating
17 to real estate purchase negotiations until those
18 negotiations have been completed or otherwise terminated.
19 With regard to a parcel involved in a pending or actually
20 and reasonably contemplated eminent domain proceeding
21 under the Eminent Domain Act, records, documents, and
22 information relating to that parcel shall be exempt except
23 as may be allowed under discovery rules adopted by the
24 Illinois Supreme Court. The records, documents, and
25 information relating to a real estate sale shall be exempt
26 until a sale is consummated.

1 (s) Any and all proprietary information and records
2 related to the operation of an intergovernmental risk
3 management association or self-insurance pool or jointly
4 self-administered health and accident cooperative or pool.
5 Insurance or self-insurance (including any
6 intergovernmental risk management association or
7 self-insurance pool) claims, loss or risk management
8 information, records, data, advice, or communications.

9 (t) Information contained in or related to
10 examination, operating, or condition reports prepared by,
11 on behalf of, or for the use of a public body responsible
12 for the regulation or supervision of financial
13 institutions, insurance companies, or pharmacy benefit
14 managers, unless disclosure is otherwise required by State
15 law.

16 (u) Information that would disclose or might lead to
17 the disclosure of secret or confidential information,
18 codes, algorithms, programs, or private keys intended to
19 be used to create electronic signatures under the Uniform
20 Electronic Transactions Act.

21 (v) Vulnerability assessments, security measures, and
22 response policies or plans that are designed to identify,
23 prevent, or respond to potential attacks upon a
24 community's population or systems, facilities, or
25 installations, but only to the extent that disclosure
26 could reasonably be expected to expose the vulnerability

1 or jeopardize the effectiveness of the measures, policies,
2 or plans, or the safety of the personnel who implement
3 them or the public. Information exempt under this item may
4 include such things as details pertaining to the
5 mobilization or deployment of personnel or equipment, to
6 the operation of communication systems or protocols, to
7 cybersecurity vulnerabilities, or to tactical operations.

8 (w) (Blank).

9 (x) Maps and other records regarding the location or
10 security of generation, transmission, distribution,
11 storage, gathering, treatment, or switching facilities
12 owned by a utility, by a power generator, or by the
13 Illinois Power Agency.

14 (y) Information contained in or related to proposals,
15 bids, or negotiations related to electric power
16 procurement under Section 1-75 of the Illinois Power
17 Agency Act and Section 16-111.5 of the Public Utilities
18 Act that is determined to be confidential and proprietary
19 by the Illinois Power Agency or by the Illinois Commerce
20 Commission.

21 (z) Information about students exempted from
22 disclosure under Section 10-20.38 or 34-18.29 of the
23 School Code, and information about undergraduate students
24 enrolled at an institution of higher education exempted
25 from disclosure under Section 25 of the Illinois Credit
26 Card Marketing Act of 2009.

1 (aa) Information the disclosure of which is exempted
2 under the Viatical Settlements Act of 2009.

3 (bb) Records and information provided to a mortality
4 review team and records maintained by a mortality review
5 team appointed under the Department of Juvenile Justice
6 Mortality Review Team Act.

7 (cc) Information regarding interments, entombments, or
8 inurnments of human remains that are submitted to the
9 Cemetery Oversight Database under the Cemetery Care Act or
10 the Cemetery Oversight Act, whichever is applicable.

11 (dd) Correspondence and records (i) that may not be
12 disclosed under Section 11-9 of the Illinois Public Aid
13 Code or (ii) that pertain to appeals under Section 11-8 of
14 the Illinois Public Aid Code.

15 (ee) The names, addresses, or other personal
16 information of persons who are minors and are also
17 participants and registrants in programs of park
18 districts, forest preserve districts, conservation
19 districts, recreation agencies, and special recreation
20 associations.

21 (ff) The names, addresses, or other personal
22 information of participants and registrants in programs of
23 park districts, forest preserve districts, conservation
24 districts, recreation agencies, and special recreation
25 associations where such programs are targeted primarily to
26 minors.

1 (gg) Confidential information described in Section
2 1-100 of the Illinois Independent Tax Tribunal Act of
3 2012.

4 (hh) The report submitted to the State Board of
5 Education by the School Security and Standards Task Force
6 under item (8) of subsection (d) of Section 2-3.160 of the
7 School Code and any information contained in that report.

8 (ii) Records requested by persons committed to or
9 detained by the Department of Human Services under the
10 Sexually Violent Persons Commitment Act or committed to
11 the Department of Corrections under the Sexually Dangerous
12 Persons Act if those materials: (i) are available in the
13 library of the facility where the individual is confined;
14 (ii) include records from staff members' personnel files,
15 staff rosters, or other staffing assignment information;
16 or (iii) are available through an administrative request
17 to the Department of Human Services or the Department of
18 Corrections.

19 (jj) Confidential information described in Section
20 5-535 of the Civil Administrative Code of Illinois.

21 (kk) The public body's credit card numbers, debit card
22 numbers, bank account numbers, Federal Employer
23 Identification Number, security code numbers, passwords,
24 and similar account information, the disclosure of which
25 could result in identity theft or impression or defrauding
26 of a governmental entity or a person.

1 (ll) Records concerning the work of the threat
2 assessment team of a school district, including, but not
3 limited to, any threat assessment procedure under the
4 School Safety Drill Act and any information contained in
5 the procedure.

6 (mm) Information prohibited from being disclosed under
7 subsections (a) and (b) of Section 15 of the Student
8 Confidential Reporting Act.

9 (nn) Proprietary information submitted to the
10 Environmental Protection Agency under the Drug Take-Back
11 Act.

12 (oo) Records described in subsection (f) of Section
13 3-5-1 of the Unified Code of Corrections.

14 (pp) Any and all information regarding burials,
15 interments, or entombments of human remains as required to
16 be reported to the Department of Natural Resources
17 pursuant either to the Archaeological and Paleontological
18 Resources Protection Act or the Human Remains Protection
19 Act.

20 (qq) ~~(pp)~~ Reports described in subsection (e) of
21 Section 16-15 of the Abortion Care Clinical Training
22 Program Act.

23 (rr) ~~(pp)~~ Information obtained by a certified local
24 health department under the Access to Public Health Data
25 Act.

26 (ss) ~~(pp)~~ For a request directed to a public body that

1 is also a HIPAA-covered entity, all information that is
2 protected health information, including demographic
3 information, that may be contained within or extracted
4 from any record held by the public body in compliance with
5 State and federal medical privacy laws and regulations,
6 including, but not limited to, the Health Insurance
7 Portability and Accountability Act and its regulations, 45
8 CFR Parts 160 and 164. As used in this paragraph,
9 "HIPAA-covered entity" has the meaning given to the term
10 "covered entity" in 45 CFR 160.103 and "protected health
11 information" has the meaning given to that term in 45 CFR
12 160.103.

13 (tt) Proposals or bids submitted by engineering
14 consultants in response to requests for proposal or other
15 competitive bidding requests by the Department of
16 Transportation or the Illinois Toll Highway Authority.

17 (1.5) Any information exempt from disclosure under the
18 Judicial Privacy Act shall be redacted from public records
19 prior to disclosure under this Act.

20 (2) A public record that is not in the possession of a
21 public body but is in the possession of a party with whom the
22 agency has contracted to perform a governmental function on
23 behalf of the public body, and that directly relates to the
24 governmental function and is not otherwise exempt under this
25 Act, shall be considered a public record of the public body,
26 for purposes of this Act.

1 (3) This Section does not authorize withholding of
2 information or limit the availability of records to the
3 public, except as stated in this Section or otherwise provided
4 in this Act.

5 (Source: P.A. 102-38, eff. 6-25-21; 102-558, eff. 8-20-21;
6 102-694, eff. 1-7-22; 102-752, eff. 5-6-22; 102-753, eff.
7 1-1-23; 102-776, eff. 1-1-23; 102-791, eff. 5-13-22; 102-982,
8 eff. 7-1-23; 102-1055, eff. 6-10-22; 103-154, eff. 6-30-23;
9 103-423, eff. 1-1-24; 103-446, eff. 8-4-23; 103-462, eff.
10 8-4-23; 103-540, eff. 1-1-24; 103-554, eff. 1-1-24; revised
11 9-7-23.)

12 Section 10-10. The Illinois Procurement Code is amended by
13 changing Section 50-39 as follows:

14 (30 ILCS 500/50-39)

15 Sec. 50-39. Procurement communications reporting
16 requirement.

17 (a) Any written or oral communication received by a State
18 employee who, by the nature of his or her duties, has the
19 authority to participate personally and substantially in the
20 decision to award a State contract and that imparts or
21 requests material information or makes a material argument
22 regarding potential action concerning an active procurement
23 matter, including, but not limited to, an application, a
24 contract, or a project, shall be reported to the Procurement

1 Policy Board, and, with respect to the Illinois Power Agency,
2 by the initiator of the communication, and may be reported
3 also by the recipient.

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

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

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

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

18 (4) The duration of the communication.

19 (5) The method (written, oral, etc.) of the
20 communication.

21 (6) A summary of the substantive content of the
22 communication.

23 These communications do not include the following: (i)
24 statements by a person publicly made in a public forum; (ii)
25 statements regarding matters of procedure and practice, such
26 as format, the number of copies required, the manner of

1 filing, and the status of a matter; (iii) statements made by a
2 State employee of the agency to the agency head or other
3 employees of that agency, to the employees of the Executive
4 Ethics Commission, or to an employee of another State agency
5 who, through the communication, is either (a) exercising his
6 or her experience or expertise in the subject matter of the
7 particular procurement in the normal course of business, for
8 official purposes, and at the initiation of the purchasing
9 agency or the appropriate State purchasing officer, or (b)
10 exercising oversight, supervisory, or management authority
11 over the procurement in the normal course of business and as
12 part of official responsibilities; (iv) ~~unsolicited~~
13 communications providing general information about a firm's
14 products or 7 services, or industry best practices provided
15 ~~before~~ those products or services are not directly related to
16 an open procurement matter ~~become involved in a procurement~~
17 ~~matter~~; (v) 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
20 for qualifications, invitation for bid, or a small purchase,
21 sole source, or emergency solicitation, or questions and
22 answers posted to the Illinois Procurement Bulletin to
23 supplement the procurement action, provided that the
24 communications are made in accordance with the instructions
25 contained in the procurement solicitation, procedures, or
26 guidelines; (vi) communications that are privileged,

1 protected, or confidential under law; ~~and~~ (vii) communications
2 that are part of a formal procurement process as set out by
3 statute, rule, or the solicitation, guidelines, or procedures,
4 including, but not limited to, the posting of procurement
5 opportunities, the process for approving a procurement
6 business case or its equivalent, fiscal approval, submission
7 of bids, the finalizing of contract terms and conditions with
8 an awardee or apparent awardee, and similar formal procurement
9 processes; and (viii) communications about proposal
10 deficiencies as provided under Section 35 of the
11 Architectural, Engineering, and Land Surveying Qualifications
12 Based Selection Act. The provisions of this Section shall not
13 apply to communications regarding the administration and
14 implementation of an existing contract, except communications
15 regarding change orders or the renewal or extension of a
16 contract.

17 The reporting requirement does not apply to any
18 communication asking for clarification regarding a contract
19 solicitation so long as there is no competitive advantage to
20 the person or business and the question and answer, if
21 material, are posted to the Illinois Procurement Bulletin as
22 an addendum to the contract solicitation.

23 (b) The report required by subsection (a) shall be
24 submitted monthly and include at least the following: (i) the
25 date and time of each communication; (ii) the identity of each
26 person from whom the written or oral communication was

1 received, the individual or entity represented by that person,
2 and any action the person requested or recommended; (iii) the
3 identity and job title of the person to whom each
4 communication was made; (iv) if a response is made, the
5 identity and job title of the person making each response; (v)
6 a detailed summary of the points made by each person involved
7 in the communication; (vi) the duration of the communication;
8 (vii) the location or locations of all persons involved in the
9 communication and, if the communication occurred by telephone,
10 the telephone numbers for the callers and recipients of the
11 communication; and (viii) any other pertinent information. No
12 trade secrets or other proprietary or confidential information
13 shall be included in any communication reported to the
14 Procurement Policy Board.

15 (c) Additionally, when an oral communication made by a
16 person required to register under the Lobbyist Registration
17 Act is received by a State employee that is covered under this
18 Section, all individuals who initiate or participate in the
19 oral communication shall submit a written report to that State
20 employee that memorializes the communication and includes, but
21 is not limited to, the items listed in subsection (b).

22 (d) The Procurement Policy Board shall make each report
23 submitted pursuant to this Section available on its website
24 within 7 calendar days after its receipt of the report. The
25 Procurement Policy Board may promulgate rules to ensure
26 compliance with this Section.

1 (e) The reporting requirements shall also be conveyed
2 through ethics training under the State Officials and
3 Employees Ethics Act. An employee who knowingly and
4 intentionally violates this Section shall be subject to
5 suspension or discharge. The Executive Ethics Commission shall
6 promulgate rules, including emergency rules, to implement this
7 Section.

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

9 (g) For purposes of this Section:

10 "Active procurement matter" means a procurement process
11 beginning with requisition or determination of need by an
12 agency and continuing through the publication of an award
13 notice or other completion of a final procurement action, the
14 resolution of any protests, and the expiration of any protest
15 or Procurement Policy Board review period, if applicable.
16 "Active procurement matter" also includes communications
17 relating to change orders, renewals, or extensions.

18 "Material information" means information that a reasonable
19 person would deem important in determining his or her course
20 of action and pertains to significant issues, including, but
21 not limited to, price, quantity, and terms of payment or
22 performance.

23 "Material argument" means a communication that a
24 reasonable person would believe was made for the purpose of
25 influencing a decision relating to a procurement matter.

26 "Material argument" does not include general information about

1 products, services, or industry best practices or a response
2 to a communication initiated by an employee of the State for
3 the purposes of providing information to evaluate new
4 products, trends, services, or technologies.

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

6 Section 10-15. The Architectural, Engineering, and Land
7 Surveying Qualifications Based Selection Act is amended by
8 changing Section 35 as follows:

9 (30 ILCS 535/35) (from Ch. 127, par. 4151-35)

10 Sec. 35. Selection procedure. On the basis of evaluations,
11 discussions, and any presentations, the State agency shall
12 select no less than 3 firms it determines to be qualified to
13 provide services for the project and rank them in order of
14 qualifications to provide services regarding the specific
15 project. The State agency shall then contact the firm ranked
16 most preferred to negotiate a contract at a fair and
17 reasonable compensation. If fewer than 3 firms submit letters
18 of interest and the State agency determines that one or both of
19 those firms are so qualified, the State agency may proceed to
20 negotiate a contract under Section 40. The decision of the
21 State agency shall be final and binding.

22 As part of the State agency's commitment to fostering
23 greater diversity in contracting, the State agency may
24 communicate with firms who were not selected in order to

1 provide further information about the firm's proposal
2 deficiencies.

3 (Source: P.A. 87-673.)

4 ARTICLE 15.

5 Section 15-5. The Governmental Joint Purchasing Act is
6 amended by changing Section 2 as follows:

7 (30 ILCS 525/2) (from Ch. 85, par. 1602)

8 Sec. 2. Joint purchasing authority.

9 (a) Any governmental unit, except a governmental unit
10 subject to the jurisdiction of a chief procurement officer
11 established in Section 10-20 of the Illinois Procurement Code,
12 may purchase personal property, supplies and services jointly
13 with one or more other governmental units. All such joint
14 purchases shall be by competitive solicitation as provided in
15 Section 4, except as otherwise provided in this Act. The
16 provisions of any other acts under which a governmental unit
17 operates which refer to purchases and procedures in connection
18 therewith shall be superseded by the provisions of this Act
19 when the governmental units are exercising the joint powers
20 created by this Act.

