

SB3981



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3981

Introduced 2/6/2026, by Sen. Mike Porfirio

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 500/1-7 new

Creates the Public University Procurement Code. Sets forth procurement rules and procedures for public universities. Amends the Procurement Code to make conforming changes. Effective July 1, 2026.

LRB104 18313 HLH 31753 b

A BILL FOR

1 AN ACT concerning procurement.

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

4 ARTICLE 1

5 GENERAL PROVISIONS

6 Section 1-1. Short title. This Act may be cited as the
7 Public University Procurement Code.

8 Section 1-5. Public policy. It is the purpose of this Code
9 and is declared to be the policy of the State that the
10 principles of competitive bidding and economical procurement
11 practices shall be applicable to all purchases and contracts
12 by or for an Illinois public university.

13 Section 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, 2026, and all new or future
17 procurement actions for active procurements entered into prior
18 to the effective date of this Code. This Code shall not be
19 construed to artificially affect or impair any contract, or
20 any provision of a contract, entered into based on a
21 solicitation prior to the implementation date of this Code as

1 described in Article 99, including, but not limited to, any
2 covenant entered into with respect to any revenue bonds or
3 similar instruments. All procurements for which contracts are
4 solicited between the effective date of Articles 50 and 99 and
5 July 1, 2026 shall be substantially in accordance with this
6 Code and its intent. Any reference in the Illinois Compiled
7 Statutes to the Illinois Procurement Code with respect to
8 public universities shall be deemed to refer to this Code.

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

12 (1) Contracts between a State University and its
13 political subdivisions or other governments, or between
14 State governmental bodies, except as specifically provided
15 in this Code.

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

18 (3) Purchase of care, except as provided in Section
19 5-30.6 of the Illinois Public Aid Code and this Section.

20 (4) Hiring of an individual as an employee and not as
21 an independent contractor, whether pursuant to an
22 employment code or policy or by contract directly with
23 that individual.

24 (5) Collective bargaining contracts.

25 (6) Purchase of real estate, except that notice of
26 this type of contract with a value of more than \$25,000

1 must be published in the Higher Education Procurement
2 Bulletin within 10 calendar days after the deed is
3 recorded in the county of jurisdiction. The notice shall
4 identify the real estate purchased, the names of all
5 parties to the contract, the value of the contract, and
6 the effective date of the contract.

7 (7) Contracts necessary to prepare for anticipated
8 litigation, enforcement actions, or investigations,
9 provided that the chief legal counsel of the applicable
10 public university of the procuring entity subject to this
11 Code shall give his or her prior written approval.

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

18 (9) Contracts for participation expenditures required
19 by a domestic or international trade show or exhibition of
20 an exhibitor, member, or sponsor.

21 (10) Acquisition of modifications or adjustments,
22 limited to assistive technology devices and assistive
23 technology services, adaptive equipment, repairs, and
24 replacement parts to provide reasonable accommodations (i)
25 that enable a qualified applicant with a disability to
26 complete the job application process and be considered for

1 the position such qualified applicant desires, (ii) that
2 modify or adjust the work environment to enable a
3 qualified current employee with a disability to perform
4 the essential functions of the position held by that
5 employee, (iii) to enable a qualified current employee
6 with a disability to enjoy equal benefits and privileges
7 of employment as are enjoyed by other similarly situated
8 employees without disabilities, and (iv) that allow a
9 customer, client, claimant, or member of the public
10 seeking State services full use and enjoyment of and
11 access to its programs, services, or benefits.

12 For purposes of this paragraph:

13 "Assistive technology devices" means any item, piece of
14 equipment, or product system, whether acquired commercially
15 off the shelf, modified, or customized, that is used to
16 increase, maintain, or improve functional capabilities of
17 individuals with disabilities.

18 "Assistive technology services" means any service that
19 directly assists an individual with a disability in selection,
20 acquisition, or use of an assistive technology device.

21 "Qualified" has the same meaning and use as provided under
22 the federal Americans with Disabilities Act when describing an
23 individual with a disability.

24 Notwithstanding any other provision of law, for contracts
25 with an annual value in excess of the applicable bid threshold
26 under an exemption provided in any paragraph of this

1 subsection (b), except paragraph (1), (2), or (5), each State
2 public university shall post to the Higher Education
3 Procurement Bulletin the name of the contractor, a description
4 of the supply or service provided, the total amount of the
5 contract, the term of the contract, and the exception to this
6 Code utilized. The chief procurement officer shall submit a
7 report to the Governor and General Assembly no later than
8 November 1 of each year that shall include, at a minimum, an
9 annual summary of the monthly information reported to the
10 chief procurement officer.

11 Section 1-12. Applicability to artistic or musical
12 services.

13 (a) This Code shall not apply to procurement expenditures
14 necessary to provide artistic or musical services,
15 performances, or theatrical productions held at a venue
16 operated or leased by a public university of the State of
17 Illinois.

18 (b) Notice of each contract with an annual value in excess
19 of the applicable bid threshold entered into by a public
20 university that is related to the procurement of goods and
21 services identified in this Section shall be published in the
22 Higher Education Procurement Bulletin within 14 calendar days
23 after contract execution. The public university chief
24 procurement officer shall prescribe the form and content of
25 the notice. Each State University shall provide the public

1 university chief procurement officer, on a monthly basis, in
2 the form and content prescribed by the chief procurement
3 officer, a report of contracts that are related to the
4 procurement of supplies and services identified in this
5 Section. At a minimum, this report shall include the name of
6 the contractor, a description of the supply or service
7 provided, the total amount of the contract, the term of the
8 contract, and the exception to this Code utilized. A copy of
9 any or all of these contracts shall be made available to the
10 chief procurement officer immediately upon request. The chief
11 procurement officer shall submit a report to the Governor and
12 General Assembly no later than November 1 of each year that
13 shall include, at a minimum, an annual summary of the monthly
14 information reported to the chief procurement officer.

15 Section 1-13. Applicability to public universities of the
16 State of Illinois.

17 (a) This Code shall apply to Illinois public universities,
18 regardless of the source of the funds with which contracts are
19 paid, except as provided in this Section.

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

23 (1) Memberships in professional, academic, research,
24 or athletic organizations on behalf of a public
25 institution of higher education, an employee of a public

1 institution of higher education, or a student at a public
2 institution of higher education.

3 (2) Procurement expenditures for events or activities
4 paid for exclusively by revenues generated by the event or
5 activity, gifts or donations for the event or activity,
6 private grants, or any combination thereof.

7 (3) Procurement expenditures for events or activities
8 for which the use of specific potential contractors is
9 mandated or identified by the sponsor of the event or
10 activity, provided that the sponsor is providing a
11 majority of the funding for the event or activity.

12 (4) Procurement expenditures necessary to provide
13 athletic, artistic or musical services, performances,
14 events, or productions by or for a public university of
15 the State of Illinois.

16 (5) Procurement expenditures for periodicals, books,
17 subscriptions, database licenses, and other publications
18 procured for use by a university library or academic
19 department, except for expenditures related to procuring
20 textbooks for student use or materials for resale or
21 rental.

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

25 (7) Contracts for programming and broadcast license
26 rights for university-operated radio and television

1 stations.

2 (8) Procurement expenditures necessary to perform
3 sponsored research and other sponsored activities under
4 grants and contracts funded by the sponsor or by sources
5 other than State appropriations.

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

10 (10) Procurement expenditures for any ongoing software
11 license or maintenance agreement or competitively
12 solicited software purchase, when the software, license,
13 or maintenance agreement is available through only the
14 software creator or its manufacturer and not a reseller.

15 (11) Procurement expenditures incurred outside of the
16 United States for the recruitment of international
17 students.

18 (12) Procurement expenditures for contracts entered
19 into under the public university Energy Conservation Act.

20 (13) Procurement expenditures for advertising
21 purchased directly from a media station or the owner of
22 the station for distribution of advertising.

23 (14) Electric vehicles: Procurement of electric
24 vehicles for University Fleet, Service Vehicles etc. are
25 exempt from this Code.

26 (15) Express shipping, air and ground small package

1 delivery and transportation services are exempt from this
2 Code.

3 (16) Modular Buildings: trailers and temporary
4 facilities when needed for student services, or due to
5 immediate construction or housing or needs resulting from
6 a catastrophic emergency of a campus are exempt from this
7 Code be procured substantially compliant with all
8 contracting requirements wherever practicable.

9 (17) Social media advertising: Social media
10 advertising is a form of paid digital marketing that
11 involves placing advertisements on social media platforms
12 (including, but not limited to, Facebook, Instagram,
13 LinkedIn, TikTok, and X) to reach a targeted audience.
14 Such social media advertising is exempt from this Code.

15 (18) Textbooks: Paper or electronic media procured by
16 a public university are exempt from this Code.

17 Notice of each contract with an annual value in excess of
18 the applicable bid threshold entered into by a public
19 university that is related to the procurement of goods and
20 services identified in items (1) through (13) of this
21 subsection shall be published in the Higher Education
22 Procurement Bulletin within 14 calendar days after contract
23 execution. The chief procurement officer shall prescribe the
24 form and content of the notice. Each public university shall
25 provide the chief procurement officer, on a monthly basis, in
26 the form and content prescribed by the chief procurement

1 officer, a report of contracts that are related to the
2 procurement of goods and services identified in this
3 subsection. At a minimum, this report shall include the name
4 of the contractor, a description of the supply or service
5 provided, the total amount of the contract, the term of the
6 contract, and the exception to this Code utilized. A copy of
7 any or all of these contracts shall be made available to the
8 chief procurement officer immediately upon request. The chief
9 procurement officer shall submit a report to the Governor and
10 General Assembly no later than November 1 of each year that
11 shall include, at a minimum, an annual summary of the monthly
12 information reported to the chief procurement officer.

13 (b-5) Except as provided in this subsection, the
14 provisions of this Code shall not apply to contracts for
15 medical supplies or to contracts for medical services
16 necessary for the delivery of care and treatment at medical,
17 dental, pharmaceutical, or veterinary teaching facilities used
18 by Southern Illinois University or the University of Illinois
19 or at any university-operated health care center or dispensary
20 that provides care, treatment, and medications for students,
21 faculty, and staff. Furthermore, the provisions of this Code
22 do not apply to the procurement by such a facility of any
23 additional supplies or services that the operator of the
24 facility deems necessary for the effective use and functioning
25 of the medical supplies or services that are otherwise exempt
26 from this Code under this subsection (b-5), including, but not

1 limited to, procurements necessary for compliance and
2 management of federal programs. However, other supplies and
3 services needed for these teaching facilities shall be subject
4 to the jurisdiction of the public university chief procurement
5 officer who may establish expedited procurement procedures and
6 may waive or modify certification, contract, hearing, process
7 and registration requirements required by this Code. All
8 procurements made under this subsection shall be documented
9 and may require publication in the Higher Education
10 Procurement Bulletin.

11 (b-10) Procurements made by or on behalf of the University
12 of Illinois for investment services may be entered into or
13 renewed without being subject to the requirements of this
14 Code. Notice of intent to renew a contract shall be published
15 in the Higher Education Procurement Bulletin at least 14 days
16 prior to the execution of a renewal, and the University of
17 Illinois shall hold a public hearing for interested parties to
18 provide public comment. Any contract extended, renewed, or
19 entered pursuant to this exception shall be published in the
20 Higher Education Procurement Bulletin within 5 days of
21 contract execution.

22 (c) Procurements made by or on behalf of a State of
23 Illinois public university for the fulfillment of a grant
24 shall be made in accordance with the requirements of this Code
25 to the extent practical.

26 Upon the written request of a public university, the chief

1 procurement officer may waive contract, registration,
2 certification, and hearing requirements of this Code if, based
3 on the item to be procured or the terms of a grant, compliance
4 is impractical. The public institution of higher education
5 shall provide the chief procurement officer with specific
6 reasons for the waiver, including the necessity of contracting
7 with a particular potential contractor, and shall certify that
8 an effort was made in good faith to comply with the provisions
9 of this Code. The chief procurement officer shall provide
10 written justification for any waivers. By November 1 of each
11 year, the chief procurement officer shall file a report with
12 the General Assembly identifying each contract approved with
13 waivers and providing the justification given for any waivers
14 for each of those contracts. Notice of each waiver made under
15 this subsection shall be published in the Higher Education
16 Procurement Bulletin within 14 calendar days after contract
17 execution. The chief procurement officer shall prescribe the
18 form and content of the notice.

19 (d) Notwithstanding this Section, a waiver of the
20 registration requirements of Section 20-160 does not permit a
21 business entity and any affiliated entities or affiliated
22 persons to make campaign contributions if otherwise prohibited
23 by Section 50-37. The total amount of contracts awarded in
24 accordance with this Section shall be included in determining
25 the aggregate amount of contracts or pending bids of a
26 business entity and any affiliated entities or affiliated

1 persons.

