

UNIVERSITY OF ILLINOIS

Urbana-Champaign • Chicago • Springfield

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Michael J. Hogan
President

April 27, 2011

Honorable Don Harmon
Co-Chairperson
Senate Committee on Procurement
329 Capitol Building
Springfield, IL 62706

Honorable Pamela Althoff
Co-Chairperson
Senate Committee on Procurement
M103C Capitol Building
Springfield, IL 62706

Dean Senators Harmon and Althoff,

The University of Illinois appreciates the opportunity to contribute to the efforts of the Illinois Senate's Committee on Procurement as described in your letter of April 20, 2011. We are pleased to provide assistance and input regarding your review of the State's procurement regulations, including and especially as they relate to the University's mission.

We recognize and agree with the stated public policy of the Illinois Procurement Code regarding adherence to the principles of "competitive" procurements and "economical procurement practices." Ensuring competitiveness and transparency while maintaining or maximizing economic practices during procurement can be a daunting task. While we appreciate the stated policy of the Procurement Code and the legislature's laudable attempts to further enhance its application to practices, we have found that a number of the well-intentioned recent changes to the Procurement Code have created unintended consequences that adversely affect our ability to fulfill our mission.

In an effort to assist the Committee and respond to your request, I have summarized the issues the University believes most important and where revision of existing regulations may have meaningful impact on our procurement efforts. I have also attached a draft discussion document containing succinct descriptions of potential changes or recommendations for consideration.

Healthcare operations: The University of Illinois operates a major medical center in Chicago with robust clinical, research and education functions in the related health science colleges of medicine, pharmacy, dentistry, allied health sciences, and public health. The University of Illinois Medical Center (UIMC), and academic medical centers in general, are dependent upon cyclical patient revenue to fund operations. UIMC is located in a very competitive Chicago market and is highly motivated to maximize pricing opportunities to maintain its minimal operating margin. The Code, as currently written, limits the ability of the UIMC to react in a timely fashion to its rapidly changing environment. Amendments to the Code to ensure that UIMC has the ability to maximize economic procurement practices, such as

participation in group purchasing opportunities, will allow us to better respond to issues such as declining reimbursement rates, federal health care reform, advancement in medical technology and competition in the market place. An appropriate amendment of the Code's definition of "Purchase of Care" would alleviate many of the pressures experienced by the University in this regard.

Issues Unique to the Higher Education Setting: The University faces numerous practical challenges in matching the Code's current requirements with the exercise of its mission. For example, cutting-edge research equipment, library publication and university accreditation providers are generally single-source vendors that provide universities with specific services that cannot be obtained elsewhere. The same is generally true for numerous events held at the University, including artistic and athletic performances and events and conference activities. In most cases, these events are not "funded" by the University, but instead, are driven by directly related revenue streams such as ticket sales to the general public. Neither competitive selection processes nor sole-source hearings are practical or add value to these events or activities. In addition, we have experienced challenges regarding contracting with non-US entities related to our efforts to satisfy unique research requirements and the operation of international programs such as study abroad. Many foreign vendors are single providers with no motivation to obey State of Illinois filing requirements and therefore refuse to comply. The University requests that the Committee consider amending the Code to codify or clarify certain exemptions from the Code. For example:

- Certification and registration exemptions for single-source research equipment, library resources, and accreditation providers.
- Events funded by ticket sales to the general public and other event revenues:
 - Artistic and entertainment events and performances.
 - Athletic events (event revenues may include funding provided to participating institutions by athletic conferences and associations).
- Events or activities administered by a university for the benefit of third parties where the majority of funding is provided by the third parties (examples: professional meetings, conferences, field trips).
- Donor funded and attended fundraising events or activities.
- Memberships in academic, professional and athletics related organizations, along with related events or other required activities (i.e. NCAA/conference contracted hotels/venues).
- Use of mandated vendors to provide accreditation services.

In addition, we ask for consideration of an amendment to Section 1-10(b)(8) to include all public institutions of higher education and to include for-credit educational services and activities or products and educational support services. Similarly, we recommend amending Code language in Section 20-90 to include operations performed in foreign countries. These changes would provide the University with greater flexibility to address issues and needs related to utilization of local academic instructors and program directors for study abroad and other international programs. These changes would also assist with contracts supporting research with vendors that do not have offices in the United States, and similar issues related to the University's academic mission and its success as a member of the international academic community.