21 (a-5) For purchases made by a governmental unit subject to
22 the jurisdiction of a chief procurement officer established in
23 Section 10-20 of the Illinois Procurement Code, the applicable

1 chief procurement officer established in Section 10-20 of the
2 Illinois Procurement Code may authorize the purchase of
3 supplies and services jointly with a governmental unit of this
4 State, governmental entity of another state, or with a
5 consortium of governmental entities of one or more other
6 states, except as otherwise provided in this Act. Subject to
7 provisions of the joint purchasing solicitation, the
8 appropriate chief procurement officer may designate the
9 resulting contract as available to governmental units in
10 Illinois.

11 (a-10) Each chief procurement officer appointed pursuant
12 to Section 10-20 of the Illinois Procurement Code, with joint
13 agreement of the respective agency or institution, may
14 authorize the purchase or lease of supplies and services which
15 have been procured through a competitive process by a federal
16 agency; a consortium of governmental, educational, medical,
17 research, or similar entities; or a group purchasing
18 organization of which the chief procurement officer or State
19 agency is a member or affiliate, including, without
20 limitation, any purchasing entity operating under the federal
21 General Services Administration, the Higher Education
22 Cooperation Act, and the Midwestern Higher Education Compact
23 Act. Each applicable chief procurement officer may authorize
24 purchases and contracts which have been procured through other
25 methods of procurement if each chief procurement officer
26 determines it is in the best interests of the State,

1 considering a recommendation by their respective agencies or
2 institutions. The chief procurement officer may establish
3 detailed rules, policies, and procedures for use of these
4 cooperative contracts. Notice of award shall be published by
5 the chief procurement officer in the Illinois Procurement
6 Bulletin at least prior to use of the contract. Each chief
7 procurement officer shall submit to the General Assembly by
8 November 1 of each year a report of procurements made under
9 this subsection (a-10).

10 (a-15) Each chief procurement officer appointed pursuant
11 to Section 10-20 of the Illinois Procurement Code may
12 authorize any governmental unit of this State to purchase or
13 lease supplies under a contract which has been procured under
14 the jurisdiction of the Illinois Procurement Code by a
15 governmental unit subject to the jurisdiction of the chief
16 procurement officer. Prior to making the contract available to
17 the governmental unit of this State, the chief procurement
18 officer shall consult with the governmental unit that is party
19 to the contract and is subject to the jurisdiction of the chief
20 procurement officer. A governmental unit of this State that
21 uses a contract pursuant to this subsection shall report each
22 year to the authorizing chief procurement officer the
23 contractor used, supplies purchased, and total value of
24 purchases for each contract. The authorizing chief procurement
25 officer shall submit to the General Assembly by November 1 of
26 each year a report of procurements made under this subsection

1 (a-15).

2 (b) Any not-for-profit agency that qualifies under Section
3 45-35 of the Illinois Procurement Code and that either (1)
4 acts pursuant to a board established by or controlled by a unit
5 of local government or (2) receives grant funds from the State
6 or from a unit of local government, shall be eligible to
7 participate in contracts established by the State.

8 (c) For governmental units subject to the jurisdiction of
9 a chief procurement officer established in Section 10-20 of
10 the Illinois Procurement Code, if any contract or amendment to
11 a contract is entered into or purchase or expenditure of funds
12 is made at any time in violation of this Act or any other law,
13 the contract or amendment may be declared void by the chief
14 procurement officer or may be ratified and affirmed, if the
15 chief procurement officer determines that ratification is in
16 the best interests of the governmental unit. If the contract
17 or amendment is ratified and affirmed, it shall be without
18 prejudice to the governmental unit's rights to any appropriate
19 damages.

20 (d) This Section does not apply to construction-related
21 professional services contracts awarded in accordance with the
22 provisions of the Architectural, Engineering, and Land
23 Surveying Qualifications Based Selection Act.

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

1 Section 20-5. The Illinois Procurement Code is amended by
2 changing Section 40-15 as follows:

3 (30 ILCS 500/40-15)

4 Sec. 40-15. Method of source selection.

5 (a) Request for information. Except as provided in
6 subsections (b) and (c), all State contracts for leases of
7 real property or capital improvements shall be awarded by a
8 request for information process in accordance with Section
9 40-20.

10 (b) Other methods. A request for information process need
11 not be used in procuring any of the following leases:

12 (1) Property of less than 10,000 square feet with base
13 rent of less than \$200,000 ~~\$100,000~~ per year.

14 (2) (Blank).

15 (3) Duration of less than one year that cannot be
16 renewed.

17 (4) Specialized space available at only one location.

18 (5) Renewal or extension of a lease; provided that:

19 (i) the chief procurement officer determines in writing
20 that the renewal or extension is in the best interest of
21 the State; (ii) the chief procurement officer submits his
22 or her written determination and the renewal or extension
23 to the Board; (iii) the Board does not object in writing to
24 the renewal or extension within 30 calendar days after its

1 submission; and (iv) the chief procurement officer
2 publishes the renewal or extension in the appropriate
3 volume of the Procurement Bulletin.

4 (c) Leases with governmental units. Leases with other
5 governmental units may be negotiated without using the request
6 for information process when deemed by the chief procurement
7 officer to be in the best interest of the State.

8 (Source: P.A. 98-1076, eff. 1-1-15.)

9 ARTICLE 25.

10 Section 25-10. The Illinois Procurement Code is amended by
11 changing Section 1-10 as follows:

12 (30 ILCS 500/1-10)

13 Sec. 1-10. Application.

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

1 July 1, 1998 shall be substantially in accordance with this
2 Code and its intent.

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

6 (1) Contracts between the State and its political
7 subdivisions or other governments, or between State
8 governmental bodies, except as specifically provided in
9 this Code.

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

12 (3) Purchase of care, except as provided in Section
13 5-30.6 of the Illinois Public Aid Code and this Section.

14 (4) Hiring of an individual as an employee and not as
15 an independent contractor, whether pursuant to an
16 employment code or policy or by contract directly with
17 that individual.

18 (5) Collective bargaining contracts.

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

1 (7) Contracts necessary to prepare for anticipated
2 litigation, enforcement actions, or investigations,
3 provided that the chief legal counsel to the Governor
4 shall give his or her prior approval when the procuring
5 agency is one subject to the jurisdiction of the Governor,
6 and provided that the chief legal counsel of any other
7 procuring entity subject to this Code shall give his or
8 her prior approval when the procuring entity is not one
9 subject to the jurisdiction of the Governor.

10 (8) (Blank).

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

13 (10) (Blank).

14 (11) Public-private agreements entered into according
15 to the procurement requirements of Section 20 of the
16 Public-Private Partnerships for Transportation Act and
17 design-build agreements entered into according to the
18 procurement requirements of Section 25 of the
19 Public-Private Partnerships for Transportation Act.

20 (12) (A) Contracts for legal, financial, and other
21 professional and artistic services entered into by the
22 Illinois Finance Authority in which the State of Illinois
23 is not obligated. Such contracts shall be awarded through
24 a competitive process authorized by the members of the
25 Illinois Finance Authority and are subject to Sections
26 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,

1 as well as the final approval by the members of the
2 Illinois Finance Authority of the terms of the contract.

3 (B) Contracts for legal and financial services entered
4 into by the Illinois Housing Development Authority in
5 connection with the issuance of bonds in which the State
6 of Illinois is not obligated. Such contracts shall be
7 awarded through a competitive process authorized by the
8 members of the Illinois Housing Development Authority and
9 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
10 and 50-37 of this Code, as well as the final approval by
11 the members of the Illinois Housing Development Authority
12 of the terms of the contract.

13 (13) Contracts for services, commodities, and
14 equipment to support the delivery of timely forensic
15 science services in consultation with and subject to the
16 approval of the Chief Procurement Officer as provided in
17 subsection (d) of Section 5-4-3a of the Unified Code of
18 Corrections, except for the requirements of Sections
19 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
20 Code; however, the Chief Procurement Officer may, in
21 writing with justification, waive any certification
22 required under Article 50 of this Code. For any contracts
23 for services which are currently provided by members of a
24 collective bargaining agreement, the applicable terms of
25 the collective bargaining agreement concerning
26 subcontracting shall be followed.

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

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

6 (15) Contracts with a railroad or utility that
7 requires the State to reimburse the railroad or utilities
8 for the relocation of utilities for construction or other
9 public purpose. Contracts included within this paragraph
10 (15) shall include, but not be limited to, those
11 associated with: relocations, crossings, installations,
12 and maintenance. For the purposes of this paragraph (15),
13 "railroad" means any form of non-highway ground
14 transportation that runs on rails or electromagnetic
15 guideways and "utility" means: (1) public utilities as
16 defined in Section 3-105 of the Public Utilities Act, (2)
17 telecommunications carriers as defined in Section 13-202
18 of the Public Utilities Act, (3) electric cooperatives as
19 defined in Section 3.4 of the Electric Supplier Act, (4)
20 telephone or telecommunications cooperatives as defined in
21 Section 13-212 of the Public Utilities Act, (5) rural
22 water or waste water systems with 10,000 connections or
23 less, (6) a holder as defined in Section 21-201 of the
24 Public Utilities Act, and (7) municipalities owning or
25 operating utility systems consisting of public utilities
26 as that term is defined in Section 11-117-2 of the

1 Illinois Municipal Code.

2 (16) Procurement expenditures necessary for the
3 Department of Public Health to provide the delivery of
4 timely newborn screening services in accordance with the
5 Newborn Metabolic Screening Act.

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

15 (18) This Code does not apply to any procurements
16 necessary for the Department of Agriculture, the
17 Department of Financial and Professional Regulation, the
18 Department of Human Services, the Department of Commerce
19 and Economic Opportunity, and the Department of Public
20 Health to implement the Cannabis Regulation and Tax Act if
21 the applicable agency has made a good faith determination
22 that it is necessary and appropriate for the expenditure
23 to fall within this exemption and if the process is
24 conducted in a manner substantially in accordance with the
25 requirements of Sections 20-160, 25-60, 30-22, 50-5,
26 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,

1 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
2 Section 50-35, compliance applies only to contracts or
3 subcontracts over \$100,000. Notice of each contract
4 entered into under this paragraph (18) that is related to
5 the procurement of goods and services identified in
6 paragraph (1) through (9) of this subsection shall be
7 published in the Procurement Bulletin within 14 calendar
8 days after contract execution. The Chief Procurement
9 Officer shall prescribe the form and content of the
10 notice. Each agency shall provide the Chief Procurement
11 Officer, on a monthly basis, in the form and content
12 prescribed by the Chief Procurement Officer, a report of
13 contracts that are related to the procurement of goods and
14 services identified in this subsection. At a minimum, this
15 report shall include the name of the contractor, a
16 description of the supply or service provided, the total
17 amount of the contract, the term of the contract, and the
18 exception to this Code utilized. A copy of any or all of
19 these contracts shall be made available to the Chief
20 Procurement Officer immediately upon request. The Chief
21 Procurement Officer shall submit a report to the Governor
22 and General Assembly no later than November 1 of each year
23 that includes, at a minimum, an annual summary of the
24 monthly information reported to the Chief Procurement
25 Officer. This exemption becomes inoperative 5 years after
26 June 25, 2019 (the effective date of Public Act 101-27).

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

18 For purposes of this paragraph (19):

19 "Assistive technology devices" means any item, piece
20 of equipment, or product system, whether acquired
21 commercially off the shelf, modified, or customized, that
22 is used to increase, maintain, or improve functional
23 capabilities of individuals with disabilities.

24 "Assistive technology services" means any service that
25 directly assists an individual with a disability in
26 selection, acquisition, or use of an assistive technology

1 device.

2 "Qualified" has the same meaning and use as provided
3 under the federal Americans with Disabilities Act when
4 describing an individual with a disability.

5 (20) Procurement expenditures necessary for the
6 Illinois Commerce Commission to hire third-party
7 facilitators pursuant to Sections 16-105.17 and 16-108.18
8 of the Public Utilities Act or an ombudsman pursuant to
9 Section 16-107.5 of the Public Utilities Act, a
10 facilitator pursuant to Section 16-105.17 of the Public
11 Utilities Act, or a grid auditor pursuant to Section
12 16-105.10 of the Public Utilities Act.

13 (21) Procurement expenditures for the purchase,
14 renewal, and expansion of software, software licenses, or
15 software maintenance agreements that support the efforts
16 of the Illinois State Police to enforce, regulate, and
17 administer the Firearm Owners Identification Card Act, the
18 Firearm Concealed Carry Act, the Firearms Restraining
19 Order Act, the Firearm Dealer License Certification Act,
20 the Law Enforcement Agencies Data System (LEADS), the
21 Uniform Crime Reporting Act, the Criminal Identification
22 Act, the Illinois Uniform Conviction Information Act, and
23 the Gun Trafficking Information Act, or establish or
24 maintain record management systems necessary to conduct
25 human trafficking investigations or gun trafficking or
26 other stolen firearm investigations. This paragraph (21)

1 applies to contracts entered into on or after January 10,
2 2023 (the effective date of Public Act 102-1116) and the
3 renewal of contracts that are in effect on January 10,
4 2023 (the effective date of Public Act 102-1116).

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

16 (23) Procurements necessary for the Department of
17 Insurance to implement the Illinois Health Benefits
18 Exchange Law if the Department of Insurance has made a
19 good faith determination that it is necessary and
20 appropriate for the expenditure to fall within this
21 exemption. The procurement process shall be conducted in a
22 manner substantially in accordance with the requirements
23 of Sections 20-160 and 25-60 and Article 50 of this Code. A
24 copy of these contracts shall be made available to the
25 Chief Procurement Officer immediately upon request. This
26 paragraph is inoperative 5 years after June 27, 2023 (the

1 effective date of Public Act 103-103).

2 (24) ~~(22)~~ Contracts for public education programming,
3 noncommercial sustaining announcements, public service
4 announcements, and public awareness and education
5 messaging with the nonprofit trade associations of the
6 providers of those services that inform the public on
7 immediate and ongoing health and safety risks and hazards.

8 (25) Procurements that are necessary for increasing
9 the recruitment and retention of State employees,
10 particularly minority candidates for employment,
11 including:

12 (A) procurements related to registration fees for
13 job fairs and other outreach and recruitment events;

14 (B) production of recruitment materials; and

15 (C) other services related to recruitment and
16 retention of State employees.

17 The exemption under this paragraph (25) applies only
18 if the State agency has made a good faith determination
19 that it is necessary and appropriate for the expenditure
20 to fall within this paragraph (25). The procurement
21 process under this paragraph (25) shall be conducted in a
22 manner substantially in accordance with the requirements
23 of Sections 20-160 and 25-60 and Article 50 of this Code. A
24 copy of these contracts shall be made available to the
25 Chief Procurement Officer immediately upon request.
26 Nothing in this paragraph (25) authorizes the replacement

1 or diminishment of State responsibilities in hiring or the
2 positions that effectuate that hiring. This paragraph (25)
3 is inoperative on and after June 30, 2029.

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

17 (c) This Code does not apply to the electric power
18 procurement process provided for under Section 1-75 of the
19 Illinois Power Agency Act and Section 16-111.5 of the Public
20 Utilities Act. This Code does not apply to the procurement of
21 technical and policy experts pursuant to Section 1-129 of the
22 Illinois Power Agency Act.

23 (d) Except for Section 20-160 and Article 50 of this Code,
24 and as expressly required by Section 9.1 of the Illinois
25 Lottery Law, the provisions of this Code do not apply to the
26 procurement process provided for under Section 9.1 of the

1 Illinois Lottery Law.

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

13 (f) (Blank).

14 (g) (Blank).

15 (h) This Code does not apply to the process to procure or
16 contracts entered into in accordance with Sections 11-5.2 and
17 11-5.3 of the Illinois Public Aid Code.

18 (i) Each chief procurement officer may access records
19 necessary to review whether a contract, purchase, or other
20 expenditure is or is not subject to the provisions of this
21 Code, unless such records would be subject to attorney-client
22 privilege.

23 (j) This Code does not apply to the process used by the
24 Capital Development Board to retain an artist or work or works
25 of art as required in Section 14 of the Capital Development
26 Board Act.

1 (k) This Code does not apply to the process to procure
2 contracts, or contracts entered into, by the State Board of
3 Elections or the State Electoral Board for hearing officers
4 appointed pursuant to the Election Code.