2 (e) Notwithstanding subsection (e) of Section 50-10.5 of
3 this Code, the chief procurement officer, may permit a public
4 university to accept a bid or enter into a contract with a
5 business that assisted the public university in determining
6 whether there is a need for a contract or assisted in
7 reviewing, drafting, or preparing documents related to a bid
8 or contract, provided that the bid or contract is essential to
9 research administered by the public university and it is in
10 the best interest of the public university to accept the bid or
11 contract. For purposes of this subsection, "business" includes
12 all individuals with whom a business is affiliated, including,
13 but not limited to, any officer, agent, employee, consultant,
14 independent contractor, director, partner, manager, or
15 shareholder of a business.

16 (f) As used in this Section:

17 "Grant" means non-appropriated funding provided by a
18 federal or private entity to support a project or program
19 administered by a public institution of higher education and
20 any non-appropriated funding provided to a sub-recipient of
21 the grant.

22 "Public institution of higher education" or "public
23 university" means Chicago State University, Eastern Illinois
24 University, Governors State University, Illinois State
25 University, Northeastern Illinois University, Northern
26 Illinois University, Southern Illinois University, University

1 of Illinois, Western Illinois University, and, for purposes of
2 this Code only, the Illinois Mathematics and Science Academy.

3 Section 1-15. Definitions. As used in this Code:

4 "Bid" means the response submitted by a bidder in a
5 competitive sealed bidding process, to an invitation for bid,
6 or to a multi-step sealed bidding process.

7 "Bidder" means one who submits a response in a competitive
8 sealed bidding process, to an invitation for bid, or to a
9 multi-step sealed bidding process.

10 "Board" means the Procurement Policy Board.

11 "Bulletin" means the Higher Education Procurement
12 Bulletin.

13 "Business" means any corporation, partnership, individual,
14 sole proprietorship, joint stock company, joint venture, or
15 other private legal entity.

16 "Change order" means a change in a contract term, other
17 than as specifically provided for in the contract, which
18 authorizes or necessitates any increase or decrease in the
19 cost of the contract or the time for completion for
20 procurements subject to the jurisdiction of the chief
21 procurement officer appointed pursuant to Section 10-20.

22 "Chief Procurement Office" means the offices to which the
23 chief procurement officer is appointed pursuant to Section
24 10-20.

25 "Chief procurement officer" means the public university

1 chief procurement officer as an independent chief procurement
2 officer appointed by a majority of the University Presidents.

3 "Contractor" means any person having a contract with a
4 State public university as defined in this Section.

5 "Construction" means building, altering, repairing,
6 improving, or demolishing any public structure or building, or
7 making improvements of any kind to public real property.
8 Construction does not include the routine operation, routine
9 repair, or routine maintenance of existing structures,
10 buildings, or real property.

11 "Construction Agency" means either the Capital Development
12 Board (CDB) or the construction department of an Illinois
13 public university as the Agency, where applicable.

14 "Construction-related services" means those services
15 including construction design, layout, inspection, support,
16 feasibility or location study, research, development,
17 planning, or other investigative study undertaken by a public
18 university concerning construction or potential construction.

19 "Construction support" means all equipment, supplies, and
20 services that are necessary to the operation of a public
21 university's construction program. "Construction support" does
22 not include construction-related services.

23 "Contract" means all types of State University agreements,
24 regardless of what they may be called, for the procurement,
25 use, or disposal of supplies, services, professional or
26 artistic services, or construction or for leases of real

1 property where the State is the lessee, or capital
2 improvements, and including renewals, master contracts,
3 contracts for financing through use of installment or
4 lease-purchase arrangements, renegotiated contracts,
5 amendments to contracts, and change orders.

6 "Cost-reimbursement contract" means a contract under which
7 a contractor is reimbursed for costs that are allowable and
8 allocable in accordance with the contract terms and the
9 provisions of this Code, and a fee, if any.

10 "Electronic procurement" means the utilization of
11 integrated digital technology and secure online systems to
12 manage, automate, and streamline all or part of the
13 procurement lifecycle, from requisitioning and sourcing
14 through contracting, ordering, invoicing, and payment. This
15 includes, but is not limited to, the electronic processing of
16 solicitations (such as IFBs, RFPs, and RFQs), bid submissions,
17 contract management, spend analysis, and supplier performance
18 management.

19 "Grant" means an instrument used to distribute financial
20 assistance or property to a recipient to accomplish a public
21 purpose authorized by law, with minimal direct commercial
22 benefit accruing to the State or public university

23 "Grant Award" means the decision or formal notice by the
24 State or public university to approve the application and
25 enter into the grant agreement with the recipient

26 "Grant Funding" means the financial resources provided by

1 the State or public university under the terms of a grant
2 agreement

3 "Invitation for bids" means the process by which a public
4 university requests information from bidders, including all
5 documents, whether attached or incorporated by reference, used
6 for soliciting bids.

7 "Master contract" means a definite quantity, indefinite
8 quantity, or requirements contract awarded in accordance with
9 this Code, against which subsequent orders may be placed to
10 meet the needs of a State public university. A master contract
11 may be for use by a single State public university or for
12 multiple State public universities and other entities as
13 authorized under the Governmental Joint Purchasing Act.

14 "Multiple award" means an award that is made to 2 or more
15 bidders or offerors for similar supplies, services, or
16 construction-related services.

17 "No-cost contract" means a contract in which the State
18 University does not make a payment to or receive a payment from
19 the vendor, but the vendor has the contractual authority to
20 charge an entity other than the State University for supplies
21 or services at the contracted rate to fulfill the mandated
22 requirements.

23 "Negotiation" means the process of selecting a contractor
24 other than by competitive sealed bids, multi-step sealed
25 bidding, or competitive sealed proposals, whereby a public
26 university can establish any and all terms and conditions of a

1 procurement contract by discussion with one or more potential
2 contractors.

3 "Offer" means a response submitted by an offeror in a
4 competitive sealed proposal process or to a request for
5 proposal.

6 "Offeror" means any person who submits a proposal in
7 response to a competitive sealed proposal process or a request
8 for proposals.

9 "Person" means any business, public or private
10 corporation, partnership, individual, union, committee, club,
11 unincorporated association or other organization or group of
12 individuals, or other legal entity.

13 "President" means the individual serving as the primary
14 executive head of any single, named public university within
15 the State of Illinois.

16 "Illinois Board of Regents" means the collective body
17 including each President of an Illinois public university as
18 defined in this Code.

19 "Professional and artistic services" means those services
20 provided under contract to a State public university by a
21 person or business, acting as an independent contractor,
22 qualified by education, experience, and technical ability.

23 "Purchase description" means the words used in a
24 solicitation to describe the supplies, services, professional
25 or artistic services, or construction to be procured or real
26 property or capital improvements to be leased and includes

1 specifications attached to or made a part of the solicitation.

2 "Purchase of care" means a contract with an individual,
3 business, social services, or any other entity or the
4 furnishing of medical, educational, psychiatric, vocational,
5 rehabilitative, social, or human services for research or
6 clinical needs.

7 "Purchasing Agency" means a State public university that
8 enters into a contract at the direction of a State purchasing
9 officer authorized by the public university chief procurement
10 officer.

11 "Request for proposals" means the process by which a
12 public university requests information from offerors,
13 including all documents, whether attached or incorporated by
14 reference, used for soliciting proposals.

15 "Responsible bidder, potential contractor, or offeror"
16 means a person who has the capability in all respects to
17 perform fully the contract requirements and the integrity and
18 reliability that will assure good faith performance. A
19 responsible bidder or offeror shall not include a business or
20 other entity that does not exist as a legal entity at the time
21 a bid or offer is submitted for a potential contract.

22 "Responsive bidder" means a person who has submitted a bid
23 that conforms in all material respects to the invitation for
24 bids.

25 "Responsive offeror" means a person who has submitted an
26 offer that conforms in all material respects to the request

1 for proposals.

2 "Services" means the furnishing of labor, time, or effort
3 by a contractor, not involving the delivery of a specific end
4 product other than reports or supplies that are incidental to
5 the required performance.

6 "Single prime" means the design-bid-build procurement
7 delivery method for a building construction project in which
8 the Capital Development Board or a public institution of
9 higher education, as defined in Section 1-13 of this Code, is
10 the construction public university procuring 2 or more
11 subdivisions of work enumerated in paragraphs (1) through (5)
12 of subsection (a) of Section 30-30 of this Code under a single
13 contract.

14 "Specifications" means any description, provision, or
15 requirement setting forth the standards of quality, function,
16 performance, or physical characteristics of any supply,
17 service, or construction item to be procured under a contract.
18 Specifications may further detail any requirement for
19 inspecting, testing, or preparing the item for delivery.

20 "State public university" for purposes of this Code means
21 all public universities and institutions under the
22 jurisdiction of the governing boards of the University of
23 Illinois, Southern Illinois University, Illinois State
24 University, Eastern Illinois University, Northern Illinois
25 University, Western Illinois University, Chicago State
26 University, Governors State University, Northeastern Illinois

1 University. However, this term does not apply to the
2 University of Illinois Foundation, or any Foundation of an
3 Illinois public university. "State public university" does not
4 include units of local government, school districts, community
5 colleges under the Public Community College Act, and the
6 Illinois Comprehensive Health Insurance Board.

7 "State purchasing officer" means a person appointed by the
8 applicable campus President to exercise the procurement
9 authority created by this Code or by rule.

10 "Subcontract" means a contract between a person and a
11 person who has a contract subject to this Code, pursuant to
12 which the subcontractor provides to the contractor, or, if the
13 contract price exceeds the small purchase maximum established
14 by Section 20-20 of this Code, another subcontractor, some or
15 all of the goods, services, real property, remuneration, or
16 other monetary forms of consideration that are the subject of
17 the primary contract and includes, among other things,
18 subleases from a lessee of a State public university. For
19 purposes of this Code, a "subcontract" does not include
20 purchases of goods or supplies that are incidental to the
21 performance of a contract by a person who has a contract
22 subject to this Code.

23 "Subcontractor" means a person or entity that enters into
24 a contractual agreement with a person or entity who has a
25 contract subject to this Code pursuant to which the person or
26 entity provides some or all of the goods, services, real

1 property, remuneration, or other monetary forms of
2 consideration that are the subject of the primary State
3 University contract, including subleases from a lessee of a
4 State University contract. For purposes of this Code, a person
5 or entity is not a "subcontractor" if that person only
6 provides goods or supplies that are incidental to the
7 performance of a contract by a person who has a contract
8 subject to this Code.

9 "Supplies" means all personal property, including, but not
10 limited to, equipment, materials, printing, and insurance, and
11 the financing of those supplies that can be procured regularly
12 or are available on the commercial market.

13 "Supplier" means any person or entity providing supplies,
14 including, but not limited to, equipment, materials, printing,
15 and insurance, and the financing of those supplies that can be
16 procured regularly or are available on the commercial market.

17 "Using agency" means a State public university that uses
18 items procured under this Code.

19 "Expatriated entity" means a foreign incorporated entity
20 which is treated as an inverted domestic corporation under
21 subsection (b) of Section 835 of the Homeland Security Act of
22 2002, 6 U.S.C. 395(b), or any subsidiary of such an entity. The
23 federal regulations found at 26 CFR 1.7874-3 may be used to
24 determine when 6 U.S.C. 395(b) (3) applies.

25 Section 1-25. Contracts in writing. No contract with a

1 State public university shall be deemed to exist unless and
2 until it is executed in writing by an authorized officer or
3 employee of the University. The State public university
4 retains the right to reject all bids or proposals and shall
5 have no obligation to issue any award or execute any contract
6 resulting from any solicitation.

7 ARTICLE 5

8 POLICY ORGANIZATION

9 Section 5-5. Procurement Policy Board.

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

12 (b) Authority and duties. The Board shall have the
13 authority and responsibility to review, comment upon, and
14 recommend, consistent with this Code, rules and practices
15 governing the procurement, management, control, and disposal
16 of supplies, services, professional or artistic services,
17 construction, and real property and capital improvement leases
18 procured by the State public universities. The Board shall
19 also have the authority to recommend a program for
20 professional development and provide opportunities for
21 training in procurement practices and policies to chief
22 procurement officers and their staffs in order to ensure that
23 all procurement is conducted in an efficient, professional,
24 and appropriately transparent manner.

1 Upon a three-fifths vote of its members, the Board may
2 review a contract. Upon a three-fifths vote of its members,
3 the Board may propose procurement rules for consideration by
4 chief procurement officers. These proposals shall be published
5 in each volume of the Higher Education Procurement Bulletin.
6 Except as otherwise provided by law, the Board shall act upon
7 the vote of a majority of its members who have been appointed
8 and are serving.

9 (b-5) Reviews, studies, and hearings. The Board may
10 review, study, and hold public hearings concerning the
11 implementation and administration of this Code. Each chief
12 procurement officer, State purchasing officer, and State
13 public university shall cooperate with the Board, provide
14 information to the Board, and be responsive to the Board in the
15 Board's conduct of its reviews, studies, and hearings.

