



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4102

Introduced 2/27/2009, by Rep. Franco Coladipietro

SYNOPSIS AS INTRODUCED:

30 ILCS 500/5-5
30 ILCS 500/50-35

Amends the Illinois Procurement Code. Requires the Procurement Policy Board (now, the Governor or an ethics board or commission) to review conflicts of interests with respect to the award of State contracts and to determine whether to void reviewed contracts (now, determined by the chief procurement officer).

LRB096 08463 JAM 18582 b

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Sections 5-5 and 50-35 as follows:

6 (30 ILCS 500/5-5)

7 Sec. 5-5. Procurement Policy Board.

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

10 (b) Authority and duties. The Board shall have the
11 authority and responsibility to review, comment upon, and
12 recommend, consistent with this Code, rules and practices
13 governing the procurement, management, control, and disposal
14 of supplies, services, professional or artistic services,
15 construction, and real property and capital improvement leases
16 procured by the State.

17 Upon a three-fifths vote of its members, the Board may
18 review a contract. Upon a three-fifths vote of its members, the
19 Board may propose procurement rules for consideration by chief
20 procurement officers. These proposals shall be published in
21 each volume of the Procurement Bulletin. Except as otherwise
22 provided by law, the Board shall act upon the vote of a
23 majority of its members who have been appointed and are

1 serving.

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

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

16 (d) Terms. Of the initial appointees, the Governor shall
17 designate one member, as Chairman, to serve a one-year term,
18 the President of the Senate and the Speaker of the House shall
19 each appoint one member to serve 3-year terms, and the Minority
20 Leader of the House and the Minority Leader of the Senate shall
21 each appoint one member to serve 2-year terms. Subsequent terms
22 shall be 4 years. Members may be reappointed for succeeding
23 terms.

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

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

5 (g) Meetings. Meetings of the Board may be conducted
6 telephonically, electronically, or through the use of other
7 telecommunications. Written minutes of such meetings shall be
8 created and available for public inspection and copying.

9 (h) The Board shall rule whether to void contracts due to
10 conflicts of interests in accordance with subsection (d) of
11 Section 50-35.

12 (Source: P.A. 93-839, eff. 7-30-04.)

13 (30 ILCS 500/50-35)

14 Sec. 50-35. Disclosure and potential conflicts of
15 interest.

16 (a) All offers from responsive bidders or offerors with an
17 annual value of more than \$10,000 shall be accompanied by
18 disclosure of the financial interests of the contractor,
19 bidder, or proposer. The financial disclosure of each
20 successful bidder or offeror shall become part of the publicly
21 available contract or procurement file maintained by the
22 appropriate chief procurement officer.

23 (b) Disclosure by the responsive bidders or offerors shall
24 include any ownership or distributive income share that is in
25 excess of 5%, or an amount greater than 60% of the annual

1 salary of the Governor, of the bidding entity or its parent
2 entity, whichever is less, unless the contractor or bidder (i)
3 is a publicly traded entity subject to Federal 10K reporting,
4 in which case it may submit its 10K disclosure in place of the
5 prescribed disclosure, or (ii) is a privately held entity that
6 is exempt from Federal 10k reporting but has more than 400
7 shareholders, in which case it may submit the information that
8 Federal 10k reporting companies are required to report under 17
9 CFR 229.401 and list the names of any person or entity holding
10 any ownership share that is in excess of 5% in place of the
11 prescribed disclosure. The form of disclosure shall be
12 prescribed by the applicable chief procurement officer and must
13 include at least the names, addresses, and dollar or
14 proportionate share of ownership of each person identified in
15 this Section, their instrument of ownership or beneficial
16 relationship, and notice of any potential conflict of interest
17 resulting from the current ownership or beneficial
18 relationship of each person identified in this Section having
19 in addition any of the following relationships:

20 (1) State employment, currently or in the previous 3
21 years, including contractual employment of services.

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

25 (3) Elective status; the holding of elective office of
26 the State of Illinois, the government of the United States,

1 any unit of local government authorized by the Constitution
2 of the State of Illinois or the statutes of the State of
3 Illinois currently or in the previous 3 years.

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

7 (5) Appointive office; the holding of any appointive
8 government office of the State of Illinois, the United
9 States of America, or any unit of local government
10 authorized by the Constitution of the State of Illinois or
11 the statutes of the State of Illinois, which office
12 entitles the holder to compensation in excess of expenses
13 incurred in the discharge of that office currently or in
14 the previous 3 years.

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

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

20 (8) Relationship to anyone who is or was a registered
21 lobbyist in the previous 2 years; spouse, father, mother,
22 son, or daughter.

23 (9) Compensated employment, currently or in the
24 previous 3 years, by any registered election or re-election
25 committee registered with the Secretary of State or any
26 county clerk in the State of Illinois, or any political

1 action committee registered with either the Secretary of
2 State or the Federal Board of Elections.

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

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

16 (d) In the case of any contract for personal services in
17 excess of \$50,000; any contract competitively bid in excess of
18 \$250,000; any other contract in excess of \$50,000; when a
19 potential for a conflict of interest is identified, discovered,
20 or reasonably suspected it shall be reviewed and commented on
21 in writing by the Procurement Policy Board, which ~~Governor of~~
22 ~~the State of Illinois, or by an executive ethics board or~~
23 ~~commission he or she might designate. The comment shall be~~
24 ~~returned to the responsible chief procurement officer who~~ must
25 rule in writing whether to void or allow the contract, bid,
26 offer, or proposal weighing the best interest of the State of

1 Illinois. The comment and determination shall become a publicly
2 available part of the contract, bid, or proposal file.

3 (e) These thresholds and disclosure do not relieve the
4 chief procurement officer, the State purchasing officer, or
5 their designees from reasonable care and diligence for any
6 contract, bid, offer, or proposal. The chief procurement
7 officer, the State purchasing officer, or their designees shall
8 be responsible for using any reasonably known and publicly
9 available information to discover any undisclosed potential
10 conflict of interest and act to protect the best interest of
11 the State of Illinois.

12 (f) Inadvertent or accidental failure to fully disclose
13 shall render the contract, bid, proposal, or relationship
14 voidable by the chief procurement officer if he or she deems it
15 in the best interest of the State of Illinois and, at his or
16 her discretion, may be cause for barring from future contracts,
17 bids, proposals, or relationships with the State for a period
18 of up to 2 years.

19 (g) Intentional, willful, or material failure to disclose
20 shall render the contract, bid, proposal, or relationship
21 voidable by the chief procurement officer if he or she deems it
22 in the best interest of the State of Illinois and shall result
23 in debarment from future contracts, bids, proposals, or
24 relationships for a period of not less than 2 years and not
25 more than 10 years. Reinstatement after 2 years and before 10
26 years must be reviewed and commented on in writing by the

1 Governor of the State of Illinois, or by an executive ethics
2 board or commission he or she might designate. The comment
3 shall be returned to the responsible chief procurement officer
4 who must rule in writing whether and when to reinstate.

5 (h) In addition, all disclosures shall note any other
6 current or pending contracts, proposals, leases, or other
7 ongoing procurement relationships the bidding, proposing, or
8 offering entity has with any other unit of State government and
9 shall clearly identify the unit and the contract, proposal,
10 lease, or other relationship.

11 (Source: P.A. 95-331, eff. 8-21-07.)