5 (l) This Code does not apply to the processes used by the
6 Illinois Student Assistance Commission to procure supplies and
7 services paid for from the private funds of the Illinois
8 Prepaid Tuition Fund. As used in this subsection (l), "private
9 funds" means funds derived from deposits paid into the
10 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

11 (m) This Code shall apply regardless of the source of
12 funds with which contracts are paid, including federal
13 assistance moneys. Except as specifically provided in this
14 Code, this Code shall not apply to procurement expenditures
15 necessary for the Department of Public Health to conduct the
16 Healthy Illinois Survey in accordance with Section 2310-431 of
17 the Department of Public Health Powers and Duties Law of the
18 Civil Administrative Code of Illinois.

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

1 Section 30-5. The Reimagining Hotel Florence Act is
2 amended by changing Sections 45-5, 45-10, 45-15, 45-20, 45-25,
3 and 45-30 as follows:

4 (20 ILCS 3407/45-5)

5 Sec. 45-5. Legislative intent. Originally built in 1881,
6 the Hotel Florence is located within the Pullman Historic
7 District and was placed on the National Register of Historic
8 Places in 1969 and was designated a National Historic Landmark
9 on December 30, 1970. To save it from demolition the Historic
10 Pullman Foundation purchased the hotel in 1975 and maintained
11 ownership until 1991 when the State of Illinois took title of
12 the building. The Hotel Florence is continually closed for
13 renovations and is a semi-closed public space.

14 The hotel sits within ~~next to~~ the Pullman National
15 Historic Landmark District, which was designated as a National
16 Monument in 2015 and recently redesignated as Illinois'
17 ~~Illinois's~~ first National Park on December 29, 2022 and is
18 operated by the U.S. National Park Service. This redesignation
19 allows for the National Park Service to enter into cooperative
20 agreements with outside parties for interpretive and
21 educational programs at nonfederal historic properties within
22 the boundaries of the park and to provide assistance for the
23 preservation of nonfederal land within the boundaries of the
24 historical park and at sites in close proximity to it, which

1 includes ~~may include~~ the Pullman State Historic Site (Hotel
2 Florence, Hotel Florence Annex, Factory Grounds, Rear Erecting
3 Shops, Front Erecting Shop North Factory Wing, Front Erecting
4 Shop South Factory Wing Ruin, and the Historic 1911 "Advance"
5 Railroad Passenger Car).

6 The General Assembly has allocated \$21,000,000 in capital
7 infrastructure funds to aid in the restoration and capital
8 improvements at the Pullman State Historic Site, including,
9 but not limited to, renovation ~~redevelopment~~ of the Hotel
10 Florence.

11 The General Assembly finds that allowing for the
12 Department of Natural Resources to enter into a public-private
13 partnership that will allow the Hotel Florence to become a
14 fully reactivated space in a timely manner that is in the
15 public benefit of the State and the local Pullman community.

16 (Source: P.A. 103-570, eff. 1-1-24.)

17 (20 ILCS 3407/45-10)

18 Sec. 45-10. Definitions. In this Act:

19 "Agreement" means a public-private agreement.

20 "Contractor" means a person that has been selected to
21 enter or has entered into a public-private agreement with the
22 Department on behalf of the State for the development,
23 financing, construction, management, or operation of the Hotel
24 Florence pursuant to this Act.

25 "Department" means the Department of Natural Resources.

1 "Hotel Florence" means real property in the City of
2 Chicago located within the Pullman State Historic Site
3 ~~District~~ that is owned by the Illinois Department of Natural
4 Resources and was acquired in 1991, at the address of 11111 S.
5 Forrestville Avenue, Chicago, Illinois, as well as the
6 adjacent Hotel Florence Annex building located at 537 East
7 111th Street, Chicago, Illinois 60628 and any associated
8 grounds connected to the Hotel Florence or Hotel Florence
9 Annex ~~either property~~.

10 "Maintain" or "maintenance" includes ordinary maintenance,
11 repair, rehabilitation, capital maintenance, maintenance
12 replacement, and any other categories of maintenance that may
13 be designated by the Department.

14 "Offeror" means a person that responds to a request for
15 solicitations ~~proposals~~ under this Act.

16 "Operate" or "operation" means to do one or more of the
17 following: maintain, improve, equip, modify, or otherwise
18 operate.

19 "Person" means any individual, firm, association, joint
20 venture, partnership, estate, trust, syndicate, fiduciary,
21 corporation, or any other legal entity, group, or combination
22 thereof.

23 "Public-private agreement" means an agreement or contract
24 between the Department on behalf of the State and all
25 schedules, exhibits, and attachments thereto, entered into
26 pursuant to a competitive request for solicitations ~~proposals~~

1 process governed by this Act, for the development, financing,
2 construction, management, or operation of the Hotel Florence
3 under this Act.

4 "Pullman Factory" means real property in the City of
5 Chicago located within the Pullman State Historic Site that is
6 owned by the Department of Natural Resources and was acquired
7 in 1991, at the addresses 620 and 630 East 111th Street,
8 Chicago, Illinois 60628. The Factory Grounds include the Front
9 Erecting Shop North Factory Wing, Front Erecting Shop South
10 Factory Wing (Ruin), Rear Erecting Shops, Proposed Train Car
11 Display Building, Historic 1911 "Advance" Railroad Passenger
12 Car, Rail Spur Connection, and associated grounds.

13 "Revenues" means all revenues, including, but not limited
14 to, income, user fees, earnings, interest, lease payments,
15 allocations, moneys from the federal government, the State,
16 and units of local government, including, but not limited to,
17 federal, State, and local appropriations, grants, loans, lines
18 of credit, and credit guarantees; bond proceeds; equity
19 investments; service payments; or other receipts arising out
20 of or in connection with the financing, development,
21 construction, management, or operation of the Hotel Florence.

22 "State" means the State of Illinois.

23 (Source: P.A. 103-570, eff. 1-1-24.)

24 (20 ILCS 3407/45-15)

25 Sec. 45-15. Authority to enter public-private agreement.

1 (a) Notwithstanding any provision of law to the contrary,
2 the Department on behalf of the State may, pursuant to a
3 competitive solicitation ~~request for proposals~~ process
4 governed by ~~the Illinois Procurement Code, rules adopted under~~
5 ~~that Code,~~ and this Act, enter into a public-private agreement
6 to develop, finance, construct, lease, manage, divest
7 ownership in, and ~~or~~ operate the Hotel Florence and the
8 Pullman Factory on behalf of the State, pursuant to which the
9 contractors may receive certain revenues, including management
10 or user fees in consideration of the payment of moneys to the
11 State for that right. At the discretion of the Department, the
12 Factory Grounds may be included in the public-private
13 agreement.

14 (b) The term of a public-private agreement shall be no
15 less than 25 years and no more than 75 years.

16 (c) The term of a public-private agreement may be
17 extended, but only if the extension is specifically authorized
18 by the General Assembly by law.

19 (Source: P.A. 103-570, eff. 1-1-24.)

20 (20 ILCS 3407/45-20)

21 Sec. 45-20. Prequalification ~~Procurement,~~
22 ~~prequalification.~~ The Department may establish a process for
23 prequalification of offerors. The Department may enter into
24 agreements with governmental entities and other outside
25 entities to assist in drafting the solicitation and evaluation

1 process as well as develop evaluation criteria for the
2 prequalification of offerors. If the Department does create
3 such a process, it shall:

4 (1) provide a public notice of the prequalification at
5 least 30 days prior to the date on which applications are
6 due;

7 (2) set forth requirements and evaluation criteria in
8 order to become prequalified;

9 (3) determine which offerors that have submitted
10 prequalification applications, if any, meet the
11 requirements and evaluation criteria; and

12 (4) allow only those offerors that have been
13 prequalified to respond to the request for solicitations
14 proposals.

15 (Source: P.A. 103-570, eff. 1-1-24.)

16 (20 ILCS 3407/45-25)

17 Sec. 45-25. Request for solicitation proposals process to
18 enter into public-private agreement.

19 (a) Notwithstanding any provision of law to the contrary,
20 the Department on behalf of the State shall select a
21 contractor through a competitive solicitation request for
22 proposals process governed by ~~the Illinois Procurement Code~~
23 ~~and rules adopted under that Code and~~ this Act. The Department
24 may enter into agreements with governmental entities and other
25 outside entities to assist the Department in drafting,

1 reviewing, and scoring the proposals.

2 (b) The competitive solicitation ~~request for proposals~~
3 process shall, at a minimum, solicit statements of
4 qualification and proposals from offerors.

5 (c) The competitive request for solicitation ~~proposals~~
6 process shall, at a minimum, take into account the following
7 criteria:

8 (1) the offeror's plans for the Hotel Florence
9 project, including, but not limited to, building use,
10 experience, environmental concerns, and a proposed
11 preservation and rehabilitation plan compliant with the
12 Illinois State Agency Historic Preservation Act;

13 (2) the offeror's current and past business practices;

14 (3) the offeror's poor or inadequate past performance
15 in developing, financing, constructing, managing, or
16 operating historic landmark properties or other public
17 assets;

18 (4) the offeror's ability to meet and past performance
19 in meeting or exhausting good faith efforts to meet the
20 utilization goals for business enterprises established in
21 the Business Enterprise for Minorities, Women, and Persons
22 with Disabilities Act;

23 (5) the offeror's ability to comply with and past
24 performance in complying with Section 2-105 of the
25 Illinois Human Rights Act; ~~and~~

26 (6) the offeror's plans to comply with the Business

1 Enterprise for Minorities, Women, and Persons with
2 Disabilities Act and Section 2-105 of the Illinois Human
3 Rights Act; ~~and-~~

4 (7) the offeror's plans for the Pullman Factory.

5 (d) The Department shall not include terms in the request
6 for solicitations ~~proposals~~ that provide an advantage, whether
7 directly or indirectly, to any contractor presently providing
8 goods, services, or equipment to the Department.

9 (e) The Department shall select one or more offerors as
10 finalists.

11 (f) After the procedures required in this Section have
12 been completed, the Department shall make a determination as
13 to whether the offeror should be designated as the contractor
14 for the Hotel Florence project and shall submit the decision
15 to the Governor and to the Governor's Office of Management and
16 Budget. After review of the Department's determination, the
17 Governor may accept or reject the determination. If the
18 Governor accepts the determination of the Department, the
19 Governor shall designate the offeror for the Hotel Florence
20 project.

21 (Source: P.A. 103-570, eff. 1-1-24.)

22 (20 ILCS 3407/45-30)

23 Sec. 45-30. Provisions of the public-private agreement.

24 ~~(a)~~ The public-private agreement shall include all of the
25 following:

1 (1) the term of the public-private agreement that is
2 consistent with Section 45-40 of this Act;

3 (2) the powers, duties, responsibilities, obligations,
4 and functions of the Department and the contractor;

5 (3) compensation or payments to the Department, if
6 applicable;

7 (4) compensation or payments to the contractor, if
8 applicable;

9 (5) a provision specifying that the Department:

10 (A) has ready access to information regarding the
11 contractor's powers, duties, responsibilities,
12 obligations, and functions under the public-private
13 agreement;

14 (B) has the right to demand and receive
15 information from the contractor concerning any aspect
16 of the contractor's powers, duties, responsibilities,
17 obligations, and functions under the public-private
18 agreement; and

19 (C) has the authority to direct or countermand
20 decisions by the contractor at any time;

21 (6) a provision imposing an affirmative duty on the
22 contractor to provide the Department with any information
23 the contractor reasonably believes the Department would
24 want to know or would need to know to enable the Department
25 to exercise its powers, carry out its duties,
26 responsibilities, and obligations, and perform its

1 functions under this Act or the public-private agreement
2 or as otherwise required by law;

3 (6.5) a provision that this project will require using
4 guidelines with The Secretary of the Interior's Standards
5 for the Treatment of Historic Properties with Guidelines
6 for Preserving, Rehabilitating, Restoring and
7 Reconstructing Historic Buildings; the period of the
8 original construction (Hotel Florence and grounds from
9 1880 through 1897; and Hotel Annex from 1914 through 1930)
10 should be used to guide the project design and
11 construction;

12 (7) the authority of the Department to enter into
13 contracts with third parties pursuant to Section 45-40;

14 (8) the authority of the Department to request that
15 the contractor reimburse the Department for third party
16 consultants related to the monitoring the project;

17 (9) a provision governing the contractor's authority
18 to negotiate and execute subcontracts with third parties;

19 (10) the authority of the contractor to impose user
20 fees and the amounts of those fees;

21 (11) a provision governing the deposit and allocation
22 of revenues including user fees;

23 (12) a provision governing rights to real and personal
24 property of the State, the Department, the contractor, and
25 other third parties;

26 (13) grounds for termination of the agreement by the

1 Department or the contractor and a restatement of the
2 Department's rights under this Act;

3 (14) a requirement that the contractor enter into a
4 project labor agreement;

5 (15) a provision stating that construction contractors
6 shall comply with the requirements of Section 30-22 of the
7 Illinois Procurement Code;

8 (16) rights and remedies of the Department if the
9 contractor defaults or otherwise fails to comply with the
10 terms of the agreement;

11 (17) procedures for amendment to the agreement; ~~and~~

12 (18) all other terms, conditions, and provisions
13 acceptable to the Department that the Department deems
14 necessary and proper and in the public interest; and -

15 (19) a requirement that the contract complies with the
16 Business Enterprise for Minorities, Women, and Persons
17 with Disabilities Act and Section 2-105 of the Illinois
18 Human Rights Act.

19 (Source: P.A. 103-570, eff. 1-1-24.)

20 (20 ILCS 3407/45-35 rep.)

21 Section 30-10. The Reimagining Hotel Florence Act is
22 amended by repealing Section 45-35.

23 ARTICLE 35.

1 Section 35-5. The Illinois Procurement Code is amended by
2 changing Section 45-105 as follows:

3 (30 ILCS 500/45-105)

4 Sec. 45-105. Bid preference for Illinois businesses.

5 (a) (Blank).

6 (b) It is hereby declared to be the public policy of the
7 State of Illinois to promote the economy of Illinois through
8 the use of Illinois businesses for all State construction
9 contracts.

10 (c) Construction agencies procuring construction and
11 construction-related professional services shall make
12 reasonable efforts to contract with Illinois businesses.

13 (d) Beginning in 2022, each construction agency shall
14 submit a report to the Governor and the General Assembly by
15 September 1 of each year that identifies the Illinois
16 businesses procured by the construction agency, the primary
17 location of the construction project, the percentage of the
18 construction agency's utilization of Illinois businesses on
19 the project as a whole, and the actions that the construction
20 agency has undertaken to increase the use of Illinois
21 businesses.

22 (e) In procuring construction and construction-related
23 professional services for projects with a total value that
24 exceeds the small purchase maximum established by Section
25 20-20 of this Code, construction agencies shall provide a bid

1 preference to a responsive and responsible bidder that is an
2 Illinois business as defined in this Section. The construction
3 agency shall allocate to the lowest bid by an Illinois
4 business that is responsible and responsive a bid preference
5 of 4% of the contract base bid. This subsection applies only to
6 projects where a business that is not an Illinois business
7 submits a bid.

8 (e-5) The chief procurement officer shall require at the
9 time of submission of a bid, and may require at the chief
10 procurement officer's option at any time during the term of
11 the contract, that the bidder or contractor submit an
12 affidavit and other supporting documents demonstrating that
13 the bidder or contractor is an Illinois business and, if
14 applicable, submit an affidavit and other supporting documents
15 demonstrating that the bidder or contractor is eligible for a
16 4% bid preference under this Section.

17 (e-10) If a contractor who is awarded a contract through
18 the use of a preference for Illinois businesses provided false
19 information in order to obtain that preference, then the
20 contractor is subject to disciplinary procedures as identified
21 in Section 50-65 of this Act.

22 (f) This Section does not apply to any contract for any
23 project for which federal funds are available for expenditure
24 when its provisions may be in conflict with federal law or
25 federal regulation.