16 (c) Members. The Board shall consist of 5 members
17 appointed one each by the 4 legislative leaders and the
18 Governor. Each member shall have demonstrated sufficient
19 business or professional experience in the area of procurement
20 to perform the functions of the Board. No member may be a
21 member of the General Assembly.

22 (d) Terms. Of the initial appointees, the Governor shall
23 designate one member, as Chairman, to serve a one-year term,
24 the President of the Senate and the Speaker of the House shall
25 each appoint one member to serve 3-year terms, and the
26 Minority Leader of the House and the Minority Leader of the

1 Senate shall each appoint one member to serve 2-year terms.
2 Subsequent terms shall be 4 years. Members may be reappointed
3 for succeeding terms.

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

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

11 (g) Meetings. Meetings of the Board may be conducted
12 telephonically, electronically, or through the use of other
13 telecommunications. Written minutes of such meetings shall be
14 created and available for public inspection and copying.

15 (h) Procurement recommendations. Upon a three-fifths vote
16 of its members, the Board may review a proposal, bid, or
17 contract and issue a recommendation to void a contract or
18 reject a proposal or bid based on any violation of this Code or
19 the existence of a conflict of interest as described in
20 subsections (b) and (d) of Section 50-35. A chief procurement
21 officer or State purchasing officer shall notify the Board if
22 an alleged conflict of interest or violation of this Code is
23 identified, discovered, or reasonably suspected to exist. Any
24 person or entity may notify the Board of an alleged conflict of
25 interest or violation of this Code. A recommendation of the
26 Board shall be delivered to the appropriate chief procurement

1 officer and Executive Ethics Commission within 7 calendar days
2 and must be published in the next volume of the Higher
3 Education Procurement Bulletin. If an alleged conflict of
4 interest or violation of this Code that was not originally
5 disclosed with the bid, offer, or proposal is identified and
6 filed with the Board, the Board shall provide written notice
7 of the alleged conflict of interest or violation to the
8 bidder, offeror, potential contractor, contractor, or
9 subcontractor on that contract. If the alleged conflict of
10 interest or violation is by the subcontractor, written notice
11 shall also be provided to the bidder, offeror, potential
12 contractor, or contractor. The bidder, offeror, potential
13 contractor, contractor, or subcontractor shall have 15
14 calendar days to provide a written response to the notice, and
15 a hearing before the Board on the alleged conflict of interest
16 or violation shall be held upon request by the bidder,
17 offeror, potential contractor, contractor, or subcontractor.
18 The requested hearing date and time shall be determined by the
19 Board, but in no event shall the hearing occur later than 15
20 calendar days after the date of the request.

21 (i) After providing notice and a hearing as required by
22 subsection (h), the Board shall refer any alleged violations
23 of this Code to the Executive Inspector General in addition to
24 or instead of issuing a recommendation to void a contract.

25 (j) Response. Each State public university shall respond
26 promptly in writing to all inquiries and comments of the

1 Procurement Policy Board.

2 Section 5-7. Commission on Equity and Inclusion; powers
3 and duties.

4 (a) The Commission on Equity and Inclusion, as created
5 under the Commission on Equity and Inclusion Act, shall have
6 the powers and duties provided under this Section with respect
7 to this Code. Nothing in this Section shall be construed as
8 overriding the authority and duties of the Procurement Policy
9 Board as provided under Section 5-5. The powers and duties of
10 the Commission as provided under this Section shall be
11 exercised alongside, but independent of, that of the
12 Procurement Policy Board.

13 (b) The Commission on Equity and Inclusion shall have the
14 authority and responsibility to review, comment upon, and
15 recommend, consistent with this Code, rules and practices
16 governing the procurement, management, control, and disposal
17 of supplies, services, professional or artistic services,
18 construction, and real property and capital improvement leases
19 procured by the State for the purpose of diversity, equity,
20 and inclusion. The Commission on Equity and Inclusion shall
21 also have the authority to recommend a program for
22 professional development and provide opportunities for
23 training in equity and inclusion in procurement practices and
24 policies to chief procurement officers and their staffs in
25 order to ensure that all procurement is conducted in an

1 efficient, professional, and appropriately transparent manner.

2 (c) Upon a majority vote of its members, the Commission on
3 Equity and Inclusion may review a contract for purposes of
4 equity and inclusion. Upon a three-fifths vote of its members,
5 the Commission may propose equity and inclusion in procurement
6 rules for consideration by chief procurement officers. These
7 proposals of equity and inclusion rules shall be published in
8 each volume of the Higher Education Procurement Bulletin.
9 Except as otherwise provided by law, the Commission on Equity
10 and Inclusion shall act upon the vote of a majority of its
11 members who have been appointed and are serving.

12 (d) The Commission on Equity and Inclusion may review,
13 study, and hold public hearings concerning the implementation
14 and administration of this Code in regard to equity and
15 inclusion in procurement. Each chief procurement officer,
16 State purchasing officer, and State public university shall
17 cooperate with, provide information to, and be responsive to
18 the Commission on Equity and Inclusion in the conduct of its
19 reviews, studies, and hearings for purposes of equity and
20 inclusion in procurement.

21 (e) Upon a three-fifths vote of its members, the
22 Commission on Equity and Inclusion shall review a proposal,
23 bid, or contract and issue a recommendation to void a contract
24 or reject a proposal or bid based on any violation of this Code
25 in regard to equity and inclusion. A recommendation of the
26 Commission shall be delivered to the appropriate chief

1 procurement officer within 7 calendar days after the proposal
2 due date, bid opening date, or determination of a Code
3 violation and must be published in the next volume of the
4 Higher Education Procurement Bulletin. The bidder, offeror,
5 potential contractor, contractor, or subcontractor shall have
6 15 calendar days to provide a written response to the notice. A
7 hearing before the Commission on the violation of this Code in
8 regard to equity and inclusion shall be held upon request by
9 the bidder, offeror, potential contractor, contractor, or
10 subcontractor. The requested hearing date and time shall be
11 determined by the Commission on Equity and Inclusion, but in
12 no event shall the hearing occur later than 15 calendar days
13 after the date of the request. Within 7 days after the hearing,
14 the Commission shall deliver a recommendation to the
15 appropriate chief procurement officer whether to void the
16 contract or reject the proposal or bid.

17 Section 5-23. Interests of Board members. Members of the
18 Procurement Policy Board employed by or holding an interest in
19 an entity doing business with or attempting to do business
20 with the State of Illinois do not, by their service on the
21 Board, preclude that entity from doing business with or
22 attempting to do business with the State.

23 Section 5-25. Rulemaking authority; public university
24 policy; public university response.

1 (a) Rulemaking. The public university chief procurement
2 officer authorized to make procurements under this Code shall
3 have the authority to promulgate rules to carry out that
4 authority. The rulemaking on specific procurement topics
5 mentioned in specific Sections of this Code shall not be
6 construed as prohibiting or limiting rulemaking on other
7 procurement topics.

8 All rules shall be promulgated in accordance with the
9 Illinois Administrative Procedure Act. Contractual provisions,
10 specifications, and procurement descriptions are not rules and
11 are not subject to the Illinois Administrative Procedure Act.
12 All rules other than those promulgated by the Board shall be
13 presented in writing to the Board for review and comment. The
14 Board shall express their opinions and recommendations in
15 writing. The proposed rules and recommendations shall be made
16 available for public review. The rules shall also be approved
17 by the Joint Committee on Administrative Rules.

18 (b) Policy. Each chief procurement officer shall promptly
19 notify the Procurement Policy Board in writing of any proposed
20 new procurement rule or policy or any proposed change in an
21 existing procurement rule or policy.

22 (c) Response. Each State public university must respond
23 promptly in writing to all inquiries and comments of the
24 Procurement Policy Board.

25 Section 5-30. Proposed contracts; Procurement Policy

1 Board; Commission on Equity and Inclusion.

2 (a) Except as provided in subsection (c), within 14
3 calendar days after notice of the awarding or letting of a
4 contract has appeared in the Higher Education Procurement
5 Bulletin in accordance with subsection (b) of Section 15-25,
6 the Board or the Commission on Equity and Inclusion may
7 request in writing from the contracting public university and
8 the contracting public university shall promptly, but in no
9 event later than 7 calendar days after receipt of the request,
10 provide to the requesting entity, by electronic or other means
11 satisfactory to the requesting entity, documentation in the
12 possession of the contracting public university concerning the
13 proposed contract. Nothing in this subsection is intended to
14 waive or abrogate any privilege or right of confidentiality
15 authorized by law.

16 (b) When practical, no contract subject to this Section
17 may be entered into until the 14-day period described in
18 subsection (a) has expired, unless the contracting public
19 university requests in writing that the Board and the
20 Commission on Equity and Inclusion waive the period and the
21 Board and the Commission on Equity and Inclusion grant the
22 waiver in writing.

23 (c) This Section does not apply to (i) contracts entered
24 into under this Code for small and emergency procurements as
25 those procurements are defined in Article 20 and (ii)
26 contracts for professional and artistic services that are

1 nonrenewable, one year or less in duration, and is not in
2 excess of the small purchase applicable threshold. If
3 requested in writing by the Board or the Commission on Equity
4 and Inclusion, however, the contracting public university must
5 promptly, but in no event later than 10 calendar days after
6 receipt of the request, transmit to the Board or the
7 Commission on Equity and Inclusion a copy of the contract for
8 an emergency procurement and documentation in the possession
9 of the contracting public university concerning the contract.

10 ARTICLE 10

11 APPOINTMENTS

12 Section 10-5. Exercise of procurement authority. The
13 public university chief procurement officer shall exercise all
14 procurement authority created by this Code. The State
15 purchasing officers appointed under this Code shall exercise
16 procurement authority at the direction of the public
17 university chief procurement officer. Decisions of a State
18 purchasing officer are subject to review by the public
19 university chief procurement officer.

20 Section 10-10. Independent State purchasing officers.

21 (a) The applicable University President shall appoint and
22 determine the salary of a State purchasing officer at the
23 respective public university. A State purchasing officer shall

1 be a Procurement operational leader that has an office located
2 in the State public university that the officer serves and
3 shall have a dotted-line report to the public university chief
4 procurement officer. The State purchasing officer shall have
5 direct communication with public university staff assigned to
6 assist with any procurement process. At the direction of his
7 or her chief procurement officer, a State purchasing officer
8 shall have the authority to (i) review any contract or
9 contract amendment prior to execution to ensure that
10 applicable procurement and contracting standards were followed
11 and (ii) approve or reject contracts for a public university.
12 If the State purchasing officer provides written approval of
13 the contract, the head of the applicable State public
14 university (or their designee) shall have the authority to
15 sign and enter into that contract. All actions of a State
16 purchasing officer are subject to review by a chief
17 procurement officer in accordance with procedures and policies
18 established by the chief procurement officer.

19 (a-5) A State purchasing officer may (i) attend any
20 procurement meetings; (ii) access any records or files related
21 to procurement; (iii) submit reports to the chief procurement
22 officer on procurement issues; (iv) ensure the State public
23 university is maintaining appropriate records; and (v) ensure
24 transparency of the procurement process.

25 (a-10) If a State purchasing officer is aware of
26 misconduct, waste, or inefficiency with respect to State

1 University procurement, the State purchasing officer shall
2 advise the applicable State public university President of the
3 issue in writing. If the State public university does not
4 correct the issue, the State purchasing officer shall report
5 the problem, in writing, to the chief procurement officer and
6 appropriate Inspector General.

7 (a-15) If a State Procurement Officer is not available to
8 take action required by this Code, the public university
9 President has the authority to temporarily appoint an interim
10 public university State Procurement Officer, and written
11 notice shall be given to the public university chief
12 procurement officer. Such notice will include the name, title,
13 contact information and potential duration of the appointment.

14 (b) In addition to any other requirement or qualification
15 required by State law, within 30 months after appointment, a
16 State purchasing officer must be a Certified Professional
17 Public Buyer or a Certified Public Purchasing Officer,
18 pursuant to certification by the Universal Public Purchasing
19 Certification Council or the Institute for Supply Management
20 or a Certified Public Procurement Professional, pursuant to
21 certification by the National Institute of Government
22 Procurement Certification Commission. State purchasing officer
23 shall serve a term of 5 years beginning on the date of the
24 officer's appointment. A State purchasing officer shall have
25 an office located in the State public university that the
26 officer serves but shall have a dotted-line report to the

1 chief procurement officer. A State purchasing officer may be
2 recommended to be removed by a chief procurement officer for
3 cause after a hearing by the Executive Ethics Commission. In
4 the absence of a State Procurement Officer, the applicable
5 University President (or designee) will notify the public
6 university chief procurement officer of the recommended name
7 of the Interim State Procurement Officer for their
8 institution.

9 (c) Each State purchasing officer owes a fiduciary duty to
10 the State.