We also recommend that the Committee consider amending the Governmental Joint Purchasing Act to enhance the ability of institutions of higher education to promote economical procurement practices and realize substantial cost savings through participation in consortia or group purchasing agreements with governmental, educational, medical, research, or similar entities.

Communication Reporting: The concept of reasonable assurance implies the cost of the control should not exceed the value derived. Unless the reporting requirement is limited to high-dollar/high-risk transactions, the expense of this control will far exceed the value derived. If there are no filters installed to calibrate reporting, the University estimates the cost of lost productivity due to time spent reporting will be over \$1 million per year. Requiring reporting for small dollar purchases is simply not cost effective. Since the volume of purchases under \$20,000 represents over 98% of all University purchase transactions, but slightly less than 20% of the total purchase costs, setting the minimum reporting value at \$20,000 would offer the opportunity to reduce substantially the cost of time lost to reporting, while retaining reporting for the vast majority of the purchase dollar volume. Further, higher education research activities from time-to-time involve proprietary information that could be compromised by reporting. The University would like to explore some form of exemption for this type of activity. The University also engages in many purchases that involve numerous faculty and staff (e.g. selection committees). Current interpretations of the Code require each employee to submit a separate report when a single report on behalf of the committee would seem to accomplish the goal of the legislation.

Public Hearings: The Code currently provides that public hearings are required in all cases for sole-source or the extension of emergency procurements. To date, no one other than the University hearing officer has attended any such hearings conducted by the University. This is not an efficient use of administrative time and effort. While we recognize the transparency inherent in the hearings, we recommend that a hearing for a sole-source procurement or extension of an emergency procurement be required only if an objection is filed.

Contract Management: The University consistently and continuously strives to ensure that its vendors comply with all legal requirements, including those contained in the Procurement Code. The University, however, and likely other State entities, faces challenges in attempting to ensure compliance where there is no direct contractual relationship between the University and subcontractors. While we recognize the value of transparency with regard to subcontractors performing work for the University, the Code as currently written does not draw any distinction between "first tier" subcontractors and subcontractors or suppliers several steps removed from a direct contractual relationship with the University. We recommend limiting the reporting requirements to the first level of subcontractors and establishing a threshold level to trigger the requirements of this section consistent with the small purchase provisions of the Code.

Certification and Registration Requirements: Recent amendments to the Procurement Code established new requirements for vendors to be eligible to submit proposals for procurement opportunities or contract with State entities. We understand the motivation for these changes and applaud the legislature's efforts to ensure against questionable procurement practices or obfuscation of transparency. The practical implementation of these changes, however, has resulted in unintended difficulties in procurement, and unfortunately, less vendor competition. The Code currently requires a potential bidder to register to do business in Illinois prior to submitting a bid, offer, or proposal. We recommend that this requirement be amended to require business registration in Illinois prior to award of contract. Similarly, we recommend that requirements related to registration with the Board of Elections be amended to require registration with the Board of Elections prior to award of a contract rather than prior to submission of a bid, offer or proposal. As referenced above, the University would also like the Committee to explore exceptions for qualifying single-source and/or emergency procurements. Further, the development of a vendor portal to assist with the documentation of requirements such as Board of Elections registration could achieve reduced duplication of effort and increased clarity for vendors.

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Diversity/Sustainability: Paper certification requirements are slowing the overall procurement process and driving vendors and competition away from Illinois. Foreign and small vendors (in particular, small diversity vendors) do not desire to allocate their scarce resources to Illinois certification. The annual recertification requirement is a very resource-intensive process that does not appear to add significant value. We recommend that the legislature seek direct input from vendors regarding these requirements. The feedback received by the University to date has not been positive.

Thank you, once again, for offering the opportunity to discuss procurement systems, areas of concern, and potential amendments or enhancements. The University of Illinois looks forward to working with you during this process. We are happy to provide additional information or make available to you our professional administrators or others if you believe additional input would be valuable to your work. Please feel free to contact our Executive Director of Governmental Relations, Kappy Laing, at (217) 333-1086 should you have any questions or desire further information.

Sincerely,

A blacked-out rectangular area containing a handwritten signature in cursive script, which appears to be "Michael J. Hogan".

Michael J. Hogan
President

Attachment

c: Katherine R. Laing