26 (g) As used in this Section, "Illinois business" means a

1 contractor that is, for at least one year prior, operating and
2 headquartered in Illinois, subject to applicable State taxes,
3 and providing, at the time that an invitation for a bid or
4 notice of contract opportunity is first advertised,
5 construction or construction-related professional services.
6 "Illinois business" includes a foreign corporation duly
7 authorized to transact business in this State that has a bona
8 fide establishment for transacting business within this State
9 where it is operating, headquartered, and performing
10 construction or construction-related professional services at
11 least one year before an invitation for a bid or notice of
12 contract opportunity is first advertised. , and is operating
13 as:

14 ~~(1) a sole proprietor whose primary residence is in~~
15 ~~Illinois;~~

16 ~~(2) a business incorporated or organized as a domestic~~
17 ~~corporation under the Business Corporation Act of 1983;~~

18 ~~(3) a business organized as a domestic partnership~~
19 ~~under the Uniform Partnership Act of 1997;~~

20 ~~(4) a business organized as a domestic limited~~
21 ~~partnership under the Uniform Limited Partnership Act of~~
22 ~~2001;~~

23 ~~(5) a business organized under the Limited Liability~~
24 ~~Company Act; or~~

25 ~~(6) a business organized under the Professional~~
26 ~~Limited Liability Company Act.~~

1 "Illinois business" does not include any subcontractors or
2 businesses headquartered outside of the State that have an
3 affiliated entity operating in the State.

4 (Source: P.A. 102-721, eff. 1-1-23; 103-570, eff. 1-1-24.)

5 ARTICLE 45.

6 Section 45-5. The Illinois Procurement Code is amended by
7 changing Section 50-10.5 as follows:

8 (30 ILCS 500/50-10.5)

9 Sec. 50-10.5. Prohibited bidders, offerors, potential
10 contractors, and contractors.

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

19 (b) Every bid and offer submitted to the State, every
20 contract executed by the State, every vendor's submission to a
21 vendor portal, and every subcontract subject to Section 20-120
22 of this Code shall contain a certification by the bidder,
23 offeror, potential contractor, contractor, or subcontractor,

1 respectively, that the bidder, offeror, potential contractor,
2 contractor, or subcontractor is not barred from being awarded
3 a contract or subcontract under this Section and acknowledges
4 that the chief procurement officer shall declare the related
5 contract void if any of the certifications completed pursuant
6 to this subsection (b) are false. If the false certification
7 is made by a subcontractor, then the contractor's submitted
8 bid or offer 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 (c) If a business is not a natural person, the prohibition
13 in subsection (a) applies only if:

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

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

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

22 (e) No person or business shall bid, offer, make a
23 submission to a vendor portal, or enter into a contract under
24 this Code if the person or business assisted an employee of the
25 State of Illinois, who, by the nature of his or her duties, has
26 the authority to participate personally and substantially in

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

7 This subsection does not prohibit a person or business
8 from submitting a bid or offer or entering into a contract if
9 the person or business: (i) initiates a communication with an
10 employee to provide general information about products,
11 services, or industry best practices, (ii) responds to a
12 communication initiated by an employee of the State for the
13 purposes of providing information to evaluate new products,
14 trends, services, or technologies, or (iii) asks for
15 clarification regarding a solicitation, so long as there is no
16 competitive advantage to the person or business and the
17 question and answer, if material, are posted to the Illinois
18 Procurement Bulletin as an addendum to the solicitation.

19 Nothing in this Section prohibits a vendor developing
20 technology, goods, or services from bidding or offering to
21 supply that technology or those goods or services if the
22 subject demonstrated to the State represents industry trends
23 and innovation and is not specifically designed to meet the
24 State's needs.

25 Nothing in this Section prohibits a person performing
26 construction-related services from initiating contact with a

1 business that performs construction for the purpose of
2 obtaining market costs or production time to determine the
3 estimated costs to complete the construction project.

4 For purposes of this subsection (e), "business" includes
5 all individuals with whom a business is affiliated, including,
6 but not limited to, any officer, agent, employee, consultant,
7 independent contractor, director, partner, or manager of a
8 business.

9 No person or business shall submit specifications to a
10 State agency unless requested to do so by an employee of the
11 State. No person or business who contracts with a State agency
12 to write specifications for a particular procurement need
13 shall submit a bid or proposal or receive a contract for that
14 procurement need.

15 Nothing in this subsection (e) shall prohibit a person or
16 business from submitting an unsolicited proposal under Section
17 19 of the Public-Private Partnerships for Transportation Act.

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

19 ARTICLE 50.

20 Section 50-5. The Business Enterprise for Minorities,
21 Women, and Persons with Disabilities Act is amended by
22 changing Sections 2, 5, and 8 and by adding Section 3.5 as
23 follows:

1 (30 ILCS 575/2)

2 (Section scheduled to be repealed on June 30, 2029)

3 Sec. 2. Definitions.

4 (A) For the purpose of this Act, the following terms shall
5 have the following definitions:

6 (1) "Minority person" shall mean a person who is a
7 citizen or lawful permanent resident of the United States
8 and who is any of the following:

9 (a) American Indian or Alaska Native (a person
10 having origins in any of the original peoples of North
11 and South America, including Central America, and who
12 maintains tribal affiliation or community attachment).

13 (b) Asian (a person having origins in any of the
14 original peoples of the Far East, Southeast Asia, or
15 the Indian subcontinent, including, but not limited
16 to, Cambodia, China, India, Japan, Korea, Malaysia,
17 Pakistan, the Philippine Islands, Thailand, and
18 Vietnam).

19 (c) Black or African American (a person having
20 origins in any of the black racial groups of Africa).

21 (d) Hispanic or Latino (a person of Cuban,
22 Mexican, Puerto Rican, South or Central American, or
23 other Spanish culture or origin, regardless of race).

24 (e) Native Hawaiian or Other Pacific Islander (a
25 person having origins in any of the original peoples
26 of Hawaii, Guam, Samoa, or other Pacific Islands).

1 (2) "Woman" shall mean a person who is a citizen or
2 lawful permanent resident of the United States and who is
3 of the female gender.

4 (2.05) "Person with a disability" means a person who
5 is a citizen or lawful resident of the United States and is
6 a person qualifying as a person with a disability under
7 subdivision (2.1) of this subsection (A).

8 (2.1) "Person with a disability" means a person with a
9 severe physical or mental disability that:

10 (a) results from:

11 amputation,

12 arthritis,

13 autism,

14 blindness,

15 burn injury,

16 cancer,

17 cerebral palsy,

18 Crohn's disease,

19 cystic fibrosis,

20 deafness,

21 head injury,

22 heart disease,

23 hemiplegia,

24 hemophilia,

25 respiratory or pulmonary dysfunction,

26 an intellectual disability,

1 mental illness,
2 multiple sclerosis,
3 muscular dystrophy,
4 musculoskeletal disorders,
5 neurological disorders, including stroke and
6 epilepsy,
7 paraplegia,
8 quadriplegia and other spinal cord conditions,
9 sickle cell anemia,
10 ulcerative colitis,
11 specific learning disabilities, or
12 end stage renal failure disease; and
13 (b) substantially limits one or more of the
14 person's major life activities.

15 Another disability or combination of disabilities may
16 also be considered as a severe disability for the purposes
17 of item (a) of this subdivision (2.1) if it is determined
18 by an evaluation of rehabilitation potential to cause a
19 comparable degree of substantial functional limitation
20 similar to the specific list of disabilities listed in
21 item (a) of this subdivision (2.1).

22 (3) "Minority-owned business" means a business which
23 is at least 51% owned by one or more minority persons, or
24 in the case of a corporation, at least 51% of the stock in
25 which is owned by one or more minority persons; and the
26 management and daily business operations of which are

1 controlled by one or more of the minority individuals who
2 own it.

3 (4) "Women-owned business" means a business which is
4 at least 51% owned by one or more women, or, in the case of
5 a corporation, at least 51% of the stock in which is owned
6 by one or more women; and the management and daily
7 business operations of which are controlled by one or more
8 of the women who own it.

9 (4.1) "Business owned by a person with a disability"
10 means a business that is at least 51% owned by one or more
11 persons with a disability and the management and daily
12 business operations of which are controlled by one or more
13 of the persons with disabilities who own it. A
14 not-for-profit agency for persons with disabilities that
15 is exempt from taxation under Section 501 of the Internal
16 Revenue Code of 1986 is also considered a "business owned
17 by a person with a disability".

18 (4.2) "Council" means the Business Enterprise Council
19 for Minorities, Women, and Persons with Disabilities
20 created under Section 5 of this Act.

21 (4.3) "Commission" means, unless the context clearly
22 indicates otherwise, the Commission on Equity and
23 Inclusion created under the Commission on Equity and
24 Inclusion Act.

25 (4.4) "Certified vendor" means a minority-owned
26 business, women-owned business, or business owned by a

1 person with a disability that is certified by the Business
2 Enterprise Program.

3 (4.5) "Subcontractor" means a person or entity that
4 enters into a contractual agreement with a prime vendor to
5 provide, on behalf of the prime vendor, goods, services,
6 real property, or remuneration or other monetary
7 consideration that is the subject of the primary State
8 contract. "Subcontractor" includes a sublessee under a
9 State contract.

10 (4.6) "Prime vendor" means any person or entity having
11 a contract that is subject to this Act with a State agency
12 or public institution of higher education.

13 (5) "State contracts" means all contracts entered into
14 by the State, any agency or department thereof, or any
15 public institution of higher education, including
16 community college districts, regardless of the source of
17 the funds with which the contracts are paid, which are not
18 subject to federal reimbursement. "State contracts" does
19 not include contracts awarded by a retirement system,
20 pension fund, or investment board subject to Section
21 1-109.1 of the Illinois Pension Code. This definition
22 shall control over any existing definition under this Act
23 or applicable administrative rule.

24 "State construction contracts" means all State
25 contracts entered into by a State agency or public
26 institution of higher education for the repair,

1 remodeling, renovation or construction of a building or
2 structure, or for the construction or maintenance of a
3 highway defined in Article 2 of the Illinois Highway Code.

4 (6) "State agencies" shall mean all departments,
5 officers, boards, commissions, institutions and bodies
6 politic and corporate of the State, but does not include
7 the Board of Trustees of the University of Illinois, the
8 Board of Trustees of Southern Illinois University, the
9 Board of Trustees of Chicago State University, the Board
10 of Trustees of Eastern Illinois University, the Board of
11 Trustees of Governors State University, the Board of
12 Trustees of Illinois State University, the Board of
13 Trustees of Northeastern Illinois University, the Board of
14 Trustees of Northern Illinois University, the Board of
15 Trustees of Western Illinois University, municipalities or
16 other local governmental units, or other State
17 constitutional officers.

18 (7) "Public institutions of higher education" means
19 the University of Illinois, Southern Illinois University,
20 Chicago State University, Eastern Illinois University,
21 Governors State University, Illinois State University,
22 Northeastern Illinois University, Northern Illinois
23 University, Western Illinois University, the public
24 community colleges of the State, and any other public
25 universities, colleges, and community colleges now or
26 hereafter established or authorized by the General

1 Assembly.

2 (8) "Certification" means a determination made by the
3 Council or by one delegated authority from the Council to
4 make certifications, or by a State agency with statutory
5 authority to make such a certification, that a business
6 entity is a business owned by a minority, woman, or person
7 with a disability for whatever purpose. A business owned
8 and controlled by women shall be certified as a
9 "woman-owned business". A business owned and controlled by
10 women who are also minorities shall be certified as both a
11 "women-owned business" and a "minority-owned business".

12 (9) "Control" means the exclusive or ultimate and sole
13 control of the business including, but not limited to,
14 capital investment and all other financial matters,
15 property, acquisitions, contract negotiations, legal
16 matters, officer-director-employee selection and
17 comprehensive hiring, operating responsibilities,
18 cost-control matters, income and dividend matters,
19 financial transactions and rights of other shareholders or
20 joint partners. Control shall be real, substantial and
21 continuing, not pro forma. Control shall include the power
22 to direct or cause the direction of the management and
23 policies of the business and to make the day-to-day as
24 well as major decisions in matters of policy, management
25 and operations. Control shall be exemplified by possessing
26 the requisite knowledge and expertise to run the

1 particular business and control shall not include simple
2 majority or absentee ownership.

3 (10) "Business" means a business that has annual gross
4 sales of less than \$150,000,000 as evidenced by the
5 federal income tax return of the business. A certified
6 vendor with gross sales in excess of this cap may apply to
7 the Council for certification for a particular contract if
8 the vendor can demonstrate that the contract would have
9 significant impact on businesses owned by minorities,
10 women, or persons with disabilities as suppliers or
11 subcontractors or in employment of minorities, women, or
12 persons with disabilities. Firms with gross sales in
13 excess of this cap that are granted certification by the
14 Council shall be granted certification for the life of the
15 contract, including available renewals.

16 (11) "Utilization plan" means an attachment that is
17 made to all bids or proposals and that demonstrates the
18 bidder's or offeror's efforts to meet the
19 contract-specific Business Enterprise Program goal. The
20 utilization plan shall indicate whether the prime vendor
21 intends to meet the Business Enterprise Program goal
22 through its own performance, if it is a certified vendor,
23 or through the use of subcontractors that are certified
24 vendors. The utilization plan shall demonstrate that the
25 Vendor has either: (1) met the entire contract goal or (2)
26 requested a full or partial waiver of the contract goal.

1 If the prime vendor intends to use a subcontractor that is
2 a certified vendor to fulfill the contract goal, a
3 participation agreement executed between the prime vendor
4 and the certified subcontractor must be included with the
5 utilization plan.

6 (12) "Business Enterprise Program" means the Business
7 Enterprise Program of the Commission on Equity and
8 Inclusion.

9 (13) "Good faith effort" means actions undertaken by a
10 vendor to achieve a contract specific Business Enterprise
11 Program goal that, by scope, intensity, and
12 appropriateness to the objective, can reasonably be
13 expected to fulfill the program's requirements.

14 (14) "Goal" means the participation levels of
15 certified vendors on State contracts.

16 (B) When a business is owned at least 51% by any
17 combination of minority persons, women, or persons with
18 disabilities, even though none of the 3 classes alone holds at
19 least a 51% interest, the ownership requirement for purposes
20 of this Act is considered to be met. The certification
21 category for the business is that of the class holding the
22 largest ownership interest in the business. If 2 or more
23 classes have equal ownership interests, the certification
24 category shall be determined by the business.

25 (Source: P.A. 102-29, eff. 6-25-21; 102-1119, eff. 1-23-23;
26 103-570, eff. 1-1-24.)

1 (30 ILCS 575/3.5 new)

2 Sec. 3.5. Uniform standard of contract goals.

3 (a) The Business Enterprise Program may establish uniform
4 standards for calculating contract specific Business
5 Enterprise Program goals for all State contracts and State
6 construction contracts subject to this Act. In establishing
7 those standards, the Business Enterprise Program may consider
8 normal industry practice, the scope of the work to be
9 performed under a contract, the availability of vendors that
10 are able to perform the scope of the work to be performed under
11 a contract, the availability of certified vendors that are
12 able to perform the work to be performed under a contract, and
13 the State's progress to date toward meeting the aspirational
14 goals set forth in this Act.

15 (b) Each State agency that is subject to this Act and each
16 public institution of higher education that is subject to this
17 Act may, in accordance with the provisions of this Act, set
18 goals concerning participation in State contracts, including
19 State construction contracts, to which the State agency or
20 public institution of higher education is party. Goals
21 involving State contracts above the small purchase threshold,
22 as defined in Section 20-20 of the Illinois Procurement Code,
23 may be submitted to the Business Enterprise Program for
24 approval, denial, or modification.

25 (c) As used in this Section, the terms "State contract"

1 and "State construction contract" do not include grants from
2 State agencies to grantees for capital improvements or
3 operational expenses.