11 Section 10-20. Public university chief procurement
12 officer.

13 (a) Appointment. Within 60 calendar days after the
14 effective date of this Public Act, the University Presidents,
15 with the advice and consent of the Senate shall appoint a
16 public university chief procurement officer for all
17 procurements made by a State of Illinois public University.

18 The State of Illinois public universities shall set aside
19 funding the amounts necessary for the chief procurement
20 officer's ordinary and contingent expenses of their respective
21 procurement office and activities.

22 The public university chief procurement officer shall
23 control the internal operations of his or her procurement
24 office and shall procure the necessary equipment, materials,
25 and services to perform the duties of that office, including

1 hiring necessary procurement personnel, legal advisors, and
2 other employees, The public university chief procurement
3 officer will be an employee of one of the Illinois public state
4 universities. The applicable university will maintain search,
5 funding and employment records of the public university chief
6 procurement officer and will be compliant with University
7 hiring practices. The Executive Ethics Commission shall have
8 no supervisory authority over the public university's chief
9 procurement officer and his or her employees. The Universities
10 solely shall provide administrative support services,
11 including payroll, for the public university Chief Procurement
12 Office.

13 (b) Terms and independence. The chief procurement officer
14 appointed under this Section shall serve for a term of 5 years
15 beginning on the date of the officer's appointment.

16 The salary of a chief procurement officer shall be
17 established by the Universities and may not be diminished
18 during the officer's term.

19 (c) Qualifications. In addition to any other requirement
20 or qualification required by State law, a chief procurement
21 officer must within 12 months of employment be a Certified
22 Professional Public Buyer or a Certified Public Purchasing
23 Officer, pursuant to certification by the Universal Public
24 Purchasing Certification Council, or a Certified Public
25 Procurement Professional, pursuant to certification by the
26 National Institute of Government Procurement Certification

1 Commission and must reside in Illinois.

2 (d) Fiduciary duty. A chief procurement officer owes a
3 fiduciary duty to the State.

4 (e) Vacancy. In case of a vacancy of a chief procurement
5 officer under this Section during the recess of the Senate,
6 the University Presidents shall convene to make a temporary
7 appointment until the next meeting of the Senate, when the
8 University Presidents shall nominate some person to fill the
9 office, and any person so nominated who is confirmed by the
10 Senate shall hold office during the remainder of the term and
11 until his or her successor is appointed and qualified. If the
12 Senate is not in session at the time this Public Act takes
13 effect, the University Presidents shall make a temporary
14 appointment as in the case of a vacancy.

15 (f) Appointment. Within 60 calendar days after the
16 effective date of this Public Act, the University Presidents,
17 with the advice and consent of the Senate shall appoint a chief
18 procurement officer for public universities for all
19 procurements made by any of the Illinois public universities.

20 (g) The public university chief procurement officer is the
21 final authority to publish an award that is in the best
22 interest of a public university, as recommended by the State
23 Procurement Officer. Such action requires publishing by the
24 public university chief procurement officer on the Higher
25 Education Procurement Bulletin. This authority may not be
26 delegated.

1 procurement officer, in consultation with the Universities
2 under his or her jurisdiction, possesses the rights to and is
3 the authority responsible for publishing solicitations
4 electronically utilizing the Procurement Bulletin.

5 The Higher Education Procurement Bulletin shall be
6 available electronically.

7 Section 15-10. Contents. The Higher Education Procurement
8 Bulletin shall contain notices and other information required
9 by this Code or by rules promulgated under this Code to be
10 published on the Higher Education Procurement Bulletin

11 Section 15-15. Publication. The Higher Education
12 Procurement Bulletin shall be maintained as a real-time
13 electronic service accessible via the official publishing
14 website. All procurement notices shall be posted
15 electronically and made available to the public without
16 charge. Entities may subscribe to receive electronic
17 notifications of new postings. The Bulletin shall no longer be
18 issued in paper volumes, and references to print formats are
19 obsolete.

20 Section 15-20. Qualified bidders or offerors. A firm's
21 Higher Education Procurement Bulletin registration is required
22 to download documents and to qualify as a bidder or offeror for
23 any public solicitation posted on the Higher Education

1 Procurement Bulletin as allowed under this Code.

2 Section 15-25. Higher Education Procurement Bulletin
3 content.

4 (a) Invitations for bids. Notice of each and every award
5 for a public solicitation that is offered, including
6 renegotiated awards and change orders, shall be published on
7 the Higher Education Procurement Bulletin. The chief
8 procurement officer may provide by rule an organized format
9 for the publication of this information.

10 (a-5) All businesses listed on the Illinois Unified
11 Certification Program Disadvantaged Business Enterprise
12 Directory, the Business Enterprise Program of the Commission
13 on Equity and Inclusion, and any small business database
14 created pursuant to Section 45-45 of this Code shall be
15 furnished written instructions and information on how to
16 register for the Higher Education Procurement Bulletin. The
17 instructions will be provided by the Illinois Unified
18 Certification Program Disadvantaged Business Enterprise
19 Directory, the Business Enterprise Program of the Commission
20 on Equity and Inclusion. This information shall be provided to
21 each business within 30 calendar days after the business's
22 notice of certification or qualification.

23 (b) Solicitations awarded. Notice of each and every award
24 for a public solicitation resulting in a contract that is
25 awarded, including renegotiated contracts and change orders,

1 shall be issued electronically to the successful responsible
2 bidder, offeror, or contractor and award notice published in
3 the Higher Education Procurement Bulletin. The applicable
4 chief procurement officer may provide by rule an organized
5 format for the publication of this information. This notice
6 must be posted on the online electronic Higher Education
7 Procurement Bulletin prior to execution of the contract.

8 For purposes of this subsection, "solicitations award"
9 means the determination that a particular bidder or offeror
10 has been selected from among other bidders or offerors to
11 receive a contract, subject to the successful completion of
12 final negotiations. "solicitations award" is evidenced by the
13 posting of a Notice of Award or a Notice of Intent to Award to
14 the Higher Education Procurement Bulletin.

15 (c) Emergency purchase disclosure. The public university
16 chief procurement officer or State University purchasing
17 officer exercising emergency purchase authority under this
18 Code shall publish a written description and reasons and the
19 total cost, if known, or an estimate if unknown and the name of
20 the chief procurement officer and State purchasing officer,
21 and the business or person contracted with for all emergency
22 purchases on the Higher Education Procurement Bulletin. The
23 notice for an emergency procurement other than the extension
24 of an emergency contract must be posted in the online
25 electronic Higher Education Procurement Bulletin no later than
26 5 calendar days after the contract is awarded, and notice for

1 the extension of an emergency contract must be posted in the
2 online electronic Higher Education Procurement Bulletin no
3 later than 7 calendar days after the extension is executed.

4 (c-5) Business Enterprise Program report. Each State of
5 Illinois public university shall, with the assistance of the
6 chief procurement officer, post on the online electronic
7 Higher Education Procurement Bulletin a copy of its annual
8 report of utilization of businesses owned by minorities,
9 women, and persons with disabilities as submitted to the
10 Business Enterprise Council for Minorities, Women, and Persons
11 with Disabilities pursuant to Section 6(c) of the Business
12 Enterprise for Minorities, Women, and Persons with
13 Disabilities Act within 10 calendar days after its submission
14 of its report to the Commission on Equity and Inclusion.

15 (c-10) Renewals. Notice of each solicitation award renewal
16 shall be posted on the Higher Education Procurement Bulletin
17 within 14 calendar days of the determination to execute a
18 renewal of the award. The notice shall include at least all of
19 the information required in subsection (a) or (b), as
20 applicable.

21 (c-15) Sole source procurements. Before entering into a
22 sole source contract, the public university chief procurement
23 officer exercising sole source procurement authority under
24 this Code shall publish a written description of intent to
25 enter into a sole source contract along with a description of
26 the item to be procured and the intended sole source

1 contractor. This notice must be posted in the online
2 electronic Higher Education Procurement Bulletin before a sole
3 source contract is awarded and at least 14 calendar days
4 before the hearing required by Section 20-25.

5 (d) Other required disclosure. The public university chief
6 procurement officer shall provide by rule for the organized
7 publication of all other disclosure required in other Sections
8 of this Code in a timely manner.

9 (e) The public university chief procurement officer shall,
10 in consultation with the Universities under his or her
11 jurisdiction, provide the Procurement Policy Board with the
12 information and resources necessary, and in a manner, to
13 effectuate the purpose of Public Act 96-1444.

14 Section 15-30. Electronic Higher Education Procurement
15 Bulletin clearinghouse.

16 (a) The Procurement Policy Board shall maintain on its
17 official website a searchable database containing all
18 information required to be included in the Higher Education
19 Procurement Bulletin under subsections (b), (c), (c-10), and
20 (c-15) of Section 15-25 and all information required to be
21 disclosed under Section 50-41. The posting of procurement
22 information on the website is subject to the same posting
23 requirements as the online electronic Higher Education
24 Procurement Bulletin.

25 (b) For the purposes of this Section, searchable means

1 searchable and sortable by awarded bidder, offeror, potential
2 contractor, or contractor, for emergency purchases, business
3 or person contracted with; the contract price or total cost;
4 the service or supply; the purchasing State public university;
5 and the date first offered or announced.

6 (c) The applicable chief procurement officer shall provide
7 the Procurement Policy Board the information and resources
8 necessary, and in a manner, to effectuate the purpose of this
9 Section.

10 Section 15-35. Board of Regents Procurement Gateway. The
11 chief procurement officer may implement its own
12 prequalification, certification, disclosure and registration
13 requirements necessary to conduct and manage its program
14 operations.

15 Section 15-40. Method of notices and reports. Notices and
16 reports required by any Section of this Code may be made by
17 either paper or electronic means.

18 Section 15-45. Computation of days. The time within which
19 any act provided in this Code is to be done shall be computed
20 by excluding the first day and including the last, unless the
21 last day is Saturday or Sunday or is a holiday, and then it
22 shall also be excluded. If the day succeeding a Saturday,
23 Sunday, or holiday is also a holiday, a Saturday, or a Sunday,

1 then that succeeding day shall also be excluded. For the
2 purposes of this Code, "holiday" means: New Year's Day; Dr.
3 Martin Luther King, Jr.'s Birthday; Lincoln's Birthday;
4 President's Day; Memorial Day; Juneteenth National Freedom
5 Day; Independence Day; Labor Day; Columbus Day; Veterans' Day;
6 Thanksgiving Day; Christmas Day; and any other day from time
7 to time declared by the President of the United States or the
8 Governor of Illinois to be a day during which any of the
9 Illinois Public Universities that are ordinarily open to do
10 business with the public shall be closed for business.

11 ARTICLE 20

12 SOURCE SELECTION AND CONTRACT FORMATION

13 Section 20-5. Method of source selection. Unless otherwise
14 authorized by law, all State University contracts shall be
15 awarded by competitive sealed bidding, in accordance with
16 Section 20-10, except as provided in Sections 20-15, 20-20,
17 20-25, 20-30, 20-35, 30-15, and 40-20. The public university
18 chief procurement officer may determine the method of
19 solicitation and contract for all procurements pursuant to
20 this Code.

21 Section 20-10. Competitive sealed bidding; reverse
22 auction.

23 (a) Conditions for use. All contracts shall be awarded by

1 competitive sealed bidding except as otherwise provided in
2 Section 20-5.

3 (b) Invitation for bids. An invitation for bids shall be
4 issued and shall include a purchase description and the
5 material contractual terms and conditions applicable to the
6 procurement.

7 (c) Public notice. Public notice of the invitation for
8 bids shall be published in the Higher Education Procurement
9 Bulletin at least 14 calendar days before the date set in the
10 invitation for the opening of bids.

11 (d) Bid opening. Bids shall be opened publicly or through
12 an electronic submittal option on the Higher Education
13 Procurement Bulletin in the presence of one or more witnesses
14 at the time and place designated in the invitation for bids.
15 The name of each bidder, the amount of each bid, and other
16 relevant information as may be specified by rule shall be
17 recorded. After the award of the contract, the winning bid and
18 the record of each unsuccessful bid shall be open to public
19 inspection.

20 (e) Bid acceptance and bid evaluation. Bids shall be
21 unconditionally accepted without alteration or correction,
22 except as authorized in this Code. Bids shall be evaluated
23 based on the requirements set forth in the invitation for
24 bids, which may include criteria to determine acceptability
25 such as inspection, testing, quality, workmanship, delivery,
26 and suitability for a particular purpose. Those criteria that

1 will affect the total bid cost and be considered in evaluation
2 for award, including, but not limited to, discounts, bid
3 preferences, transportation costs, and total or life cycle
4 costs, shall be objectively measurable. The invitation for
5 bids shall set forth the evaluation criteria to be used.

