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PAT QUINN
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April 24, 2011

The Honorable Don Harmon
The Honorable Pamela Althoff
Procurement Reform Committee
Illinois State Senate
Springfield, Illinois 62706

RE: State Chief Information Officer (CIO) Recommendations for Addressing Challenges in Information Technology and Telecommunications Procurement

Dear Senator Harmon and Senator Althoff:

Thank you for the opportunity to provide written comments to your committee.

The purpose of this memorandum is to offer some observations on how the Illinois Procurement Code ("IPC") affects the State's ability to acquire goods and services in the area of Information Technology ("IT") and Telecommunications. My office is eager to work with you to discuss our present challenges in greater detail, and to collaborate on potential solutions. Thank you for your consideration.

IT is Different; Therefore IT Procurement Is Different

The IPC was not originally designed for the acquisition of Information Technology and Telecommunications, particularly since IT is protected by intellectual property law. The IPC establishes rigorous procedures for agencies seeking to purchase goods and or services. The traditional process is time consuming and labor intensive. It also presupposes that the purchasing agency can project its IT needs and trends in the marketplace for several years. The unique nature of the commodities that we are acquiring in IT, along with the dynamic and constantly evolving marketplace for those commodities, makes it essential for agencies to have fast, flexible methods of procurement. Yet, the complexity and duration of the competitive bidding process means that purchasing agencies have a disincentive to frequently reassess the marketplace.

The need to modernize the IPC to meet the State's technology needs is well summarized by the following quotation from a briefing paper authored by the National Governors Association: "[f]or many states, the procurement methods used to buy information technology are obsolete[,] ...enacted over time to protect states from contractual abuses[,] the procurement methods "have

led instead to complex procedures that consume time and money and often result in the purchase of outdated equipment.”¹

This has a number of residual, negative effects. For example, once the State enters into a contract, the schedule of goods and services available is generally fixed. The result is that we often have multi-year contracts that cannot be adapted to accommodate changes in technology and market prices. This means that agencies must purchase obsolete technology that is no longer optimal and pay standard rates locked in by a contract that is increasingly above market price as the length of time from the RFP initiation increases.

The now-mandatory public sole source hearings have lengthened the procurement process without adding value. Mandatory sole source hearings are particularly sensitive because Information Technology so often requires the purchase of proprietary solutions—software, hardware, and services. Software, hardware and servers protected by intellectual property rights are often essential for the operation of the State. These are, by definition, things that can be procured only from one source.

Although the CIO’s Office, CMS-BCCS, and other IT offices in State government have been able to work well with the State’s new Chief Procurement Officer and his staff, one shared concern is the duration and complexity of the current procurement approval process. As the General Assembly considers modifications to the IPC, there should be collaboration on how the CPO, the General Assembly, and the administration can streamline the approval process.

Reporting Communications & Vendor Preclusion

The IPC, as written, has a chilling effect on conversations with vendors without disqualifying them. Vendors and State employees labor under significant uncertainty as to the precise and full definition of which communications must be reported online, and which communications run afoul of the prohibition on pre-solicitation vendor assistance. The effect is that critical information is not exchanged, as interactions with vendors are infrequent and perfunctory.

This is especially problematic in the IT arena, where constantly changing new technologies makes new information from vendors an important part of determining the State’s business needs. New technologies and services will invariably alter what procurements the State seeks and the bids and proposals it receives. The current strict prohibitions on IT pre-solicitation assistance should be modified to recognize the interest of the State in obtaining the best technologies at the most economically-efficient prices

The ambiguity also means that vendors are less likely to fully disclose technologies and services in conversation out of fear that they may preclude themselves from bidding on future State solicitations. Additionally, vendors may be concerned that since any information they reveal in a discussion with a State employee relative to procurement may be disclosed publicly, it is unwise to discuss private information on forthcoming plans, technologies, and solutions for fear of losing competitive advantage in the market. Also, some individuals may be inputting

¹ John Thomasian, “Reforming State Procurement to Buy the Best Information Technology Solution”, Center for Best Practices, National Governor’s Association (accessible at www.nga.org/cda/files/ITPROCUREMENT.pdf).

unnecessary information that could undermine the procurement process by making public confidential information. A potential vendor, or other organization, could potentially read these reports and adjust their response/bid to inappropriately increase chances of success.

Applying a cost benefit analysis to the reporting requirement would show little, if any, benefit to requiring extensively detailed summaries of interactions with vendors. Self-reporting creates no incentive for individuals to report unethical actions. Yet, the chilling effect on communications carries a very high cost.

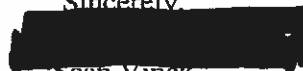
Recommendations

We respectfully request that you consider changes to streamline and simplify the IPC, such as:

- Authorizing purchasing agencies to qualify a pool of vendors to provide a set of goods or services—a “multi-vendor” master contract (an RFQ Process)
- Requiring Sole-Source hearings only when there are Objections
- Enacting IPC modifications for Enterprise Software (and related maintenance and support) and Telecommunications
- Authorize “Piggybacking”—Allow the State to purchase off of Federal and Local Government Contracts
- Modify reporting requirements and pre-solicitation assistance preclusion as they relate to Communications with Technology Vendors.
- Establish a unified Statewide IT Budget within CIO’s office, to allow portfolio management of All IT investments
- Codify the Requirement that All IT / Telecom contracts receive approval of the State CIO / BCCS
- Consider Modifications to the Personnel Code to Reduce Reliance on Contracting Services (cf. SB 1918)

Again, Thank You for your consideration. I welcome future collaboration.

Sincerely,



Sean Vinck

Chief Information Officer