4 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

5 (Section scheduled to be repealed on June 30, 2029)

6 Sec. 5. Business Enterprise Council.

7 (1) To help implement, monitor, and enforce the goals of
8 this Act, there is created the Business Enterprise Council for
9 Minorities, Women, and Persons with Disabilities, hereinafter
10 referred to as the Council, composed of the Chairperson of the
11 Commission on Equity and Inclusion, the Secretary of Human
12 Services and the Directors of the Department of Human Rights,
13 the Department of Commerce and Economic Opportunity, the
14 Department of Central Management Services, the Department of
15 Transportation and the Capital Development Board, or their
16 duly appointed representatives, with the Comptroller, or his
17 or her designee, serving as an advisory member of the Council.
18 Ten individuals representing businesses that are
19 minority-owned, women-owned, or owned by persons with
20 disabilities, 2 individuals representing the business
21 community, and a representative of public institutions of
22 higher education shall be appointed by the Governor. These
23 members shall serve 2-year terms and shall be eligible for
24 reappointment. Any vacancy occurring on the Council shall also
25 be filled by the Governor. Any member appointed to fill a

1 vacancy occurring prior to the expiration of the term for
2 which his or her predecessor was appointed shall be appointed
3 for the remainder of such term. Members of the Council shall
4 serve without compensation but shall be reimbursed for any
5 ordinary and necessary expenses incurred in the performance of
6 their duties.

7 The Chairperson of the Commission shall serve as the
8 Council chairperson and shall select, subject to approval of
9 the Council, a Secretary responsible for the operation of the
10 program who shall serve as the Division Manager of the
11 Business Enterprise for Minorities, Women, and Persons with
12 Disabilities Division of the Commission on Equity and
13 Inclusion.

14 The Director of each State agency and the chief executive
15 officer of each public institution of higher education shall
16 appoint a liaison to the Council. The liaison shall be
17 responsible for submitting to the Council any reports and
18 documents necessary under this Act.

19 (2) The Council's authority and responsibility shall be
20 to:

21 (a) Devise a certification procedure to assure that
22 businesses taking advantage of this Act are legitimately
23 classified as businesses owned by minorities, women, or
24 persons with disabilities and a registration procedure to
25 recognize, without additional evidence of Business
26 Enterprise Program eligibility, the certification of

1 businesses owned by minorities, women, or persons with
2 disabilities certified by the City of Chicago, Cook
3 County, or other jurisdictional programs with requirements
4 and procedures equaling or exceeding those in this Act.

5 (b) Maintain a list of all businesses legitimately
6 classified as businesses owned by minorities, women, or
7 persons with disabilities to provide to State agencies and
8 public institutions of higher education.

9 (c) Review rules and regulations for the
10 implementation of the program for businesses owned by
11 minorities, women, and persons with disabilities.

12 (d) Review compliance plans submitted by each State
13 agency and public institution of higher education pursuant
14 to this Act.

15 (e) Make annual reports as provided in Section 8f to
16 the Governor and the General Assembly on the status of the
17 program.

18 (f) Serve as a central clearinghouse for information
19 on State contracts, including the maintenance of a list of
20 all pending State contracts upon which businesses owned by
21 minorities, women, and persons with disabilities may bid.
22 At the Council's discretion, maintenance of the list may
23 include 24-hour electronic access to the list along with
24 the bid and application information.

25 (g) Establish a toll-free telephone number to
26 facilitate information requests concerning the

1 certification process and pending contracts.

2 (h) Adopt a procedure to grant automatic certification
3 to businesses holding a certification from at least one of
4 the following entities: (i) the Illinois Unified
5 Certification Program; (ii) the Women's Business
6 Development Center in Chicago; (iii) the Chicago Minority
7 Supplier Development Council; or (iv) any other similar
8 entity offering such certification to businesses.

9 (i) Develop and maintain a repository for
10 non-certified vendors that: (i) have applied for
11 certification and have been denied; (ii) have started, but
12 not completed, the certification process; (iii) have
13 achieved certification, but did not seek renewal; or (iv)
14 are known businesses owned by minorities, women, or
15 persons with disabilities.

16 (3) No premium bond rate of a surety company for a bond
17 required of a business owned by a minority, woman, or person
18 with a disability bidding for a State contract shall be higher
19 than the lowest rate charged by that surety company for a
20 similar bond in the same classification of work that would be
21 written for a business not owned by a minority, woman, or
22 person with a disability.

23 (4) Any Council member who has direct financial or
24 personal interest in any measure pending before the Council
25 shall disclose this fact to the Council and refrain from
26 participating in the determination upon such measure.

1 (5) The Secretary shall have the following duties and
2 responsibilities:

3 (a) To be responsible for the day-to-day operation of
4 the Council.

5 (b) To serve as a coordinator for all of the State's
6 programs for businesses owned by minorities, women, and
7 persons with disabilities and as the information and
8 referral center for all State initiatives for businesses
9 owned by minorities, women, and persons with disabilities.

10 (c) To establish an enforcement procedure whereby the
11 Council may recommend to the appropriate State legal
12 officer that the State exercise its legal remedies which
13 shall include (1) termination of the contract involved,
14 (2) prohibition of participation by the respondent in
15 State public contracts for a period not to exceed 3 years,
16 (3) imposition of a penalty not to exceed any profit
17 acquired as a result of violation, or (4) any combination
18 thereof. Such procedures shall require prior approval by
19 Council. All funds collected as penalties under this
20 subsection shall be used exclusively for maintenance and
21 further development of the Business Enterprise Program and
22 encouragement of participation in State procurement by
23 minorities, women, and persons with disabilities.

24 (d) To devise appropriate policies, regulations, and
25 procedures for including participation by businesses owned
26 by minorities, women, and persons with disabilities as

1 prime contractors, including, but not limited to: (i)
2 encouraging the inclusions of qualified businesses owned
3 by minorities, women, and persons with disabilities on
4 solicitation lists, (ii) investigating the potential of
5 blanket bonding programs for small construction jobs, and
6 (iii) investigating and making recommendations concerning
7 the use of the sheltered market process.

8 (e) To devise procedures for the waiver of the
9 participation goals in appropriate circumstances.

10 (f) To accept donations and, with the approval of the
11 Council or the Chairperson of the Commission on Equity and
12 Inclusion, grants related to the purposes of this Act; to
13 conduct seminars related to the purpose of this Act and to
14 charge reasonable registration fees; and to sell
15 directories, vendor lists, and other such information to
16 interested parties, except that forms necessary to become
17 eligible for the program shall be provided free of charge
18 to a business or individual applying for the Business
19 Enterprise Program.

20 (Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22;
21 102-29, eff. 6-25-21; 102-558, eff. 8-20-21; 102-721, eff.
22 1-1-23.)

23 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

24 (Section scheduled to be repealed on June 30, 2029)

25 Sec. 8. Enforcement.

1 (1) The Commission on Equity and Inclusion shall make such
2 findings, recommendations and proposals to the Governor as are
3 necessary and appropriate to enforce this Act. If, as a result
4 of its monitoring activities, the Commission determines that
5 its goals and policies are not being met by any State agency or
6 public institution of higher education, the Commission may
7 recommend any or all of the following actions:

8 (a) Establish enforcement procedures whereby the
9 Commission may recommend to the appropriate State agency,
10 public institutions of higher education, or law
11 enforcement officer that legal or administrative remedies
12 be initiated for violations of contract provisions or
13 rules issued hereunder or by a contracting State agency or
14 public institutions of higher education. State agencies
15 and public institutions of higher education shall be
16 authorized to adopt remedies for such violations which
17 shall include (1) termination of the contract involved,
18 (2) prohibition of participation of the respondents in
19 public contracts for a period not to exceed one year, (3)
20 imposition of a penalty not to exceed any profit acquired
21 as a result of violation, or (4) any combination thereof.

22 (b) If the Commission concludes that a compliance plan
23 submitted under Section 6 is unlikely to produce the
24 participation goals for businesses owned by minorities,
25 women, and persons with disabilities within the then
26 current fiscal year, the Commission may recommend that the

1 State agency or public institution of higher education
2 revise its plan to provide additional opportunities for
3 participation by businesses owned by minorities, women,
4 and persons with disabilities. Such recommended revisions
5 may include, but shall not be limited to, the following:

6 (i) assurances of stronger and better focused
7 solicitation efforts to obtain more businesses owned
8 by minorities, women, and persons with disabilities as
9 potential sources of supply;

10 (ii) division of the scope of work ~~job or project~~
11 ~~requirements~~, when economically feasible, into tasks
12 or quantities to permit participation of businesses
13 owned by minorities, women, and persons with
14 disabilities;

15 (iii) elimination of extended experience or
16 capitalization requirements, when programmatically
17 feasible, to permit participation of businesses owned
18 by minorities, women, and persons with disabilities;

19 (iv) identification of specific proposed contracts
20 as particularly attractive or appropriate for
21 participation by businesses owned by minorities,
22 women, and persons with disabilities, such
23 identification to result from and be coupled with the
24 efforts of subparagraphs (i) through (iii);

25 (v) implementation of those regulations
26 established for the use of the sheltered market

1 process.

2 (2) State agencies and public institutions of higher
3 education shall monitor a vendor's compliance with its
4 utilization plan and the terms of its contract. Without
5 limitation, a vendor's failure to comply with its contractual
6 commitments as contained in the utilization plan; failure to
7 cooperate in providing information regarding its compliance
8 with its utilization plan; or the provision of false or
9 misleading information or statements concerning compliance,
10 certification status, or eligibility of the Business
11 Enterprise Program-certified vendor, good faith efforts, or
12 any other material fact or representation shall constitute a
13 material breach of the contract and entitle the State agency
14 or public institution of higher education to declare a
15 default, terminate the contract, or exercise those remedies
16 provided for in the contract, at law, or in equity.

17 (3) Prior to the expiration or termination of a contract,
18 State agencies and public institutions of higher education
19 shall evaluate the contractor's fulfillment of the contract
20 goals for participation by certified businesses owned by
21 minorities, women, and persons with disabilities. The agency
22 or public institution of higher education shall prepare a
23 report of the vendor's compliance with the contract goals and
24 file it with the Secretary. If the Secretary determines that
25 the vendor did not fulfill the contract goals, the vendor
26 shall be in breach of the contract and may be subject to

1 remedies or sanctions, unless the vendor can show that it made
2 good faith efforts to meet the contract goals. Such remedies
3 or sanctions for failing to make good faith efforts may
4 include (i) disqualification of the contractor from doing
5 business with the State for a period of no more than one year
6 or (ii) cancellation, without any penalty to the State, of any
7 contract entered into by the vendor. The Business Enterprise
8 Program shall develop procedures for determining whether a
9 vendor has made good faith efforts to meet the contract goals
10 upon the expiration or termination of a contract.

11 (Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

12 ARTICLE 55.

13 Section 55-5. The Public Contract Fraud Act is amended by
14 changing Section 2 as follows:

15 (30 ILCS 545/2) (from Ch. 127, par. 132.52)

16 Sec. 2. Spending money without obtaining title to land;
17 approval of title by Attorney General.

18 (a) Except as otherwise provided in Section 2 of the
19 Superconducting Super Collider Act or for projects constructed
20 under the Bikeway Act, any person or persons, commissioner or
21 commissioners, or other officer or officers, entrusted with
22 the construction or repair of any public work or improvement,
23 as set forth in Section 1, who shall expend or cause to be

1 expended upon such public work or improvement, the whole or
2 any part of the moneys appropriated therefor, or who shall
3 commence work, or in any way authorize work to be commenced,
4 thereon, without first having obtained a title, by purchase,
5 donation, condemnation or otherwise, to all lands needed for
6 such public work or improvement, running to the People of the
7 State of Illinois; such title to be approved by the Attorney
8 General, and his approval certified by the Secretary of State
9 and placed on record in his office, shall be deemed guilty of a
10 Class A misdemeanor.

11 (b) Approval of title by the Attorney General for all
12 lands needed for a public work or improvement shall not be
13 required as established under subsection (a) of this Section
14 and the State Comptroller may draw warrant in payment of
15 consideration for all such lands without requiring approval of
16 title by the Attorney General if consideration to be paid does
17 not exceed \$25,000 ~~\$10,000~~ and the title acquired for such
18 lands is for:

19 (1) a fee simple title or easement acquired by the
20 State for highway right-of-way; or

21 (2) an acquisition of rights or easements of access,
22 crossing, light, air or view to, from or over a freeway
23 vested in abutting property; or

24 (3) a fee simple title or easement used to place
25 utility lines and connect a permanent public work or
26 improvement owned by the State to main utility lines; or

1 shall be let by free and open competitive bidding after
2 advertisement, to the lowest responsible bidder or to the
3 highest responsible bidder, as the case may be, depending upon
4 whether the sanitary district is to expend or receive money.

5 All such purchase orders or contracts which shall involve
6 amounts that will not exceed the mandatory competitive bid
7 threshold, shall also be let in the manner prescribed above
8 whenever practicable, except that after solicitation of bids,
9 such purchase orders or contracts may be let in the open
10 market, in a manner calculated to insure the best interests of
11 the public. The provisions of this section are subject to any
12 contrary provisions contained in "An Act concerning the use of
13 Illinois mined coal in certain plants and institutions", filed
14 July 13, 1937, as heretofore and hereafter amended. For
15 purposes of this Section, the "mandatory competitive bid
16 threshold" is a dollar amount equal to 0.1% of the total
17 general fixed assets of the district as reported in the most
18 recent required audit report. In no event, however, shall the
19 mandatory competitive bid threshold dollar amount be less than
20 \$60,000 ~~\$10,000 or more than \$40,000~~.

21 If a unit of local government performs non-emergency
22 construction, alteration, repair, improvement, or maintenance
23 work on the public way, the sanitary district may enter into an
24 intergovernmental agreement with the unit of local government
25 allowing similar construction work to be performed by the
26 sanitary district on the same project, in an amount no greater

1 than \$100,000, to save taxpayer funds and eliminate
2 duplication of government effort. The sanitary district and
3 the other unit of local government shall, before work is
4 performed by either unit of local government on a project,
5 adopt a resolution by a majority vote of both governing bodies
6 certifying work will occur at a specific location, the reasons
7 why both units of local government require work to be
8 performed in the same location, and the projected cost savings
9 if work is performed by both units of local government on the
10 same project. Officials or employees of the sanitary district
11 may, if authorized by resolution, purchase in the open market
12 any supplies, materials, equipment, or services for use within
13 the project in an amount no greater than \$100,000 without
14 advertisement or without filing a requisition or estimate. A
15 full written account of each project performed by the sanitary
16 district and a requisition for the materials, supplies,
17 equipment, and services used by the sanitary district required
18 to complete the project must be submitted by the officials or
19 employees authorized to make purchases to the board of
20 trustees of the sanitary district no later than 30 days after
21 purchase. The full written account must be available for
22 public inspection for at least one year after expenditures are
23 made.

24 Notwithstanding the provisions of this Section, the
25 sanitary district is expressly authorized to establish such
26 procedures as it deems appropriate to comply with state or

1 federal regulations as to affirmative action and the
2 utilization of small and minority businesses in construction
3 and procurement contracts.

4 (Source: P.A. 100-882, eff. 8-14-18.)

5 (70 ILCS 2605/11.5) (from Ch. 42, par. 331.5)

6 Sec. 11.5. In the event of an emergency affecting the
7 public health or safety, so declared by action of the board of
8 trustees, which declaration shall describe the nature of the
9 injurious effect upon the public health or safety, contracts
10 may be let to the extent necessary to resolve such emergency
11 without public advertisement. The declaration shall fix the
12 date upon which such emergency shall terminate. The date may
13 be extended or abridged by the board of trustees as in its
14 judgment the circumstances require.

15 The executive director appointed in accordance with
16 Section 4 of this Act shall authorize in writing and certify to
17 the director of procurement and materials management those
18 officials or employees of the several departments of the
19 sanitary district who may purchase in the open market without
20 filing a requisition or estimate therefor, and without
21 advertisement, any supplies, materials, equipment or services,
22 for immediate delivery to meet bona fide operating emergencies
23 where the amount thereof is not in excess of \$100,000 ~~\$50,000~~;
24 provided, that the director of procurement and materials
25 management shall be notified of such emergency. A full written

1 account of any such emergency together with a requisition for
2 the materials, supplies, equipment or services required
3 therefor shall be submitted immediately by the requisitioning
4 agent to the executive director and such report and
5 requisition shall be submitted to the director of procurement
6 and materials management and shall be open to public
7 inspection for a period of at least one year subsequent to the
8 date of such emergency purchase. The exercise of authority in
9 respect to purchases for such bona fide operating emergencies
10 shall not be dependent upon a declaration of emergency by the
11 board of trustees under the first paragraph of this Section.