6 (f) Correction or withdrawal of bids. Correction or
7 withdrawal of inadvertently erroneous bids before or after
8 award based on bid mistakes, shall be permitted in accordance
9 with rules. After bid opening, no changes in bid prices or
10 other provisions of bids prejudicial to the interest of the
11 State Universities or fair competition shall be permitted. All
12 decisions to permit the correction or withdrawal of bids based
13 on bid mistakes shall be supported by written determination
14 made by a State purchasing officer.

15 (g) Award. The award of a public solicitation shall be
16 awarded with reasonable promptness by written notice to the
17 lowest responsible and responsive bidder whose bid meets the
18 requirements and criteria set forth in the invitation for
19 bids, except when a public university State procurement
20 officer determines it is not in the best interest of the State
21 or the State University and by written explanation determines
22 another bidder shall receive the award. The explanation shall
23 appear in the Higher Education Procurement Bulletin. The
24 written explanation must include:

- 25 (1) a description of the public university's needs;
26 (2) a determination that the anticipated cost will be

1 fair and reasonable;

2 (3) a listing of all responsible and responsive
3 bidders; and

4 (4) the name of the bidder selected, the total
5 contract price, and the reasons for selecting that bidder.

6 The public university chief procurement officer may adopt
7 guidelines to implement the requirements of this subsection
8 (g).

9 The written explanation of award shall be published on the
10 Higher Education Procurement Bulletin and publicly available
11 for the Legislative Audit Commission, and the Commission on
12 Equity and Inclusion, and the Procurement Policy Board, within
13 14 calendar days after the public university's decision to
14 award the contract.

15 (h) Multi-step sealed bidding. When it is considered
16 impracticable to initially prepare a purchase description to
17 support an award based on price, an invitation for bids may be
18 issued requesting the submission of unpriced offers to be
19 followed by an invitation for bids limited to those bidders
20 whose offers have been qualified under the criteria set forth
21 in the first solicitation.

22 (i) Reverse auction. Notwithstanding any other provision
23 of this Section and in accordance with rules adopted by the
24 public university chief procurement officer, that chief
25 procurement officer may procure supplies or services through a
26 competitive electronic auction bidding process after the

1 public university chief procurement officer determines that
2 the use of such a process will be in the best interest of the
3 State or State University. The public university chief
4 procurement officer shall publish that determination in the
5 Higher Education Procurement Bulletin.

6 An invitation for bids shall be issued and shall include
7 (i) a procurement description, (ii) all contractual terms,
8 whenever practical, and (iii) conditions applicable to the
9 procurement, including a notice that bids will be received in
10 an electronic auction manner.

11 Public notice of the invitation for bids shall be given in
12 the same manner as provided in subsection (c).

13 Bids shall be accepted electronically at the time and in
14 the manner designated in the invitation for bids. During the
15 auction, a bidder's price shall be disclosed to other bidders.
16 Bidders shall have the opportunity to reduce their bid prices
17 during the auction. At the conclusion of the auction, the
18 record of the bid prices received and the name of each bidder
19 shall be open to public inspection.

20 After the auction period has terminated, withdrawal of
21 bids shall be permitted as provided in subsection (f).

22 The award shall be published within 60 calendar days after
23 the auction by written notice to the lowest responsible
24 bidder, or all bids shall be rejected except as otherwise
25 provided in this Code. Extensions of the date for the award may
26 be made by mutual written consent of the public university

1 State purchasing officer and the lowest responsible bidder.

2 This subsection does not apply to (i) procurements of
3 professional and artistic services, (ii) telecommunications
4 services, communication services, and information services,
5 and (iii) contracts for construction projects, including
6 design professional services.

7 Section 20-15. Competitive sealed proposals.

8 (a) Conditions for use. When provided under this Code or
9 under rules, or when a public university determines in writing
10 that the use of competitive sealed bidding is either not
11 practicable or not advantageous to the State University, an
12 award or contract may be entered into by competitive sealed
13 proposals.

14 (b) Request for proposals. Proposals shall be solicited
15 through a request for proposals.

16 (c) Public notice. Public notice of the request for
17 proposals shall be published in the Higher Education
18 Procurement Bulletin at least 14 calendar days before the date
19 set in the invitation for the opening of proposals.

20 (d) Receipt of proposals. Proposals shall be opened
21 publicly, in person or opened electronically utilizing the
22 Higher Education Procurement Bulletin, in the presence of one
23 or more witnesses at the time and place designated in the
24 request for proposals. Proposals shall be opened in a manner
25 to avoid disclosure of contents to competing offerors during

1 the process of negotiation. A record of proposals shall be
2 prepared and shall be open for public inspection after
3 contract award.

4 (e) Evaluation factors. The requests for proposals shall
5 state the relative importance of price and other evaluation
6 factors. Proposals shall be submitted in 3 parts: the first,
7 price; the second, commitment to diversity; and the third, all
8 other items. Each part shall be evaluated and ranked
9 independently. The total evaluation points earned (per
10 proposal) shall be used in ranking of proposals.

11 (e-5) Method of scoring.

12 (1) The point scoring methodology for competitive
13 sealed proposals shall provide points for commitment to
14 diversity. Those points shall be equivalent to 20% of the
15 points assigned to the third part of the proposal. All
16 other items to be evaluated may not exceed 80% of the total
17 potential points earned.

18 (2) Factors to be considered in the award of points
19 for the commitment to diversity component shall be set by
20 rule by the Public higher education chief procurement
21 officer and may include, but are not limited to:

22 (A) whether or how well the offeror, on the
23 solicitation being evaluated, met the goal of
24 contracting or subcontracting with businesses owned by
25 women, minorities, or persons with disabilities;

26 (B) whether the offeror, on the solicitation being

1 evaluated, assisted businesses owned by women,
2 minorities, or persons with disabilities in obtaining
3 lines of credit, insurance, necessary equipment,
4 supplies, materials, or related assistance or
5 services;

6 (C) the percentage of prior year revenues of the
7 offeror that involve businesses owned by women,
8 minorities, or persons with disabilities;

9 (D) whether the offeror has a written supplier
10 diversity program, including, but not limited to, use
11 of diverse vendors in the supply chain and a training
12 or mentoring program with businesses owned by women,
13 minorities, or persons with disabilities; and

14 (E) the percentage of members of the offeror's
15 governing board, senior executives, and managers who
16 are women, minorities, or persons with disabilities.

17 (3) If any State public university or public
18 university's contract is eligible to be paid for or
19 reimbursed, in whole or in part, with federal-aid funds,
20 grants, or loans, and the provisions of this subsection
21 (e-5) would result in the loss of those federal-aid funds,
22 grants, or loans, then the contract is exempt from the
23 provisions of this Section in order to remain eligible for
24 those federal-aid funds, grants, or loans. For the
25 purposes of this subsection (e-5):

26 "Manager" means a person who controls or administers all

1 or part of a company or similar organization.

2 "Minorities" has the same meaning as "minority person"
3 under Section 2 of the Business Enterprise for Minorities,
4 Women, and Persons with Disabilities Act.

5 "Persons with disabilities" has the same meaning as
6 "person with a disability" under Section 2 of the Business
7 Enterprise for Minorities, Women, and Persons with
8 Disabilities Act.

9 "Senior executive" means the chief executive officer,
10 chief operating officer, chief financial officer, or anyone
11 else in charge of a principal business unit or function.

12 "Women" has the same meaning as "woman" under Section 2 of
13 the Business Enterprise for Minorities, Women, and Persons
14 with Disabilities Act.

15 (f) Discussion with responsible offerors and revisions of
16 offers or proposals. As provided in the request for proposals
17 and under rules, discussions may be conducted with responsible
18 offerors who submit offers or proposals determined to be
19 reasonably susceptible of being selected for award for the
20 purpose of clarifying and assuring full understanding of and
21 responsiveness to the solicitation requirements. Those
22 offerors shall be accorded fair and equal treatment with
23 respect to any opportunity for discussion and revision of
24 proposals. Revisions may be permitted after submission and
25 before award for the purpose of obtaining best and final
26 offers. In conducting discussions there shall be no disclosure

1 of any information derived from proposals submitted by
2 competing offerors. If information is disclosed to any
3 offeror, it shall be provided to all competing offerors.

4 (g) Award. Awards shall be made to the responsible offeror
5 whose proposal is determined in writing to be the most
6 advantageous to the State University, taking into
7 consideration price and the evaluation factors set forth in
8 the request for proposals. The contract file shall contain the
9 basis on which the award is made.

10 Section 20-17. Continuous improvement procurements.

11 (a) To promote broader inclusion of small, veteran-owned
12 and diverse firms, a State public institution of higher
13 education may request that certain procurements be designated
14 as continuous improvement procurements

15 (b) Once a procurement is designated as a continuous
16 improvement procurement, the State public university may
17 request additional responses from interested firms anytime a
18 solicitation has an option for renewal.

19 (c) Awarded respondents awarded during the initial
20 solicitation shall be awarded through the term of the award
21 unless self-electing to be removed from the award.

22 (d) A State public university shall use the same
23 evaluation criteria established at the initial publication for
24 all subsequent requests or resolicitations.

25 (e) Designation of continuous improvement procurement

1 shall be requested in writing by the University's State
2 Purchasing Officer in a form prescribed by the CPO.

3 Section 20-20. Small purchases.

4 (a) Amount. Any individual procurement of supplies or
5 services construction or any individual procurement of
6 professional or artistic services not exceeding the applicable
7 bid threshold may be made without competitive source
8 selection. Procurements shall not be artificially divided so
9 as to constitute a small purchase under this Section. Any
10 procurement of construction not exceeding the applicable bid
11 threshold may be made by an alternative competitive source
12 selection. The public university chief procurement officer
13 shall establish rules for an alternative competitive source
14 selection process for construction. 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. Applicable bid
24 thresholds as approved by the public university chief
25 procurement officer will be published on the Higher Education

1 Procurement Bulletin.

2 (c) Based upon rules proposed by the Board and rules
3 promulgated by the public university chief procurement
4 officer, the small purchase maximum established in subsection
5 (a) may be modified.

6 (d) Certification. All small purchases with an annual
7 value that exceeds the applicable bid threshold shall be
8 accompanied by Standard Illinois Certifications in a form
9 prescribed by the chief procurement officer.

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

15 Section 20-25. Sole source procurements.

16 (a) In accordance with standards set by rule, contracts
17 may be awarded without use of the specified method of source
18 selection when there is only one economically feasible source
19 for the item. A State University contract may be awarded as a
20 sole source award unless an interested party submits a written
21 request for a public hearing at which the public university
22 chief procurement officer and applicable public university
23 present written justification for the procurement method. Any
24 interested party may present testimony.

25 (b) This Section may not be used as a basis for amending a

1 contract for professional or artistic services if the
2 amendment would result in an increase in the amount paid under
3 the contract of more than 5% of the initial award, or would
4 extend the contract term beyond the time reasonably needed for
5 a competitive procurement, not to exceed 2 months.

6 (c) Notice of intent to enter into a sole source award
7 shall be provided to the Procurement Policy Board and the
8 Commission on Equity and Inclusion and published in the Higher
9 Education Procurement Bulletin at least 14 calendar days
10 before the public hearing required in subsection (a). The
11 notice shall include the sole source procurement justification
12 form prescribed by the Board, a description of the item to be
13 procured, the intended sole source contractor, and the date,
14 time, and location of the public hearing. A copy of the notice
15 and all documents provided at the hearing shall be included in
16 the subsequent posting on the Higher Education Procurement
17 Bulletin.

18 (d) A sole source award where a hearing was requested by an
19 interested party, may be awarded after the hearing is
20 conducted with the approval of the public university chief
21 procurement officer,

22 (e) By August 1 each year, each chief procurement officer
23 shall file a report with the General Assembly identifying each
24 contract the officer sought under the sole source procurement
25 method and providing the justification given for seeking sole
26 source as the procurement method for each of those contracts.

1 Section 20-30. Emergency purchases.

2 (a) Conditions for use. In accordance with standards set
3 by rule, a purchasing public university may make emergency
4 procurements without competitive sealed bidding or prior
5 notice when there exists a threat to public health or public
6 safety, or when immediate expenditure is necessary for repairs
7 to State or University property in order to protect against
8 further loss of or damage to State or University property, to
9 prevent or minimize serious disruption in critical State or
10 University services that affect health, safety, or collection
11 of substantial State or University revenues, or to ensure the
12 integrity of State or University records; provided, however,
13 that the term of the emergency purchase shall be limited to the
14 time reasonably needed for a competitive procurement, not to
15 exceed 90 calendar days. A contract may be extended beyond 90
16 calendar days with the approval of the public university chief
17 procurement officer. Prior to execution of the extension, the
18 public university chief procurement officer shall receive
19 written justification for the extension. The duration of the
20 extension shall be limited to the scope of the emergency.
21 Emergency procurements shall be made with as much competition
22 as is practicable under the circumstances, and agencies shall
23 use best efforts to include contractors certified under the
24 Business Enterprise Program in the agencies' emergency
25 procurement process. A written description of the basis for

1 the emergency and reasons for the selection of the particular
2 contractor shall be included in the contract file.

