

HB3904



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3904

by Rep. Raymond Poe

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10

Amends the Illinois Procurement Code. Provides that the Code does not apply to contracts between the Department of Agriculture and a non-profit service organization for the purpose of providing goods or services on the Illinois State Fairgrounds during the Illinois State Fair or on the DuQuoin State Fairgrounds during the DuQuoin State Fair. Effective immediately.

LRB099 07141 SXM 27228 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

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

6 (30 ILCS 500/1-10)

7 Sec. 1-10. Application.

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

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

22 (1) Contracts between the State and its political
23 subdivisions or other governments, or between State

1 governmental bodies except as specifically provided in
2 this Code.

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

5 (3) Purchase of care.

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

10 (5) Collective bargaining contracts.

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

19 (7) Contracts necessary to prepare for anticipated
20 litigation, enforcement actions, or investigations,
21 provided that the chief legal counsel to the Governor shall
22 give his or her prior approval when the procuring agency is
23 one subject to the jurisdiction of the Governor, and
24 provided that the chief legal counsel of any other
25 procuring entity subject to this Code shall give his or her
26 prior approval when the procuring entity is not one subject

1 to the jurisdiction of the Governor.

2 (8) Contracts for services to Northern Illinois
3 University by a person, acting as an independent
4 contractor, who is qualified by education, experience, and
5 technical ability and is selected by negotiation for the
6 purpose of providing non-credit educational service
7 activities or products by means of specialized programs
8 offered by the university.

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

11 (10) Procurement expenditures by the Illinois Health
12 Information Exchange Authority involving private funds
13 from the Health Information Exchange Fund. "Private funds"
14 means gifts, donations, and private grants.

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

21 (12) Contracts for legal, financial, and other
22 professional and artistic services entered into on or
23 before December 31, 2018 by the Illinois Finance Authority
24 in which the State of Illinois is not obligated. Such
25 contracts shall be awarded through a competitive process
26 authorized by the Board of the Illinois Finance Authority

1 and are subject to Sections 5-30, 20-160, 50-13, 50-20,
2 50-35, and 50-37 of this Code, as well as the final
3 approval by the Board of the Illinois Finance Authority of
4 the terms of the contract.

5 (13) Contracts between the Department of Agriculture
6 and a non-profit service organization for the purpose of
7 providing goods or services on the Illinois State
8 Fairgrounds during the Illinois State Fair or on the
9 DuQuoin State Fairgrounds during the DuQuoin State Fair. As
10 used in this item (12), "service organization" means a
11 veterans organization, as defined in item (10) of
12 subsection (b) of Section 3 of the Solicitation for Charity
13 Act, or a voluntary club or group that is organized for a
14 charitable purpose, for the purpose of making
15 contributions to a charitable organization, or both. As
16 used in this item (12), the terms "charitable purpose",
17 "charitable organization", and "contribution" have the
18 meanings ascribed to those terms in the Solicitation for
19 Charity Act; provided that an entity that would qualify as
20 a charitable organization under the Solicitation for
21 Charity Act but for an exemption granted under Section 3 of
22 that Act is considered a charitable organization for the
23 purposes of this item (12).

24 Notwithstanding any other provision of law, contracts
25 entered into under item (12) of this subsection (b) shall be
26 published in the Procurement Bulletin within 14 calendar days

1 after contract execution. The chief procurement officer shall
2 prescribe the form and content of the notice. The Illinois
3 Finance Authority shall provide the chief procurement officer,
4 on a monthly basis, in the form and content prescribed by the
5 chief procurement officer, a report of contracts that are
6 related to the procurement of goods and services identified in
7 item (12) of this subsection (b). At a minimum, this report
8 shall include the name of the contractor, a description of the
9 supply or service provided, the total amount of the contract,
10 the term of the contract, and the exception to the Code
11 utilized. A copy of each of these contracts shall be made
12 available to the chief procurement officer immediately upon
13 request. The chief procurement officer shall submit a report to
14 the Governor and General Assembly no later than November 1 of
15 each year that shall include, at a minimum, an annual summary
16 of the monthly information reported to the chief procurement
17 officer.

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

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

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

12 (f) This Code does not apply to the process used by the
13 Illinois Power Agency to retain a mediator to mediate sourcing
14 agreement disputes between gas utilities and the clean coal SNG
15 brownfield facility, as defined in Section 1-10 of the Illinois
16 Power Agency Act, as required under subsection (h-1) of Section
17 9-220 of the Public Utilities Act.

18 (g) This Code does not apply to the processes used by the
19 Illinois Power Agency to retain a mediator to mediate contract
20 disputes between gas utilities and the clean coal SNG facility
21 and to retain an expert to assist in the review of contracts
22 under subsection (h) of Section 9-220 of the Public Utilities
23 Act. This Code does not apply to the process used by the
24 Illinois Commerce Commission to retain an expert to assist in
25 determining the actual incurred costs of the clean coal SNG
26 facility and the reasonableness of those costs as required

1 under subsection (h) of Section 9-220 of the Public Utilities
2 Act.

3 (h) This Code does not apply to the process to procure or
4 contracts entered into in accordance with Sections 11-5.2 and
5 11-5.3 of the Illinois Public Aid Code.

6 (i) Each chief procurement officer may access records
7 necessary to review whether a contract, purchase, or other
8 expenditure is or is not subject to the provisions of this
9 Code, unless such records would be subject to attorney-client
10 privilege.

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

15 (k) This Code does not apply to the process to procure
16 contracts, or contracts entered into, by the State Board of
17 Elections or the State Electoral Board for hearing officers
18 appointed pursuant to the Election Code.

19 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502,
20 eff. 8-23-11; 97-689, eff. 6-14-12; 97-813, eff. 7-13-12;
21 97-895, eff. 8-3-12; 98-90, eff. 7-15-13; 98-463, eff. 8-16-13;
22 98-572, eff. 1-1-14; 98-756, eff. 7-16-14; 98-1076, eff.
23 1-1-15.)

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