12 (Source: P.A. 95-923, eff. 1-1-09; 96-165, eff. 8-10-09.)

13 ARTICLE 65.

14 Section 65-5. The Illinois Procurement Code is amended by
15 changing Section 45-105 as follows:

16 (30 ILCS 500/45-105)

17 Sec. 45-105. Bid preference for Illinois businesses.

18 (a) (Blank).

19 (b) It is hereby declared to be the public policy of the
20 State of Illinois to promote the economy of Illinois through
21 the use of Illinois businesses for all State construction
22 contracts.

23 (c) A construction agency, as defined in Section 1-15.25,

1 ~~Construction agencies~~ procuring construction ~~and~~
2 ~~construction-related professional~~ services shall make
3 reasonable efforts to contract with Illinois businesses.

4 (d) ~~Each Beginning in 2022, each~~ construction agency shall
5 submit a report to the Governor and the General Assembly by
6 ~~December~~ September 1 of each year that identifies the Illinois
7 businesses procured by the construction agency, the primary
8 location of the construction project, the percentage of the
9 construction agency's utilization of Illinois businesses on
10 the project as a whole, and the actions that the construction
11 agency has undertaken to increase the use of Illinois
12 businesses.

13 (e) In procuring construction ~~and construction-related~~
14 ~~professional~~ services for projects with a total value that
15 exceeds the small purchase maximum established by Section
16 20-20 of this Code, construction agencies shall provide a bid
17 preference to a responsive and responsible bidder that is an
18 Illinois business as defined in this Section. The construction
19 agency shall allocate to the lowest bid by an Illinois
20 business that is responsible and responsive a bid preference
21 of 4% of the contract base bid. This subsection applies only to
22 projects where a business that is not an Illinois business
23 submits a bid.

24 (f) This Section does not apply to any contract for any
25 project for which federal funds are available for expenditure
26 when its provisions may be in conflict with federal law or

1 federal regulation.

2 (g) As used in this Section, "Illinois business" means a
3 contractor that is operating and headquartered in Illinois and
4 providing, at the time that an invitation for a bid or notice
5 of contract opportunity is first advertised, construction ~~or~~
6 ~~construction-related professional~~ services, and is operating
7 as:

8 (1) a sole proprietor whose primary residence is in
9 Illinois;

10 (2) a business incorporated or organized as a domestic
11 corporation under the Business Corporation Act of 1983;

12 (3) a business organized as a domestic partnership
13 under the Uniform Partnership Act of 1997;

14 (4) a business organized as a domestic limited
15 partnership under the Uniform Limited Partnership Act of
16 2001;

17 (5) a business organized under the Limited Liability
18 Company Act; or

19 (6) a business organized under the Professional
20 Limited Liability Company Act.

21 "Illinois business" does not include any subcontractors.

22 (Source: P.A. 102-721, eff. 1-1-23; 103-570, eff. 1-1-24.)

23 ARTICLE 70.

24 Section 70-5. The Governmental Joint Purchasing Act is

1 amended by changing Section 4 as follows:

2 (30 ILCS 525/4) (from Ch. 85, par. 1604)

3 Sec. 4. Bids, offers, and small purchases. The purchases
4 of all personal property, supplies and services under this
5 Act, except for small purchases, shall be based on competitive
6 solicitations unless, for purchases made pursuant to
7 subsection (a) of Section 2 of this Act, it is the
8 determination of the applicable chief procurement officer that
9 it is impractical to obtain competition. Purchases pursuant to
10 this Section shall follow the same procedures used for
11 competitive solicitations made pursuant to the Illinois
12 Procurement Code when the State is a party to the joint
13 purchase. For purchases made pursuant to subsection (a) of
14 Section 2 of this Act where the applicable chief procurement
15 officer makes the determination that it is impractical to
16 obtain competition, purchases shall either follow the same
17 procedure used for sole source procurements in Section 20-25
18 of the Illinois Procurement Code or the same procedure used
19 for emergency purchases in Section 20-30 of the Illinois
20 Procurement Code. For purchases pursuant to subsection (a) of
21 Section 2, bids and offers shall be solicited by public notice
22 inserted at least once in a newspaper of general circulation
23 in one of the counties where the materials are to be used and
24 at least 5 calendar days before the final date of submitting
25 bids or offers, except as otherwise provided in this Section.

1 Where the State of Illinois is a party to the joint purchase
2 agreement, public notice soliciting the bids or offers shall
3 be published in the appropriate volume of the Illinois
4 Procurement Bulletin. Such notice shall include a general
5 description of the supplies or services to be purchased and
6 shall state where specifications may be obtained and the time
7 and place for the opening of bids and offers. The governmental
8 unit conducting the competitive procurement process may also
9 solicit sealed bids or offers by sending requests by mail to
10 potential contractors and by posting notices on a public
11 bulletin board in its office. Small purchases pursuant to this
12 Section shall follow the same procedure used for small
13 purchases in Section 20-20 of the Illinois Procurement Code.

14 All purchases, orders or contracts shall be awarded to the
15 lowest responsible bidder or highest-ranked offeror, as ranked
16 by the cooperative purchasing program, or, if not ranked by
17 the cooperative purchasing program then by the purchasing
18 governmental unit, when the purchasing governmental unit
19 determines that the selected contract best meets the
20 governmental unit's needs, taking into consideration the
21 qualities of the articles or services supplied, their
22 conformity with the specifications, their suitability to the
23 requirements of the participating governmental units and the
24 delivery terms. A governmental unit may purchase a supply or
25 service that is available on contracts from multiple
26 contractors if the governmental unit determines that the

1 selected contract best meets the governmental unit's needs.

2 Where the State of Illinois is not a party, all bids or
3 offers may be rejected and new bids or offers solicited if one
4 or more of the participating governmental units believes the
5 public interest may be served thereby. Each bid or offer, with
6 the name of the bidder or offeror, shall be entered on a
7 record, which record with the successful bid or offer,
8 indicated thereon shall, after the award of the purchase or
9 order or contract, be open to public inspection. A copy of all
10 contracts shall be filed with the purchasing office or clerk
11 or secretary of each participating governmental unit.

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

13 ARTICLE 75.

14 Section 75-5. The Commission on Equity and Inclusion Act
15 is amended by changing Section 40-10 as follows:

16 (30 ILCS 574/40-10)

17 Sec. 40-10. Powers and duties. In addition to the other
18 powers and duties which may be prescribed in this Act or
19 elsewhere, the Commission shall have the following powers and
20 duties:

21 (1) The Commission shall have a role in all State and
22 university procurement by facilitating and streamlining
23 communications between the Business Enterprise Council for

1 Minorities, Women, and Persons with Disabilities, the
2 purchasing entities, the Chief Procurement Officers, and
3 others.

4 (2) The Commission may create a scoring evaluation for
5 State agency directors, public university presidents and
6 chancellors, and public community college presidents. The
7 scoring shall be based on the following 3 principles: (i)
8 increasing capacity; (ii) growing revenue; and (iii)
9 enhancing credentials. These principles should be the
10 foundation of the agency compliance plan required under
11 Section 6 of the Business Enterprise for Minorities,
12 Women, and Persons with Disabilities Act.

13 (3) The Commission shall exercise the authority and
14 duties provided to it under Section 5-7 of the Illinois
15 Procurement Code.

16 (4) The Commission, working with State agencies, shall
17 provide support for diversity in State hiring.

18 (5) The Commission shall supervise ~~oversee~~ the
19 implementation and effectiveness of supplier diversity
20 training of the State procurement workforce.

21 (6) Each January, and as otherwise frequently as may
22 be deemed necessary and appropriate by the Commission, the
23 Commission shall propose and submit to the Governor and
24 the General Assembly legislative changes to increase
25 inclusion and diversity in State government.

26 (7) The Commission shall have oversight over the

1 following entities:

2 (A) the Illinois African-American Family
3 Commission;

4 (B) the Illinois Latino Family Commission;

5 (C) the Asian American Family Commission;

6 (D) the Illinois Muslim American Advisory Council;

7 (E) the Illinois African-American Fair Contracting
8 Commission created under Executive Order 2018-07; and

9 (F) the Business Enterprise Council for
10 Minorities, Women, and Persons with Disabilities.

11 (8) The Commission shall adopt any rules necessary for
12 the implementation and administration of the requirements
13 of this Act.

14 (9) The Commission shall exercise the authority and
15 duties provided to it under Section 45-57 of the Illinois
16 Procurement Code.

17 (Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21;
18 102-671, eff. 11-30-21.)

19 ARTICLE 80.

20 Section 80-5. The Metropolitan Pier and Exposition
21 Authority Act is amended by changing Sections 24 and 25.4 as
22 follows:

23 (70 ILCS 210/24) (from Ch. 85, par. 1244)

1 Sec. 24. All contracts for the sale of property of the
2 value of more than \$10,000 or for any concession in or lease of
3 property of the Authority for a term of more than one year
4 shall be awarded to the highest responsible bidder, after
5 advertising for bids, except as may be otherwise authorized by
6 this Act. All construction contracts, ~~when the cost will~~
7 ~~exceed \$30,000,~~ and contracts for supplies, materials,
8 equipment and services, when the cost thereof will exceed
9 \$100,000 ~~\$10,000,~~ shall be let to the lowest responsible
10 bidder, after advertising for bids, excepting (1) when repair
11 parts, accessories, equipment or services are required for
12 equipment or services previously furnished or contracted for,
13 (2) professional services contracted for in accordance with
14 Section 25.1 of this Act, (3) when services such as water,
15 light, heat, power, telephone (other than long-distance
16 service) or telegraph are required, (4) when contracts for the
17 use, purchase, delivery, movement, or installation of data
18 processing equipment, software, or services and
19 telecommunications equipment, software, and services are
20 required, and (5) when the immediate delivery of supplies,
21 materials, equipment, or services is required and (i) the
22 chief executive officer determines that an emergency situation
23 exists; (ii) the contract accepted is based on the lowest
24 responsible bid after the Authority has made a diligent effort
25 to solicit multiple bids by telephone, facsimile, or other
26 efficient means; and (iii) the chief executive officer submits

1 a report at the next regular Board meeting, to be ratified by
2 the Board and entered into the official record, stating the
3 chief executive officer's reason for declaring an emergency
4 situation, the names of the other parties solicited and their
5 bids, and a copy of the contract awarded.

6 All ~~construction contracts involving less than \$30,000 and~~
7 ~~all other~~ contracts involving less than \$100,000 ~~\$10,000~~ shall
8 be let by competitive bidding whenever possible, and in any
9 event in a manner calculated to insure the best interests of
10 the public.

11 Each bidder shall disclose in his bid the name of each
12 individual having a beneficial interest, directly or
13 indirectly, of more than 7 1/2% in such bidding entity and, if
14 such bidding entity is a corporation, the names of each of its
15 officers and directors. The bidder shall notify the Board of
16 any changes in its ownership or its officers or directors at
17 the time such changes occur if the change occurs during the
18 pendency of a proposal or a contract.

19 In determining the responsibility of any bidder, the Board
20 may take into account past record of dealings with the bidder,
21 experience, adequacy of equipment, ability to complete
22 performance within the time set, and other factors besides
23 financial responsibility, but in no case shall any such
24 contracts be awarded to any other than the highest bidder (in
25 case of sale or concession or lease) or the lowest bidder (in
26 case of purchase or expenditure) unless authorized or approved

1 by a vote of at least three-fourths of the members of the
2 Board, and unless such action is accompanied by a statement in
3 writing setting forth the reasons for not awarding the
4 contract to the highest or lowest bidder, as the case may be,
5 which statement shall be kept on file in the principal office
6 of the Authority and open to public inspection.

7 From the group of responsible bidders the lowest bidder
8 shall be selected in the following manner: to all bids for
9 sales the gross receipts of which are not taxable under the
10 "Retailers' Occupation Tax Act", approved June 28, 1933, as
11 amended, there shall be added an amount equal to the tax which
12 would be payable under said Act, if applicable, and the lowest
13 in amount of said adjusted bids and bids for sales the gross
14 receipts of which are taxable under said Act shall be
15 considered the lowest bid; provided, that, if said lowest bid
16 relates to a sale not taxable under said Act, any contract
17 entered into thereon shall be in the amount of the original bid
18 not adjusted as aforesaid.

19 Contracts shall not be split into parts involving
20 expenditures of less than \$100,000 ~~\$10,000 (or \$30,000 in the~~
21 ~~ease of construction contracts)~~ for the purposes of avoiding
22 the provisions of this Section, and all such split contracts
23 shall be void. If any collusion occurs among bidders or
24 prospective bidders in restraint of freedom of competition, by
25 agreement to bid a fixed amount or to refrain from bidding, or
26 otherwise, the bids of such bidders shall be void. Each bidder

1 shall accompany his bid with a sworn statement that he has not
2 been a party to any such agreement.

3 The Board shall have the right to reject all bids and to
4 readvertise for bids. If after any such readvertisement no
5 responsible and satisfactory bid, within the terms of the
6 advertisement, shall be received, the Board may award such
7 contract without competitive bidding, provided that it shall
8 not be less advantageous to the Authority than any valid bid
9 received pursuant to advertisement.

10 The Board shall adopt rules and regulations of general
11 application within 90 days of the effective date of this
12 amendatory Act of 1985 to carry into effect the provisions of
13 this Section.

14 (Source: P.A. 91-422, eff. 1-1-00.)

15 (70 ILCS 210/25.4)

16 Sec. 25.4. Contracts for professional services.

17 (a) When the Authority proposes to enter into a contract
18 or agreement for professional services, other than the
19 marketing agreement required in Section 5.6, the Authority
20 shall use a request for proposal process in accordance with
21 the Illinois Procurement Code.

22 (b) Any person that submits a response to a request for
23 proposals under this Section shall disclose in the response
24 the name of each individual having a beneficial interest
25 directly or indirectly of more than 7 1/2% in such person and,

1 if such person is a corporation, the names of each of its
2 officers and directors. The person shall notify the Board of
3 any changes in its ownership or its officers or directors at
4 the time such changes occur if the change occurs during the
5 pendency of a proposal or a contract.

6 (c) All contracts and agreements under this Section shall
7 be authorized and approved by the Board and shall be set forth
8 in a writing executed by the contractor and the Authority. No
9 payment shall be made under this Section until a written
10 contract or agreement shall be so authorized, approved, and
11 executed. A copy of each contract or agreement (whether or not
12 exempted under this Section) and the response, if any, to the
13 request for proposals upon which the contract was awarded must
14 be filed with the Secretary of the Authority and is required to
15 be open for public inspection.

16 (d) This Section applies to (i) contracts in excess of
17 \$100,000 ~~\$25,000~~ for professional services provided to the
18 Authority, including the services of accountants, architects,
19 attorneys, engineers, physicians, superintendents of
20 construction, financial advisors, bond trustees, and other
21 similar professionals possessing a high degree of skill and
22 (ii) contracts or bond purchase agreements in excess of
23 \$10,000 with underwriters or investment bankers with respect
24 to sale of the Authority's bonds under this Act. This Section
25 shall not apply to contracts for professional services to be
26 provided by, or the agreement is with, a State agency, federal

1 agency, or unit of local government.

2 (Source: P.A. 96-898, eff. 5-27-10; 96-899, eff. 5-28-10.)

3 ARTICLE 85.

4 Section 85-5. The Public-Private Partnerships for
5 Transportation Act is amended by changing Sections 10, 15, 19,
6 and 35 as follows:

7 (630 ILCS 5/10)

8 Sec. 10. Definitions. As used in this Act:

9 "Approved proposal" means the proposal that is approved by
10 the responsible public entity pursuant to subsection (j) of
11 Section 20 of this Act.

12 "Approved proposer" means the private entity whose
13 proposal is the approved proposal.