3 (b) Notice. Notice of all emergency procurements shall be
4 provided to the Procurement Policy Board and the Commission on
5 Equity and Inclusion and published in the Higher Education
6 Procurement Bulletin no later than 5 calendar days after the
7 contract is awarded. Notice of the extension of an emergency
8 contract shall be provided to the Procurement Policy Board and
9 the Commission on Equity and Inclusion and published in the
10 Higher Education Procurement Bulletin no later than 7 calendar
11 days after the extension is executed. Notice shall include at
12 least a description of the need for the emergency purchase and
13 the contractor. A copy of this notice shall be included in the
14 subsequent Higher Education Procurement Bulletin. The public
15 university shall publish in the Higher Education Procurement
16 Bulletin a copy of each written description and reasons and
17 the total cost of each emergency procurement made during the
18 previous month. When only an estimate of the total cost is
19 known at the time of publication, the estimate shall be
20 identified as an estimate and published. When the actual total
21 cost is determined, it shall also be published in like manner
22 before the 10th day of the next succeeding month.

23 (c) Statements. A chief procurement officer authorizing a
24 procurement under this Section shall publish statements &
25 awards on the Higher Education Procurement Bulletin and
26 publicly available for the Legislative Audit Commission, and

1 the Commission on Equity and Inclusion, and the Procurement
2 Policy Board, within 10 calendar days after the procurement
3 setting forth the amount expended, the name of the contractor
4 involved, and the conditions and circumstances requiring the
5 emergency procurement. When only an estimate of the cost is
6 available within 10 calendar days after the procurement, the
7 actual cost shall be reported immediately after it is
8 determined. At the end of each fiscal quarter, the Auditor
9 General shall file with the Legislative Audit Commission and
10 the Governor a complete listing of all emergency procurements
11 reported during that fiscal quarter. The Legislative Audit
12 Commission shall review the emergency procurements so reported
13 and, in its annual reports, advise the General Assembly of
14 procurements that appear to constitute an abuse of this
15 Section.

16 (d) Quick purchases. The public university chief
17 procurement officer may promulgate rules extending the
18 circumstances by which a public university may make purchases
19 under this Section, including, but not limited to, the
20 procurement of items available at a discount for a limited
21 period of time.

22 (d-5) The public university chief procurement officer
23 shall adopt rules regarding the use of contractors certified
24 in the Business Enterprise Program in emergency and quick
25 purchase procurements.

1 Section 20-35. Competitive selection procedures.

2 (a) Conditions for use. The services specified in Article
3 35 shall be procured in accordance with this Section, except
4 as authorized under Sections 20-25 and 20-30 of this Article.

5 (b) Statement of qualifications. Respondents shall submit
6 statements of qualifications and expressions of interest. The
7 public university chief procurement officer shall specify a
8 uniform format for statements of qualifications. Persons may
9 amend these statements at any time by filing a new statement.

10 (c) Public announcement and form of request for proposals.
11 Public notice of the need for the procurement shall be given in
12 the form of a request for proposals and published in the Higher
13 Education Procurement Bulletin at least 14 calendar days
14 before the date set in the request for proposals for the
15 opening of proposals. The request for proposals shall describe
16 the services required, list the type of information and data
17 required of each respondent, and state the relative importance
18 of particular qualifications.

19 (d) Discussions. The public university may conduct
20 discussions with any respondent who has submitted a response
21 to determine the respondent's qualifications for further
22 consideration. Discussions shall not disclose any information
23 derived from proposals submitted by other respondents.

24 (e) Award. Award shall be made to the respondent
25 determined in writing by the public university to be best
26 qualified based on the evaluation factors set forth in the

1 request for proposals and negotiation of compensation
2 determined to be fair and reasonable.

3 Section 20-40. Cancellation of invitations for bids or
4 requests for proposals. An invitation for bids, a request for
5 proposals, or any other solicitation may be cancelled without
6 penalty, or any and all bids, offers, proposals, or any other
7 solicitation may be rejected in whole or in part as may be
8 specified in the solicitation, when it is in the best
9 interests of the State or public university in accordance with
10 rules. The reasons for cancellation or rejection shall be made
11 part of the contract file.

12 Section 20-43. Bidder or offeror authorized to transact
13 business or conduct affairs in Illinois. In addition to
14 meeting any other requirement of law or rule, a person (other
15 than an individual acting as a sole proprietor) may qualify as
16 a bidder or offeror under this Code only if the person is a
17 legal entity prior to submitting the bid, offer, or proposal.
18 The legal entity must be authorized to transact business or
19 conduct affairs in Illinois prior to execution of the
20 contract, as registered with the Illinois Office of the
21 Secretary of State. This Section shall not apply to
22 construction contracts that are subject to the requirements of
23 Sections 30-20 and 33-10 of this Code. The prequalification
24 requirements of Sections 30-20 and 33-10 of this Code shall

1 include the requirement that the bidder be registered with the
2 Secretary of State.

3 Section 20-45. Prequalification of suppliers. The public
4 university chief procurement officer shall promulgate rules
5 for the development of a vendor prequalification process.
6 Information regarding the vendor prequalification process
7 shall be posted on the Higher Education Procurement Bulletin.

8 Section 20-50. Specifications. Specifications shall be
9 prepared in accordance with consistent standards that are
10 promulgated by the public university chief procurement officer
11 and reviewed by the Board and the Joint Committee on
12 Administrative Rules. Those standards shall include a
13 prohibition against the use of brand-name only products,
14 except for products intended for retail sale or as specified
15 by rule. All specifications shall seek to promote overall
16 economy for the purposes intended and encourage competition in
17 satisfying the State's needs and shall not be unduly
18 restrictive.

19 A specification within a public solicitation may not
20 require, suggest, or encourage any financial contribution or
21 any prohibited conduct as an explicit or implied term or
22 condition for awarding or completing the contract. The
23 solicitation, or specification also may not include a
24 requirement that any individual employed by a public

1 university receive a consulting contract for professional
2 services.

3 Section 20-55. Types of contracts. Subject to the
4 limitations of this Section and unless otherwise authorized by
5 law, any type of contract that will promote the best interests
6 of the State or the public universities may be used, except
7 that cost-plus-a-percentage-of-cost contracts are prohibited.
8 A cost-reimbursement contract may be used only when a
9 determination is made in writing that a cost-reimbursement
10 contract is likely to be less costly to the State University
11 than any other type or that it is impracticable to obtain the
12 item required except under that type of contract. The general
13 form of contracts shall be determined by the public university
14 chief procurement officer.

15 Section 20-57. Software licensing contracts. A contract
16 entered into by a public university for the licensing of
17 software applications designed to run on generally available
18 desktop or server hardware may not limit the public
19 university's ability to install or run the software on any of
20 the public university's hardware.

21 Section 20-60. Duration of contracts.

22 (a) Maximum duration. A contract may be entered into for
23 any period of time deemed to be in the best interests of the

1 State public universities but not exceeding 10 years inclusive
2 of proposed contract renewals; provided, however, in
3 connection with the issuance of certificates of participation
4 or bonds, the governing board of a public institution of
5 higher education may enter into contracts in excess of 10
6 years but not to exceed 30 years for the purpose of financing
7 or refinancing real or personal property. Third parties may
8 lease State-owned dark fiber networks for any period of time
9 deemed to be in the best interest of the State, but not
10 exceeding 20 years. The length of a lease for real property or
11 capital improvements shall be in accordance with the
12 provisions of Section 40-25. The length of energy conservation
13 program contracts or energy savings contracts or leases shall
14 be in accordance with the provisions of Section 25-45.

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

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

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

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

3 (d) No vendor shall be eligible for renewal of a contract
4 when that vendor has failed to meet the goals agreed to in the
5 vendor's utilization plan, as defined in Section 2 of the
6 Business Enterprise for Minorities, Women, and Persons with
7 Disabilities Act, unless the State public university or public
8 institution of higher education has determined that the vendor
9 made good faith efforts toward meeting the contract goals. If
10 the State public university determines that the vendor made
11 good faith efforts, the public university may issue a waiver
12 after concurrence by the public university chief procurement
13 officer, which shall not be unreasonably withheld or impair a
14 State public university to execute the renewal. The form and
15 content of the waiver shall be prescribed by the public
16 university chief procurement officer, but shall not impair a
17 State public university determination to execute the renewal.
18 The public university chief procurement officer shall post the
19 completed form on the public university chief procurement
20 officer's web page within 5 business days after receipt from
21 the State public university. The public university chief
22 procurement officer shall maintain on their official website a
23 database of waivers granted under this Section with respect to
24 contracts under their jurisdiction. The database shall be
25 updated periodically and shall be searchable by contractor
26 name and by the applicable contracting State public

1 university.

2 The public university chief procurement officer is the
3 final authority to publish an award that is in the best
4 interest of a public university, as recommended by the State
5 Procurement Officer.

6 Section 20-65. Right to audit records.

7 (a) Maintenance of books and records. Every contract and
8 subcontract shall require the contractor or subcontractor, as
9 applicable, to maintain books and records relating to the
10 performance of the contract or subcontract and necessary to
11 support amounts charged to the State University under the
12 contract or subcontract. The books and records shall be
13 maintained by the contractor for a period of 3 years from the
14 later of the date of final payment under the contract or
15 completion of the contract and by the subcontractor for a
16 period of 3 years from the later of the date of final payment
17 under the subcontract or completion of the subcontract.
18 However, the 3-year period shall be extended for the duration
19 of any audit in progress at the time of that period's
20 expiration.

21 (b) Audit. Every contract and subcontract shall provide
22 that all books and records required to be maintained under
23 subsection (a) shall be available for review and audit by the
24 Auditor General, public university chief procurement officer,
25 internal auditor, and the public university. Every contract

1 and subcontract shall require the contractor and
2 subcontractor, as applicable, to cooperate fully with any
3 audit.

4 (c) Failure to maintain books and records. Failure to
5 maintain the books and records required by this Section shall
6 establish a presumption in favor of the State University for
7 the recovery of any funds paid by the State University for
8 which required books and records are not available.

9 Section 20-70. Finality of determinations. Except as
10 otherwise provided in this Code, determinations made by the
11 public university chief procurement officer, State purchasing
12 officer, or a public university under this Code are final and
13 conclusive unless they are clearly erroneous, arbitrary,
14 capricious, or contrary to law.

15 Section 20-75. Disputes and protests. The public
16 university chief procurement officer shall by rule establish
17 procedures to be followed in resolving protested solicitations
18 and awards and contract controversies, for debarment or
19 suspension of contractors, and for resolving other
20 procurement-related disputes. At a minimum, the established
21 procedures must include the requirement that the chief
22 procurement officer resolve the protest by means of a written
23 determination within 30 days of receiving all relevant
24 requested information, unless an action concerning the protest

1 has commenced in a court or administrative body, in which
2 case, the chief procurement officer may defer resolution of
3 the protest pending the judicial or administrative proceeding.
4 The written determination shall be supplied to each party
5 involved and published in the Higher Education bulletin within
6 14 days of determination.

7 Section 20-80. Contract files.

8 (a) Written determinations. All written determinations
9 required under this Article shall be placed in the contract
10 file maintained by the public university chief procurement
11 officer. The official contract file will be maintained and
12 located at the applicable campus procurement office for each
13 public university.

14 (b) Filing with Comptroller. Whenever a grant, defined
15 pursuant to accounting standards established by the
16 Comptroller, or a contract liability, except for: (1)
17 contracts paid from personal services, (2) contracts between
18 the State University and its employees to defer compensation
19 in accordance with Article 24 of the Illinois Pension Code, or
20 (3) contracts or grants that do not obligate funds held within
21 the State treasury exceeding in excess of the applicable bid
22 threshold is incurred by any State public university, a copy
23 of the contract, purchase order, grant, or lease shall be
24 filed with the Comptroller within 30 calendar days thereafter.
25 Information pertaining to contracts or grants exceeding the

1 applicable bid threshold that do not obligate funds held
2 within the State treasury shall be submitted in a quarterly
3 report to the Comptroller in a form and manner prescribed by
4 the Comptroller. The Comptroller shall make the quarterly
5 report available on his or her website.

6 (c) Late filing affidavit. When a contract, purchase
7 order, grant, or lease required to be filed by this Section has
8 not been filed within 30 calendar days of execution, the
9 Comptroller shall refuse to issue a warrant for payment
10 thereunder until the public university files with the
11 Comptroller the contract, purchase order, grant, or lease and
12 an affidavit, signed by the applicable public university
13 President or their designee, setting forth an explanation of
14 why the contract liability was not filed within 30 calendar
15 days of execution. A copy of this affidavit shall be filed with
16 the Auditor General.