14 "Authority" means the Illinois State Toll Highway
15 Authority.

16 "Contractor" means a private entity that has entered into
17 a public-private agreement with the responsible public entity
18 to provide services to or on behalf of the responsible public
19 entity.

20 "Department" means the Illinois Department of
21 Transportation.

22 "Design-build agreement" means the agreement between the
23 selected private entity and the responsible public entity

1 under which the selected private entity agrees to furnish
2 design, construction, and related services for a
3 transportation facility under this Act.

4 "Develop" or "development" means to do one or more of the
5 following: plan, design, develop, lease, acquire, install,
6 construct, reconstruct, rehabilitate, extend, or expand.

7 "Maintain" or "maintenance" includes ordinary maintenance,
8 repair, rehabilitation, capital maintenance, maintenance
9 replacement, and any other categories of maintenance that may
10 be designated by the responsible public entity.

11 "Operate" or "operation" means to do one or more of the
12 following: maintain, improve, equip, modify, or otherwise
13 operate.

14 "Private entity" means any combination of one or more
15 individuals, corporations, general partnerships, limited
16 liability companies, limited partnerships, joint ventures,
17 business trusts, nonprofit entities, or other business
18 entities that are parties to a proposal for a transportation
19 project or an agreement related to a transportation project. A
20 public agency may provide services to a contractor as a
21 subcontractor or subconsultant without affecting the private
22 status of the private entity and the ability to enter into a
23 public-private agreement. A transportation agency is not a
24 private entity.

25 "Proposal" means all materials and documents prepared by
26 or on behalf of a private entity relating to the proposed

1 development, financing, or operation of a transportation
2 facility as a transportation project.

3 "Proposer" means a private entity that has submitted an
4 unsolicited proposal for a public-private agreement to a
5 responsible public entity under this Act or a proposal or
6 statement of qualifications for a public-private agreement in
7 response to a request for proposals or a request for
8 qualifications issued by a responsible public entity under
9 this Act.

10 "Public-private agreement" means the public-private
11 agreement between the contractor and the responsible public
12 entity relating to one or more of the development, financing,
13 or operation of a transportation project that is entered into
14 under this Act.

15 "Request for information" means all materials and
16 documents prepared by or on behalf of the responsible public
17 entity to solicit information from private entities with
18 respect to transportation projects.

19 "Request for proposals" means all materials and documents
20 prepared by or on behalf of the responsible public entity to
21 solicit proposals from private entities to enter into a
22 public-private agreement.

23 "Request for qualifications" means all materials and
24 documents prepared by or on behalf of the responsible public
25 entity to solicit statements of qualification from private
26 entities to enter into a public-private agreement.

1 "Responsible public entity" means the Department of
2 Transportation, the Illinois State Toll Highway Authority, and
3 the 5 most populous counties of Illinois, as of the most recent
4 publicly available decennial census.

5 "Revenues" means all revenues, including any combination
6 of: income; earnings and interest; user fees; lease payments;
7 allocations; federal, State, and local appropriations, grants,
8 loans, lines of credit, and credit guarantees; bond proceeds;
9 equity investments; service payments; or other receipts;
10 arising out of or in connection with a transportation project,
11 including the development, financing, and operation of a
12 transportation project. The term includes money received as
13 grants, loans, lines of credit, credit guarantees, or
14 otherwise in aid of a transportation project from the federal
15 government, the State, a unit of local government, or any
16 agency or instrumentality of the federal government, the
17 State, or a unit of local government.

18 "Shortlist" means the process by which a responsible
19 public entity will review, evaluate, and rank statements of
20 qualifications submitted in response to a request for
21 qualifications and then identify the proposers who are
22 eligible to submit a detailed proposal in response to a
23 request for proposals. The identified proposers constitute the
24 shortlist for the transportation project to which the request
25 for proposals relates.

26 "Transportation agency" means (i) the Department or (ii)

1 the Authority.

2 "Transportation facility" means any new or existing road,
3 highway, toll highway, bridge, tunnel, intermodal facility,
4 intercity or high-speed passenger rail, or other
5 transportation facility or infrastructure, excluding airports,
6 under the jurisdiction of a responsible public entity, except
7 those facilities for the Illiana Expressway. The term
8 "transportation facility" may refer to one or more
9 transportation facilities that are proposed to be developed or
10 operated as part of a single transportation project.

11 "Transportation project" or "project" means any or the
12 combination of the design, development, construction,
13 financing, or operation with respect to all or a portion of any
14 transportation facility under the jurisdiction of the
15 responsible public entity, except those facilities for the
16 Illiana Expressway, undertaken pursuant to this Act.

17 "Unit of local government" has the meaning ascribed to
18 that term in Article VII, Section 1 of the Constitution of the
19 State of Illinois and also means any unit designated as a
20 municipal corporation.

21 "Unsolicited proposal" means a written proposal that is
22 submitted to a transportation agency ~~responsible public entity~~
23 on the initiative of the private sector entity or entities for
24 the purpose of developing a partnership, and that is not in
25 response to a formal or informal request issued by a
26 transportation agency ~~responsible public entity~~.

1 "User fees" or "tolls" means the rates, tolls, fees, or
2 other charges imposed by the contractor for use of all or a
3 portion of a transportation project under a public-private
4 agreement.

5 (Source: P.A. 103-570, eff. 1-1-24.)

6 (630 ILCS 5/15)

7 Sec. 15. Formation of public-private agreements; project
8 planning.

9 (a) Each responsible public entity may exercise the powers
10 granted by this Act to do some or all to design, develop,
11 construct, finance, and operate any part of one or more
12 transportation projects through public-private agreements with
13 one or more private entities, except for transportation
14 projects for the Illiana Expressway as defined in the Public
15 Private Agreements for the Illiana Expressway Act. The net
16 proceeds, if any, arising out of a transportation project or
17 public-private agreement undertaken by the Department pursuant
18 to this Act shall be deposited into the Public-Private
19 Partnerships for Transportation Fund. The net proceeds arising
20 out of a transportation project or public-private agreement
21 undertaken by the Authority pursuant to this Act shall be
22 deposited into the Illinois State Toll Highway Authority Fund
23 and shall be used only as authorized by Section 23 of the Toll
24 Highway Act.

25 (b) The Authority may enter into a public-private

1 partnership to design, develop, construct, finance, and
2 operate new toll highways authorized by the Governor and the
3 General Assembly pursuant to Section 14.1 of the Toll Highway
4 Act, non-highway transportation projects on the toll highway
5 system such as commuter rail or high-speed rail lines, and
6 intelligent transportation infrastructure that will enhance
7 the safety, efficiency, and environmental quality of the toll
8 highway system. The Authority may operate or provide
9 operational services such as toll collection on highways which
10 are developed or financed, or both, through a public-private
11 agreement entered into by another public entity, under an
12 agreement with the public entity or contractor responsible for
13 the transportation project.

14 (c) A contractor has:

15 (1) all powers allowed by law generally to a private
16 entity having the same form of organization as the
17 contractor; and

18 (2) the power to develop, finance, and operate the
19 transportation facility and to impose user fees in
20 connection with the use of the transportation facility,
21 subject to the terms of the public-private agreement.

22 No tolls or user fees may be imposed by the contractor
23 except as set forth in a public-private agreement.

24 (d) Prior to commencing the procurement process under an
25 unsolicited proposal or the issuance of any request for
26 qualifications or request for proposals with respect to any

1 potential project undertaken by a responsible public entity
2 pursuant to Section 19 or 20 of this Act, the commencement of a
3 procurement process for that particular potential project
4 shall be authorized by joint resolution of the General
5 Assembly.

6 (e) (Blank).

7 (f) Any project undertaken under this Act shall be subject
8 to all applicable planning requirements otherwise required by
9 law, including land use planning, regional planning,
10 transportation planning, and environmental compliance
11 requirements.

12 (g) (Blank).

13 (h) The responsible public entity shall hold one or more
14 public hearings before entering into negotiations with a
15 proposer ~~following its submittals to the General Assembly~~
16 ~~under subsection (d) of this Section.~~ These public hearings
17 shall address any potential project that the responsible
18 public entity submitted to the General Assembly for review
19 under subsection (d). The responsible public entity shall
20 publish a notice of the hearing or hearings at least 7 days
21 before a hearing takes place, and shall include the following
22 in the notice: (i) the date, time, and place of the hearing and
23 the address of the responsible public entity; (ii) a brief
24 description of the potential projects that the responsible
25 public entity is considering undertaking; and (iii) a
26 statement that the public may comment on the potential

1 projects.

2 (i) Each year, at least 30 days prior to the beginning of
3 the transportation agency's fiscal year, the transportation
4 agency shall submit a description of potential projects that
5 the transportation agency is considering undertaking under
6 this Act to each county, municipality, and metropolitan
7 planning organization, with respect to each project located
8 within its boundaries.

9 (j) A new transportation facility developed as a project
10 under this Act must be consistent with the regional plan then
11 in existence of a metropolitan planning organization in whose
12 boundaries the project is located.

13 (Source: P.A. 103-570, eff. 1-1-24.)

14 (630 ILCS 5/19)

15 Sec. 19. Unsolicited proposals.

16 (a) A transportation agency ~~responsible public entity~~ may
17 receive unsolicited proposals for a project and may thereafter
18 enter into a public-private agreement with a private entity,
19 or a consortium of private entities, for the design,
20 construction, upgrading, operating, ownership, or financing of
21 facilities.

22 (b) A transportation agency ~~responsible public entity~~ may
23 consider, evaluate, and accept an unsolicited proposal for a
24 public-private partnership project from a private entity if
25 the proposal:

1 (1) is independently developed and drafted by the
2 proposer without transportation agency ~~responsible public~~
3 ~~entity~~ supervision;

4 (2) shows that the proposed project could benefit the
5 transportation system;

6 (3) includes a financing plan to allow the project to
7 move forward pursuant to the applicable transportation
8 agency's ~~responsible public entity's~~ budget and finance
9 requirements; and

10 (4) includes sufficient detail and information for the
11 transportation agency ~~responsible public entity~~ to
12 evaluate the proposal in an objective and timely manner
13 and permit a determination that the project would be
14 worthwhile.

15 (c) The unsolicited proposal shall include the following:

16 (1) an executive summary covering the major elements
17 of the proposal;

18 (2) qualifications concerning the experience,
19 expertise, technical competence, and qualifications of the
20 private entity and of each member of its management team
21 and of other key employees, consultants, and
22 subcontractors, including the name, address, and
23 professional designation;

24 (3) a project description, including, when applicable:

25 (A) the limits, scope, and location of the
26 proposed project;

1 (B) right-of-way requirements;

2 (C) connections with other facilities and
3 improvements to those facilities necessary if the
4 project is developed;

5 (D) a conceptual project design; and

6 (E) a statement of the project's relationship to
7 and impact upon relevant existing plans of the
8 transportation agency ~~responsible public entity~~;

9 (4) a facilities project schedule, including when
10 applicable, estimates of:

11 (A) dates of contract award;

12 (B) start of construction;

13 (C) completion of construction;

14 (D) start of operations; and

15 (E) major maintenance or reconstruction activities
16 during the life of the proposed project agreement;

17 (5) an operating plan describing the operation of the
18 completed facility if operation of a facility is part of
19 the proposal, describing the management structure and
20 approach, the proposed period of operations, enforcement,
21 emergency response, and other relevant information;

22 (6) a finance plan describing the proposed financing
23 of the project, identifying the source of funds to, where
24 applicable, design, construct, maintain, and manage the
25 project during the term of the proposed contract; and

26 (7) the legal basis for the project and licenses and

1 certifications; the private entity must demonstrate that
2 it has all licenses and certificates necessary to complete
3 the project.

4 (c-5) A transportation agency shall develop rules for
5 receiving, reviewing, and implementing unsolicited proposals
6 as outlined in this Section. A transportation agency shall
7 submit these rules for the First Notice period within one year
8 after the effective date of this amendatory Act of the 103rd
9 General Assembly. A transportation agency shall not receive
10 unsolicited proposals until rules are adopted.

11 (c-10) A transportation agency shall receive unsolicited
12 proposals no more than every 2 years for a time frame of no
13 more than 90 days.

14 (c-15) A nonnegotiable proposal review fee of \$25,000
15 shall be required for an unsolicited proposal submitted under
16 this Act. A proposal review fee that is submitted with a
17 proposal for a project that is not an eligible project, or that
18 the Department is not otherwise legally authorized to accept,
19 shall be returned to the proposer. All other proposal review
20 fees are nonrefundable.

21 (d) Within 120 days after receiving an unsolicited
22 proposal, the transportation agency ~~responsible public entity~~
23 shall complete a preliminary evaluation of the unsolicited
24 proposal and shall ~~either~~:

25 (1) if the preliminary evaluation is unfavorable,
26 return the proposal without further action;

1 (2) if the preliminary evaluation is favorable, notify
2 the proposer that the transportation agency ~~responsible~~
3 ~~public entity~~ will further evaluate the proposal; or

4 (3) request amendments, clarification, or modification
5 of the unsolicited proposal.

6 (e) The procurement process for unsolicited proposals
7 shall be as follows:

8 (1) If the transportation agency ~~responsible public~~
9 ~~entity~~ chooses to further evaluate an unsolicited proposal
10 with the intent to enter into a public-private agreement
11 for the proposed project, then the transportation agency
12 ~~responsible public entity~~ shall publish notice in its
13 regular online publication for relevant procurements ~~the~~
14 ~~Illinois Procurement Bulletin~~ or in a newspaper of general
15 circulation covering the location of the project at least
16 once a week for 2 weeks stating that the transportation
17 agency ~~responsible public entity~~ has received a proposal
18 and will accept other proposals for the same project. The
19 time frame within which the transportation agency
20 ~~responsible public entity~~ may accept other proposals shall
21 be determined by the transportation agency ~~responsible~~
22 ~~public entity~~ on a project-by-project basis based upon the
23 complexity of the transportation project and the public
24 benefit to be gained by allowing a longer or shorter
25 period of time within which other proposals may be
26 received; however, the time frame for allowing other

1 proposals must be at least 21 days, but no more than 120
2 days, after the initial date of publication.

3 (2) A copy of the notice must be mailed to each local
4 government directly affected by the transportation
5 project.

6 (3) The transportation agency ~~responsible public~~
7 ~~entity~~ shall provide reasonably sufficient information,
8 including the identity of its contact person, to enable
9 other private entities to make proposals.

10 (4) If, after no less than 120 days, no
11 counterproposal is received, or if the counterproposals
12 are evaluated and found to be equal to or inferior to the
13 original unsolicited proposal, the transportation agency
14 ~~responsible public entity~~ may proceed to negotiate a
15 contract with the original proposer.

16 (5) If, after no less than 120 days, one or more
17 counterproposals meeting unsolicited proposal standards
18 are received, and if, in the opinion of the transportation
19 agency ~~responsible public entity~~, the counterproposals are
20 evaluated and found to be superior to the original
21 unsolicited proposal, the transportation agency
22 ~~responsible public entity~~ shall proceed to determine the
23 successful participant through a final procurement phase
24 known as "Best and Final Offer" (BAFO). The BAFO is a
25 process whereby a transportation agency ~~responsible public~~
26 ~~entity~~ shall invite the original private sector party and

1 the proponent submitting the superior counterproposal to
2 engage in a BAFO phase. The invitation to participate in
3 the BAFO phase will provide to each participating
4 proposer:

5 (A) the general concepts that were considered
6 superior to the original proposal, while keeping
7 proprietary information contained in the proposals
8 confidential to the extent possible; and

9 (B) the preestablished evaluation criteria or the
10 "basis of award" to be used to determine the
11 successful proponent.

12 (6) Offers received in response to the BAFO invitation
13 will be reviewed by the transportation agency ~~responsible~~
14 ~~public~~ ~~entity~~ and scored in accordance with a
15 preestablished criteria, or alternatively, in accordance
16 with the basis of award provision identified through the
17 BAFO process. The successful proponent will be the
18 proponent offering "best value" to the transportation
19 agency ~~responsible public entity~~.