17 (d) Timely execution of contracts. Except as set forth in
18 subsection (b) of this Section, no voucher shall be submitted
19 to the Comptroller for a warrant to be drawn for the payment of
20 money from the State treasury or from other funds held by the
21 State Treasurer on account of any contract unless the contract
22 is reduced to writing before the services are performed and
23 filed with the Comptroller. Contractors shall not be paid for
24 any supplies that were received or services that were rendered
25 before the contract was reduced to writing and signed by all
26 necessary parties. The public university chief procurement

1 officer may approve an exception to this subsection by
2 submitting a written statement to the Comptroller setting
3 forth the circumstances and reasons why the contract could not
4 be reduced to writing before the supplies were received or
5 services were performed. This Section shall not apply to
6 emergency purchases if notice of the emergency purchase is
7 filed with the Procurement Policy Board and published in the
8 Higher Education Procurement Bulletin as required by this
9 Code.

10 (e) Method of source selection. When a contract is filed
11 with the Comptroller under this Section, the Comptroller's
12 file shall identify the method of source selection used in
13 obtaining the contract.

14 Section 20-85. Federal requirements. A State public
15 university receiving federal-aid funds, grants, or loans shall
16 have authority to adopt its procedures, rules, project
17 statements, drawings, maps, surveys, plans, specifications,
18 contract terms, estimates, bid forms, bond forms, and other
19 documents or practices to comply with the regulations,
20 policies, and procedures of the designated authority,
21 administration, or department of the United States, in order
22 to remain eligible for such federal-aid funds, grants, or
23 loans.

24 Section 20-90. Foreign country procurements. Procurements

1 to meet the needs of State University offices located in
2 foreign countries shall comply with the provisions of this
3 Code to the extent practical.

4 Section 20-95. Donations. Nothing in this Code or in the
5 rules promulgated under this Code shall prevent any State
6 public university from complying with the terms and conditions
7 of any grant, gift, or bequest that calls for the procurement
8 of a particular good or service or the use of a particular
9 vendor, provided that the grant, gift, or bequest provides
10 majority funding for the contract.

11 Section 20-105. State public university printing. This
12 Section does not apply to the printing by a public institution
13 of higher education of material not paid for in any portion
14 from funds appropriated by the General Assembly, printing that
15 is performed by a university unit, or printing that is
16 performed in conjunction with contracts referenced in
17 subsection (b) (1) of Section 1-10.

18 All books, pamphlets, documents, and reports published
19 through or by the State of Illinois or any State public
20 university, board, or commission shall have printed thereon
21 "Printed by authority of the State of Illinois", the date of
22 each publication, the number of copies printed, and the
23 printing order number. Each using public university shall be
24 responsible for ascertaining the compliance of printing

1 materials procured by or for it with this Section. No printing
2 or reproduction contract shall be let and no printing or
3 reproduction shall be accomplished when that wording does not
4 appear on the material to be printed or reproduced. No
5 publication may have written, stamped, or printed on it, or
6 attached to it, "Compliments of (naming a person)" or
7 any words of similar import.

8 Section 20-110. Printing cost offsets. The public
9 university chief procurement officer may promulgate rules
10 permitting the exchange of advertising rights in or receipt of
11 free copies of printed products procured under this Article as
12 a means of reducing printing costs. The rules shall specify
13 the appropriate method of source selection to be used to
14 competitively acquire printing cost offsets.

15 Section 20-120. Subcontractors. (a) Any contract
16 granted under this Code shall state whether the services of a
17 subcontractor will be used. The contract shall include the
18 names and addresses of all known subcontractors with
19 subcontracts with an annual value that exceeds the small
20 purchase maximum established by Section 20-20 of this Code,
21 the general type of work to be performed by these
22 subcontractors, and the expected amount of money each will
23 receive under the contract. Upon the request of the public
24 university chief procurement officer, the contractor shall

1 provide the public university chief procurement officer a copy
2 of a subcontract so identified within 15 calendar days after
3 the request is made. A subcontractor, or contractor on behalf
4 of a subcontractor, may identify information that is deemed
5 proprietary or confidential. If the public university chief
6 procurement officer determines the information is not relevant
7 to the primary contract, the public university chief
8 procurement officer may excuse the inclusion of the
9 information. If the chief procurement officer determines the
10 information is proprietary or could harm the business interest
11 of the subcontractor, the chief procurement officer may, in
12 his or her discretion, redact the information. Redacted
13 information shall not become part of the public record.

14 (b) If at any time during the term of a contract, a
15 contractor adds or changes any subcontractors, he or she shall
16 promptly notify, in writing, the public university chief
17 procurement officer, State purchasing officer, or their
18 designee of the names and addresses of each new or replaced
19 subcontractor and the general type of work to be performed.
20 Upon the request of the chief procurement officer appointed
21 pursuant to paragraph (2) of subsection (a) of Section 10-20,
22 the contractor shall provide the chief procurement officer a
23 copy of any new or amended subcontract so identified within 15
24 calendar days after the request is made.

25 (c) In addition to any other requirements of this Code, a
26 subcontract subject to this Section must include all of the

1 subcontractor's certifications required by Article 50 of this
2 Code.

3 Section 20-155. Solicitation and contract documents.

4 (a) The public university chief procurement officer
5 appointed pursuant to Section 10-20 shall have the sole
6 authority in their respective jurisdiction to develop and
7 distribute uniform documents for the solicitation, review, and
8 acceptance of all bids, offers, and responses and the award of
9 contracts pursuant to this Code. If a chief procurement
10 officer appointed pursuant to Section 10-20 exercises the
11 authority to develop and distribute uniform documents for the
12 solicitation, review and acceptance of all bids, offers and
13 responses and the award of contracts, then the State public
14 university shall use the uniform documents.

15 (b) After award of a contract and subject to provisions of
16 the Freedom of Information Act, the procuring public
17 university shall make available for public inspection and
18 copying all pre-award, post-award, administration, and
19 close-out documents relating to that particular contract.

20 (c) A procurement file shall be maintained for all
21 contracts, regardless of the method of procurement. The
22 procurement file shall contain the basis on which the award is
23 made, all submitted bids and proposals, all evaluation
24 materials, score sheets and all other documentation related to
25 or prepared in conjunction with evaluation, negotiation, and

1 the award process. The procurement file shall contain a
2 written determination, approved by the chief procurement
3 officer or State purchasing officer, setting forth the
4 reasoning for the contract award decision. The procurement
5 file shall not include trade secrets or other competitively
6 sensitive, confidential, or proprietary information. The
7 procurement file shall be open to public inspection within 7
8 calendar days following award of the contract. The procurement
9 file may be maintained electronically, and if so, the
10 applicable university must comply with their records retention
11 practices. Any procurement documents related to the
12 evaluation, negotiation and award process must be maintained
13 for audit and inspection regardless of paper or electronic
14 format.

15 Section 20-160. Business entities; certification;
16 registration with the State Board of Elections.

17 (a) For purposes of this Section, the terms "business
18 entity", "contract", "State contract", "contract with a State
19 public university", "State public university", "affiliated
20 entity", and "affiliated person" have the meanings ascribed to
21 those terms in Section 50-37.

22 (b) Every bid and offer submitted to and every contract
23 executed by a State University and every submission to a
24 vendor portal shall contain (1) a certification by the bidder,
25 offeror, vendor, or contractor that either (i) the bidder,

1 offeror, vendor, or contractor is not required to register as
2 a business entity with the State Board of Elections pursuant
3 to this Section or (ii) the bidder, offeror, vendor, or
4 contractor has registered as a business entity with the State
5 Board of Elections and acknowledges a continuing duty to
6 update the registration and (2) a statement that the contract
7 is voidable under Section 50-60 for the bidder's, offeror's,
8 vendor's, or contractor's failure to comply with this Section.

9 (c) Each business entity (i) whose aggregate pending bids
10 and proposals on State contracts total more than the
11 applicable bid threshold (ii) whose aggregate pending bids and
12 proposals on State contracts combined with the business
13 entity's aggregate total value of State contracts exceed the
14 applicable bid threshold, or (iii) whose contracts with State
15 agencies, in the aggregate, total more than \$50,000 shall
16 register with the State Board of Elections in accordance with
17 Section 9-35 of the Election Code. A business entity required
18 to register under this subsection due to item (i) or (ii) has a
19 continuing duty to ensure that the registration is accurate
20 during the period beginning on the date of registration and
21 ending on the day after the date the contract is awarded; any
22 change in information must be reported to the State Board of
23 Elections 5 business days following such change or no later
24 than a day before the contract is awarded, whichever date is
25 earlier. A business entity required to register under this
26 subsection due to item (iii) has a continuing duty to ensure

1 that the registration is accurate in accordance with
2 subsection (e).

3 (d) Any business entity, not required under subsection (c)
4 to register, whose aggregate pending bids and proposals on
5 State contracts total more than \$50,000, or whose aggregate
6 pending bids and proposals on State contracts combined with
7 the business entity's aggregate total value of State contracts
8 exceed \$50,000, shall register with the State Board of
9 Elections in accordance with Section 9-35 of the Election Code
10 prior to submitting to a State public university the bid or
11 proposal whose value causes the business entity to fall within
12 the monetary description of this subsection. A business entity
13 required to register under this subsection has a continuing
14 duty to ensure that the registration is accurate during the
15 period beginning on the date of registration and ending on the
16 day after the date the contract is awarded. Any change in
17 information must be reported to the State Board of Elections
18 within 5 business days following such change or no later than a
19 day before the contract is awarded, whichever date is earlier.

20 (e) A business entity whose contracts with State agencies,
21 in the aggregate, total more than \$50,000 must maintain its
22 registration under this Section and has a continuing duty to
23 ensure that the registration is accurate for the duration of
24 the term of office of the incumbent officeholder awarding the
25 contracts or for a period of 2 years following the expiration
26 or termination of the contracts, whichever is longer. A

1 business entity, required to register under this subsection,
2 has a continuing duty to report any changes on a quarterly
3 basis to the State Board of Elections within 14 calendar days
4 following the last day of January, April, July, and October of
5 each year. Any update pursuant to this paragraph that is
6 received beyond that date is presumed late and the civil
7 penalty authorized by subsection (e) of Section 9-35 of the
8 Election Code may be assessed.

9 Also, if a business entity required to register under this
10 subsection has a pending bid or offer, any change in
11 information shall be reported to the State Board of Elections
12 within 7 calendar days following such change or no later than a
13 day before the contract is awarded, whichever date is earlier.

14 (f) A business entity's continuing duty under this Section
15 to ensure the accuracy of its registration includes the
16 requirement that the business entity notify the State Board of
17 Elections of any change in information, including, but not
18 limited to, changes of affiliated entities or affiliated
19 persons.

20 (g) For any bid or offer for a contract with a State public
21 university by a business entity required to register under
22 this Section, the public university chief procurement officer
23 shall verify that the business entity is required to register
24 under this Section and is in compliance with the registration
25 requirements on the date the bid or offer is due. A chief
26 procurement officer shall not accept a bid or offer if the

1 business entity is not in compliance with the registration
2 requirements as of the date bids or offers are due. Upon
3 discovery of noncompliance with this Section, if the bidder or
4 offeror made a good faith effort to comply with registration
5 efforts prior to the date the bid or offer is due, a chief
6 procurement officer may provide the bidder or offeror 5
7 business days to achieve compliance. A chief procurement
8 officer may extend the time to prove compliance by as long as
9 necessary in the event that there is a failure within the State
10 Board of Elections' registration system.

11 (h) A registration, and any changes to a registration,
12 must include the business entity's verification of accuracy
13 and subjects the business entity to the penalties of the laws
14 of this State for perjury.

15 In addition to any penalty under Section 9-35 of the
16 Election Code, intentional, willful, or material failure to
17 disclose information required for registration shall render
18 the contract, bid, offer, or other procurement relationship
19 voidable by the chief procurement officer if he or she deems it
20 to be in the best interest of the State of Illinois.

21 (i) This Section applies regardless of the method of
22 source selection used in awarding the contract.

23 Section 20-165. Compliance with Transportation
24 Sustainability Procurement Program Act. When procuring
25 freight, small package delivery, and other forms of cargo

1 shipping and transportation services, appropriate weight shall
2 be given to the requirements of the Transportation
3 Sustainability Procurement Program Act.

4 Section 20-180. Electronic procurement systems. Nothing in
5 this Code prohibits State public universities from accepting
6 bids or proposals for competitive solicitations submitted
7 solely via an electronic procurement system as long as the
8 electronic system integrates with the Higher Education
9 Procurement Bulletin and all other provisions of this Code are
10 met. A State University may not adopt a rule that prohibits a
11 State University from accepting bids or proposals for
12 competitive solicitations submitted solely via an electronic
13 procurement system as long as the electronic procurement
14 system integrates with the Higher Education Procurement
15 Bulletin and all other provisions of this Code are met.

16 ARTICLE 25

17 SUPPLIES AND SERVICES (EXCLUDING PROFESSIONAL OR ARTISTIC)

18 Section 25-5. Applicability. All contracts for supplies
19 and services, excluding professional or artistic services,
20 shall be procured in accordance with the provisions of this
21 Article.