20 (7) In all cases, the basis of award will be the best
21 value to the transportation agency ~~responsible public~~
22 ~~entity~~, as determined by the transportation agency
23 ~~responsible public entity~~.

24 (f) After a comprehensive evaluation and acceptance of an
25 unsolicited proposal and any alternatives, the transportation
26 agency must provide public notice of the proposal to members

1 of impacted communities meeting the following criteria:

2 ~~responsible public entity~~

3 (1) Public notice shall be meaningful, timely, and
4 effective public notice of a proposal to members of
5 impacted communities, accounting for linguistic needs and
6 other relevant characteristics, and provide meaningful
7 opportunity for public comment on a proposal.

8 (2) The public notice and project application shall be
9 translated into non-English languages in impacted
10 communities where a language other than English is widely
11 spoken.

12 (3) The notice must, at a minimum, include all of the
13 following:

14 (A) the name of the applicant;

15 (B) the location of the use;

16 (C) a brief description of the use and its
17 impacts; and

18 (D) a link to a website where the application and
19 more detailed information on the use and its impacts
20 can be found.

21 (4) The notice shall be written at a third or fourth
22 grade reading level to ensure ease of understanding for
23 all members of the public.

24 (f-5) The transportation agency shall provide an
25 opportunity for public comment, which must, at a minimum,
26 include one public meeting within an impacted community. The

1 notice of a public meeting required under this subsection must
2 include:

3 (1) the date, time, and location of the public meeting
4 required under this Section;

5 (2) the date and time of all public meetings regarding
6 the project;

7 (3) where to access the project description required
8 under paragraph (3) of subsection (c), if applicable;

9 (4) the expected location of the project associated
10 construction duration; and

11 (5) a non-English version of the notice if 10% or more
12 of the local population speaks a primary language other
13 than English, which shall reflect the prevalent languages
14 of the non-English speaking residents in that area.

15 The public meeting is subject to the following rules:

16 (1) The public meeting must begin after 5:00 p.m. and
17 be located at a venue that is in a location within an
18 impacted equity investment community and easily accessible
19 to residents of other impacted equity investment eligible
20 communities.

21 (2) The public meeting must be at a venue that is
22 accessible to persons with disabilities and the owner or
23 operator of the venue must provide reasonable
24 accommodations, as defined in the Americans with
25 Disabilities Act, upon request.

26 (3) The transportation agency must provide translation

1 services during a public meeting if a proposed project is
2 located in an area in which 10% or more of the local
3 population speaks a primary language other than English,
4 if requested by a non-English speaking member of the
5 public.

6 During a public meeting, a proposer must:

7 (1) present the schedule and process for the project;

8 (2) include a question-and-answer portion of the
9 meeting to allow the public to ask questions; and

10 (3) ensure that representatives that speak on behalf
11 of the contractor are qualified and knowledgeable on the
12 subject matter to answer questions posed by the public.

13 The transportation agency shall have a representative
14 present at the public meeting who is familiar with the
15 proposed project. The transportation agency must create a
16 meeting summary, including issues raised by the public, and
17 respond to all questions in writing no later than 14 days after
18 the meeting. The transportation agency shall post the summary
19 and responses to the transportation agency's publicly
20 accessible website and advise the telephone, email, and text
21 lists along with the meeting summary document. The
22 transportation agency shall ensure that the public meeting is
23 made available to watch and participate in a meaningful way
24 online and recorded. The recording shall be made available on
25 a publicly accessible website.

26 After the public notice requirements are completed, the

1 transportation agency may commence negotiations with a
2 proposer, considering:

3 (1) the proposal has received a favorable
4 comprehensive evaluation;

5 (2) the proposal is not duplicative of existing
6 infrastructure project;

7 (3) the alternative proposal does not closely resemble
8 a pending competitive proposal for a public-private
9 private partnership or other procurement;

10 (4) the proposal demonstrates a unique method,
11 approach, or concept;

12 (5) facts and circumstances that preclude or warrant
13 additional competition;

14 (6) the availability of any funds, debts, or assets
15 that the State will contribute to the project;

16 (7) facts and circumstances demonstrating that the
17 project will likely have a significant adverse impact on
18 ~~on~~ State bond ratings; and

19 (8) indemnifications included in the proposal.

20 (Source: P.A. 103-570, eff. 1-1-24; revised 1-3-24.)

21 (630 ILCS 5/35)

22 Sec. 35. Public-private agreements.

23 (a) A responsible public entity may enter into
24 public-private agreements as outlined in this Section. The
25 transportation agency may receive unsolicited proposals to

1 enter into public-private agreements as outlined in Section
2 19.

3 (a-5) ~~(a)~~ Unless undertaking actions otherwise permitted
4 in an interim agreement entered into under Section 30 of this
5 Act, before developing, financing, or operating the
6 transportation project, the approved proposer shall enter into
7 a public-private agreement with the responsible public entity
8 ~~transportation agency~~. Subject to the requirements of this
9 Act, a public-private agreement may provide that the approved
10 proposer, acting on behalf of the responsible public entity,
11 is partially or entirely responsible for any combination of
12 developing, financing, or operating the transportation project
13 under terms set forth in the public-private agreement.

14 (b) The public-private agreement may, as determined
15 appropriate by the responsible public entity for the
16 particular transportation project, provide for some or all of
17 the following:

18 (1) Development, financing, and operation of the
19 transportation project under terms set forth in the
20 public-private agreement, in any form as deemed
21 appropriate by the responsible public entity, including,
22 but not limited to, a long-term concession and lease, a
23 design-bid-build agreement, a design-build agreement, a
24 design-build-maintain agreement, a design-build-finance
25 agreement, a design-build-operate-maintain agreement and a
26 design-build-finance-operate-maintain agreement.

1 (2) Delivery of performance and payment bonds or other
2 performance security determined suitable by the
3 responsible public entity, including letters of credit,
4 United States bonds and notes, parent guaranties, and cash
5 collateral, in connection with the development, financing,
6 or operation of the transportation project, in the forms
7 and amounts set forth in the public-private agreement or
8 otherwise determined as satisfactory by the responsible
9 public entity to protect the responsible public entity and
10 payment bond beneficiaries who have a direct contractual
11 relationship with the contractor or a subcontractor of the
12 contractor to supply labor or material. The payment or
13 performance bond or alternative form of performance
14 security is not required for the portion of a
15 public-private agreement that includes only design,
16 planning, or financing services, the performance of
17 preliminary studies, or the acquisition of real property.

18 (3) Review of plans for any development or operation,
19 or both, of the transportation project by the responsible
20 public entity.

21 (4) Inspection of any construction of or improvements
22 to the transportation project by the responsible public
23 entity or another entity designated by the responsible
24 public entity or under the public-private agreement to
25 ensure that the construction or improvements conform to
26 the standards set forth in the public-private agreement or

1 are otherwise acceptable to the responsible public entity.

2 (5) Maintenance of:

3 (A) one or more policies of public liability
4 insurance (copies of which shall be filed with the
5 responsible public entity accompanied by proofs of
6 coverage); or

7 (B) self-insurance;

8 each in form and amount as set forth in the public-private
9 agreement or otherwise satisfactory to the responsible
10 public entity as reasonably sufficient to insure coverage
11 of tort liability to the public and employees and to
12 enable the continued operation of the transportation
13 project.

14 (6) Where operations are included within the
15 contractor's obligations under the public-private
16 agreement, monitoring of the maintenance practices of the
17 contractor by the responsible public entity or another
18 entity designated by the responsible public entity or
19 under the public-private agreement and the taking of the
20 actions the responsible public entity finds appropriate to
21 ensure that the transportation project is properly
22 maintained.

23 (7) Reimbursement to be paid to the responsible public
24 entity as set forth in the public-private agreement for
25 services provided by the responsible public entity.

26 (8) Filing of appropriate financial statements and

1 reports as set forth in the public-private agreement or as
2 otherwise in a form acceptable to the responsible public
3 entity on a periodic basis.

4 (9) Compensation or payments to the contractor.
5 Compensation or payments may include any or a combination
6 of the following:

7 (A) a base fee and additional fee for project
8 savings as the design-builder of a construction
9 project;

10 (B) a development fee, payable on a lump sum
11 ~~lump-sum~~ basis, progress payment basis, time and
12 materials basis, or another basis deemed appropriate
13 by the responsible public entity;

14 (C) an operations fee, payable on a lump sum
15 ~~lump-sum~~ basis, time and material basis, periodic
16 basis, or another basis deemed appropriate by the
17 responsible public entity;

18 (D) some or all of the revenues, if any, arising
19 out of operation of the transportation project;

20 (E) a maximum rate of return on investment or
21 return on equity or a combination of the two;

22 (F) in-kind services, materials, property,
23 equipment, or other items;

24 (G) compensation in the event of any termination;

25 (H) availability payments or similar arrangements
26 whereby payments are made to the contractor pursuant

1 to the terms set forth in the public-private agreement
2 or related agreements; or

3 (I) other compensation set forth in the
4 public-private agreement or otherwise deemed
5 appropriate by the responsible public entity.

6 (10) Compensation or payments to the responsible
7 public entity, if any. Compensation or payments may
8 include any or a combination of the following:

9 (A) a concession or lease payment or other fee,
10 which may be payable upfront or on a periodic basis or
11 on another basis deemed appropriate by the responsible
12 public entity;

13 (B) sharing of revenues, if any, from the
14 operation of the transportation project;

15 (C) sharing of project savings from the
16 construction of the transportation project;

17 (D) payment for any services, materials,
18 equipment, personnel, or other items provided by the
19 responsible public entity to the contractor under the
20 public-private agreement or in connection with the
21 transportation project; or

22 (E) other compensation set forth in the
23 public-private agreement or otherwise deemed
24 appropriate by the responsible public entity.

25 (11) The date and terms of termination of the
26 contractor's authority and duties under the public-private

1 agreement and the circumstances under which the
2 contractor's authority and duties may be terminated prior
3 to that date.

4 (12) Reversion of the transportation project to the
5 responsible public entity at the termination or expiration
6 of the public-private agreement.

7 (13) Rights and remedies of the responsible public
8 entity in the event that the contractor defaults or
9 otherwise fails to comply with the terms of the
10 public-private agreement.

11 (14) Procedures for the selection of professional
12 design firms and subcontractors for use by the responsible
13 public entity or eligible county as an owner's
14 representation services, which shall be ~~include~~ procedures
15 consistent with the Architectural, Engineering, and Land
16 Surveying Qualifications Based Selection Act for the
17 selection of professional design firms and may include, in
18 the discretion of the responsible public entity,
19 procedures consistent with the low bid procurement
20 procedures outlined in the Illinois Procurement Code for
21 the selection of construction companies.

22 (15) Other terms, conditions, and provisions that the
23 responsible public entity believes are in the public
24 interest.

25 (c) The responsible public entity may fix and revise the
26 amounts of user fees that a contractor may charge and collect

1 for the use of any part of a transportation project in
2 accordance with the public-private agreement. In fixing the
3 amounts, the responsible public entity may establish maximum
4 amounts for the user fees and may provide that the maximums and
5 any increases or decreases of those maximums shall be based
6 upon the indices, methodologies, or other factors the
7 responsible public entity considers appropriate.

8 (c-5) The Department may accept proposals subject to
9 environmental review and the documentation of the
10 environmental review. The environmental review and
11 documentation of the environmental review shall at all times
12 be conducted as directed by the Department, shall be subject
13 to the oversight of the Department, and shall comply with all
14 requirements of State and federal law, applicable federal
15 regulations, and the National Environmental Policy Act (42
16 U.S.C. 4321 et seq.), if applicable, including, but not
17 limited to, the study of alternatives to the proposed project
18 and any proposed alignments, procedural requirements, and the
19 completion of any and all environmental documents required to
20 be completed by the Department and any federal agency acting
21 as a lead agency. All environmental mitigation commitments
22 agreed to during the environmental review phase are required
23 to be implemented during project implementation, or, as
24 required, to ensure compliance is maintained with all
25 applicable environmental laws and regulations.

26 (d) A public-private agreement may:

1 (1) authorize the imposition of tolls in any manner
2 determined appropriate by the responsible public entity
3 for the transportation project;

4 (2) authorize the contractor to adjust the user fees
5 for the use of the transportation project, so long as the
6 amounts charged and collected by the contractor do not
7 exceed the maximum amounts established by the responsible
8 public entity under the public-private agreement;

9 (3) provide that any adjustment by the contractor
10 permitted under paragraph (2) of this subsection (d) may
11 be based on the indices, methodologies, or other factors
12 described in the public-private agreement or approved by
13 the responsible public entity;

14 (4) authorize the contractor to charge and collect
15 user fees through methods, including, but not limited to,
16 automatic vehicle identification systems, electronic toll
17 collection systems, and, to the extent permitted by law,
18 global positioning system-based, photo-based, or
19 video-based toll collection enforcement, provided that to
20 the maximum extent feasible the contractor will (i)
21 utilize open road tolling methods that allow payment of
22 tolls at highway speeds and (ii) comply with United States
23 Department of Transportation requirements and best
24 practices with respect to tolling methods; and

25 (5) authorize the collection of user fees by a third
26 party.

1 (e) In the public-private agreement, the responsible
2 public entity may agree to make grants or loans for the
3 development or operation, or both, of the transportation
4 project from time to time from amounts received from the
5 federal government or any agency or instrumentality of the
6 federal government or from any State or local agency.

7 (f) Upon the termination or expiration of the
8 public-private agreement, including a termination for default,
9 the responsible public entity shall have the right to take
10 over the transportation project and to succeed to all of the
11 right, title, and interest in the transportation project. Upon
12 termination or expiration of the public-private agreement
13 relating to a transportation project undertaken by the
14 Department, all real property acquired as a part of the
15 transportation project shall be held in the name of the State
16 of Illinois. Upon termination or expiration of the
17 public-private agreement relating to a transportation project
18 undertaken by the Authority, all real property acquired as a
19 part of the transportation project shall be held in the name of
20 the Authority.

21 (g) If a responsible public entity elects to take over a
22 transportation project as provided in subsection (f) of this
23 Section, the responsible public entity may do the following:

24 (1) develop, finance, or operate the project,
25 including through a public-private agreement entered into
26 in accordance with this Act; or

1 (2) impose, collect, retain, and use user fees, if
2 any, for the project.

3 (h) If a responsible public entity elects to take over a
4 transportation project as provided in subsection (f) of this
5 Section, the responsible public entity may use the revenues,
6 if any, for any lawful purpose, including to:

7 (1) make payments to individuals or entities in
8 connection with any financing of the transportation
9 project, including through a public-private agreement
10 entered into in accordance with this Act;

11 (2) permit a contractor to receive some or all of the
12 revenues under a public-private agreement entered into
13 under this Act;

14 (3) pay development costs of the project;

15 (4) pay current operation costs of the project or
16 facilities;

17 (5) pay the contractor for any compensation or payment
18 owing upon termination; and

19 (6) pay for the development, financing, or operation
20 of any other project or projects the responsible public
21 entity deems appropriate.

22 (i) The full faith and credit of the State or any political
23 subdivision of the State or the responsible public entity is
24 not pledged to secure any financing of the contractor by the
25 election to take over the transportation project. Assumption
26 of development or operation, or both, of the transportation

1 project does not obligate the State or any political
2 subdivision of the State or the responsible public entity to
3 pay any obligation of the contractor.

4 (j) The responsible public entity may enter into a
5 public-private agreement with multiple approved proposers if
6 the responsible public entity determines in writing that it is
7 in the public interest to do so.

8 (k) A public-private agreement shall not include any
9 provision under which the responsible public entity agrees to
10 restrict or to provide compensation to the private entity for
11 the construction or operation of a competing transportation
12 facility during the term of the public-private agreement.

13 (l) With respect to a public-private agreement entered
14 into by the Department, the Department shall certify in its
15 State budget request to the Governor each year the amount
16 required by the Department during the next State fiscal year
17 to enable the Department to make any payment obligated to be
18 made by the Department pursuant to that public-private
19 agreement, and the Governor shall include that amount in the
20 State budget submitted to the General Assembly.

21 (Source: P.A. 103-570, eff. 1-1-24.)".