22 Section 25-10. Authority. State purchasing officers shall

1 have the authority to procure supplies and services, except as
2 that authority may be limited by the public University chief
3 procurement officer.

4 Section 25-15. Method of source selection.

5 (a) Competitive sealed bidding. Except as provided in
6 subsection (b) and Sections 20-20, 20-25, and 20-30, all
7 University contracts for supplies and services shall be
8 awarded by competitive sealed bidding in accordance with
9 Section 20-10.

10 (b) Other methods. The public university chief procurement
11 officer may establish by rule (i) categories of purchases,
12 including non-governmental joint purchases, that may be made
13 without competitive sealed bidding and (ii) the most
14 competitive alternate method of source selection that shall be
15 used for each category of purchase. This Section applies to
16 utilization of awards from cooperatives, where the
17 Universities are a member and the cooperative awards were
18 procured publicly. Such awards must be adopted by the public
19 university chief procurement officer, or a designee and posted
20 on the Higher Education Procurement Bulletin.

21 Section 25-30. More favorable terms. A supply or service
22 contract may include, if determined by a State purchasing
23 officer to be in the best interests of the State University, a
24 clause requiring that if more favorable terms are granted by

1 the contractor to any similar University, state or local
2 governmental public university in any state in a
3 contemporaneous agreement let under the same or similar
4 financial terms and circumstances for comparable supplies or
5 services, the more favorable terms shall be applicable under
6 the contract.

7 Section 25-45. Energy conservation program contracts;
8 energy savings contracts or leases.

9 (a) For the purposes of this Section, "energy savings
10 contract or lease" means a contract or lease for an
11 improvement, repair, alteration, betterment, equipment,
12 fixture, or furnishing that is designed to reduce energy
13 consumption or operating costs, and that includes an agreement
14 that payments, except obligations on termination of the
15 contract or lease before its expiration, shall be made over
16 time and that savings are guaranteed to the extent practicable
17 to pay for the cost of the improvement, repair, alteration,
18 betterment, equipment, fixture, or furnishing.

19 (b) State purchasing officers may enter into energy
20 conservation program contracts or energy savings contracts or
21 leases that provide for utility cost savings. Notwithstanding
22 any other law to the contrary, energy savings contracts or
23 leases may include an alternative financing or lease to
24 purchase option.

25 (c) Energy conservation program contracts or energy

1 savings contracts and leases may be entered into for a period
2 of time deemed to be in the best interest of the State
3 University but not exceeding 15 years inclusive of proposed
4 contract or lease renewals.

5 (d) The public university chief procurement officer shall
6 promulgate and adopt rules for the implementation of this
7 Section.

8 Section 25-47. Renewable energy resources contracts or
9 leases. State purchasing officers or a State University may
10 enter into renewable energy resources contracts and leases for
11 a period of time deemed to be in the best interest of the
12 State, but not exceeding 25 years inclusive of proposed
13 contract or lease renewals. For the purposes of this Section,
14 "renewable energy resources" has the meaning ascribed to that
15 term in Section 1-10 of the Illinois Power Public University
16 Act.

17 Section 25-60. Prevailing wage requirements.

18 (a) All contracts for services shall be subject to the
19 Prevailing Wage Act.

20 (1) Not less than the general prevailing wage rate of
21 hourly wages for work of a similar character in the
22 locality in which the work is produced shall be paid by the
23 successful bidder, offeror, or potential contractor to its
24 employees who perform the work on the State University

1 contracts. The bidder, offeror, potential contractor, or
2 contractor in order to be considered to be a responsible
3 bidder, offeror, potential contractor, or contractor for
4 the purposes of this Code, shall certify to the public
5 university that wages to be paid to its employees are no
6 less, and fringe benefits and working conditions of
7 employees are not less favorable, than those prevailing in
8 the locality where the contract is to be performed.
9 Prevailing wages and working conditions shall be
10 determined by the Director of Labor.

11 (2) Whenever a collective bargaining agreement is in
12 effect between an employer, other than a governmental
13 body, and service or printing employees as defined in this
14 Section who are represented by a responsible organization
15 that is in no way influenced or controlled by the
16 management, that agreement and its provisions shall be
17 considered as conditions prevalent in that locality and
18 shall be the minimum requirements taken into consideration
19 by the Director of Labor.

20 (b) As used in this Section, "services" means janitorial
21 cleaning services, window cleaning services, building and
22 grounds services, site technician services, natural resources
23 services, food services, and security services. "Printing"
24 means and includes all processes and operations involved in
25 printing, including, but not limited to, letterpress, offset,
26 and gravure processes, the multilith method, photographic or

1 other duplicating process, the operations of composition,
2 platemaking, presswork, and binding, and the end products of
3 those processes, methods, and operations. As used in this Code
4 "printing" does not include photocopiers used in the course of
5 normal business activities, photographic equipment used for
6 geographic mapping, or printed matter that is commonly
7 available to the general public from contractor inventory.

8 (c) The terms "general prevailing rate of hourly wages",
9 "general prevailing rate of wages", or "prevailing rate of
10 wages" when used in this Section mean the hourly cash wages
11 plus fringe benefits for health and welfare, insurance,
12 vacations, and pensions paid generally, in the locality in
13 which the work is being performed, to employees engaged in
14 work of a similar character.

15 (d) "Locality" shall have the meaning established by rule.

16 (e) This Section does not apply to services furnished
17 under contracts for professional or artistic services.

18 (f) This Section does not apply to vocational programs of
19 training for persons with physical or mental disabilities or
20 to sheltered workshops for persons with severe disabilities.

21 Section 25-65. Contracts performed outside the United
22 States. Prior to contracting or as a requirement of
23 solicitation of any University contracts for services as
24 defined in Section 1-15, whichever is appropriate, potential
25 contractors shall disclose in a statement of work where

1 services will be performed under that contract, including any
2 subcontracts, and whether any services under that contract,
3 including any subcontracts, are anticipated to be performed
4 outside the United States.

5 In awarding the contract or evaluating the bid or offer,
6 the public university chief procurement officer may consider
7 such disclosure and the economic impact to the State of
8 Illinois and its residents.

9 If the public university chief procurement officer awards
10 a contract to a vendor based upon disclosure that work will be
11 performed in the United States and during the term of the
12 contract the contractor or a subcontractor proceeds to shift
13 work outside of the United States, the contractor shall be
14 deemed in breach of contract, unless the public university
15 chief procurement officer shall have first determined in
16 writing that circumstances require the shift of work or that
17 termination of the contract would not be in the State's best
18 interest.

19 Nothing in this Section is intended to contravene any
20 existing treaty, law, agreement, or regulation of the United
21 States.

22 Section 25-70. Electronic mail service; spam free.
23 Electronic mail service providers that provide electronic mail
24 service under State contracts awarded on or after the
25 effective date of this Code must take measures reasonably

1 designed to provide a service that is free of unsolicited
2 electronic mail advertisements (sometimes known as "spam").
3 The electronic mail service provider is responsible for using
4 software filters or other means to accomplish the requirements
5 of this Section. In this Section, the terms "electronic mail
6 service provider" and "unsolicited electronic mail
7 advertisement" have the same meanings as those terms are
8 defined in the Electronic Mail Act.

9 Section 25-75. Purchase of motor vehicles.

10 (a) All gasoline-powered vehicles purchased from State
11 funds must be flexible fuel vehicles or fuel efficient hybrid
12 vehicles. For purposes of this Section, "flexible fuel
13 vehicles" are automobiles or light trucks that operate on
14 either gasoline or E-85 (85% ethanol, 15% gasoline) fuel and
15 "Fuel efficient hybrid vehicles" are automobiles or light
16 trucks that use a gasoline or diesel engine and an electric
17 motor to provide power and gain at least a 20% increase in
18 combined US-EPA city-highway fuel economy over the equivalent
19 or most-similar conventionally-powered model.

20 (b) On and after the effective date of this Code, any
21 vehicle purchased from State funds that is fueled by diesel
22 fuel shall be certified by the manufacturer to run on 5%
23 biodiesel (B5) fuel.

24 (b-5) 15% of passenger vehicles, purchased with State
25 funds shall be vehicles fueled by electricity, electricity and

1 gasohol (hybrids or plug-in hybrids), compressed natural gas,
2 liquid petroleum gas, or liquid natural gas, including
3 dedicated or non-dedicated fuel type vehicles.

4 (c) The public university chief procurement officer may
5 determine that certain vehicle procurements are exempt from
6 this Section based on intended use or other reasonable
7 considerations such as health and safety of Illinois citizens.

8 Section 25-80. Successor contractor. All service contracts
9 shall include a clause requiring the bidder or offeror, in
10 order to be considered a responsible bidder or offeror for the
11 purposes of this Code, to certify to the public university (i)
12 that it shall offer to assume the collective bargaining
13 obligations of the prior employer, including any existing
14 collective bargaining agreement with the bargaining
15 representative of any existing collective bargaining unit or
16 units performing substantially similar work to the services
17 covered by the contract subject to its bid or offer, and (ii)
18 that it shall offer employment to all employees currently
19 employed in any existing bargaining unit performing
20 substantially similar work that will be performed by the
21 successor vendor.

22 This Section does not apply to heating and air
23 conditioning service contracts, plumbing service contracts,
24 and electrical service contracts.

1 shall be procured by competitive sealed bidding in accordance
2 with Section 20-10.

3 (b) Construction-related professional services. All
4 construction-related professional services contracts shall be
5 awarded in accordance with the provisions of the
6 Architectural, Engineering, and Land Surveying Qualifications
7 Based Selection Act. "Professional services" means those
8 services within the scope of the practice of architecture,
9 professional engineering, structural engineering, or
10 registered land surveying, as defined by the laws of this
11 State.

12 Section 30-17. Job order contracting.

13 (a) In this Section:

14 "Indefinite quantity contract" means a contract for an
15 indefinite quantity of services for a fixed time or for a job
16 order contract.

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

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

1 Section 30-22. Construction contracts; responsible bidder
2 requirements. To be considered a responsible bidder on a
3 construction contract for purposes of this Code, a bidder must
4 comply with all of the following requirements and must present
5 satisfactory evidence of that compliance to the appropriate
6 construction agency/public university:

7 (1) The bidder must comply with all applicable laws
8 concerning the bidder's entitlement to conduct business in
9 Illinois.

10 (2) The bidder must comply with all applicable
11 provisions of the Prevailing Wage Act.

12 (3) The bidder must comply with Subchapter VI ("Equal
13 Employment Opportunities") of Chapter 21 of Title 42 of
14 the United States Code (42 U.S.C. 2000e and following) and
15 with federal Executive Order No. 11246 as amended by
16 Executive Order No. 11375.

17 (4) The bidder must have a valid federal Employer
18 Identification Number or, if an individual, a valid Social
19 Security Number.

20 (5) The bidder must have a valid certificate of
21 insurance showing the following coverages: general
22 liability, professional liability, product liability,
23 workers' compensation, completed operations, hazardous
24 occupation, and automobile.

25 (6) The bidder and all bidder's subcontractors must
26 participate in applicable apprenticeship and training

1 programs approved by and registered with the United States
2 Department of Labor's Bureau of Apprenticeship and
3 Training.

4 (7) The bidder must certify that the bidder will
5 maintain an Illinois office as the primary place of
6 employment for persons employed in the construction
7 authorized by the contract.

8 The provisions of this Section shall not apply to
9 federally funded construction projects if such application
10 would jeopardize the receipt or use of federal funds in
11 support of such a project.

12 Section 30-25. Retention of a percentage of contract
13 price. Whenever any contract entered into by a construction
14 agency for the repair, remodeling, renovation, or construction
15 of a building or structure, for the construction or
16 maintenance of a highway, as those terms are defined in
17 Article 2 of the Illinois Highway Code, for the construction
18 or maintenance of facilities as that term is defined under
19 Section 1-10 of the Illinois Power Public University Act, or
20 for the reclamation of abandoned lands as those terms are
21 defined in Article I of the Abandoned Mined Lands and Water
22 Reclamation Act provides for the retention of a percentage of
23 the contract price until final completion and acceptance of
24 the work, upon the request of the contractor and with the
25 approval of the construction agency the amount so retained may

1 be deposited under a trust agreement with an Illinois bank or
2 financial institution of the contractor's choice and subject
3 to the approval of the construction agency. The contractor
4 shall receive any interest on the deposited amount. Upon
5 application by the contractor, the trust agreement must
6 contain, at a minimum, the following provisions:

7 (1) the amount to be deposited subject to the trust;

8 (2) the terms and conditions of payment in case of
9 default by the contractor;

10 (3) the termination of the trust agreement upon
11 completion of the contract; and

12 (4) the contractor shall be responsible for obtaining
13 the written consent of the bank trustee and for any costs
14 or service fees.

15 The trust agreement may, at the discretion of the public
16 university as a construction public university and upon
17 request of the contractor, become effective at the time of the
18 first partial payment in accordance with existing statutes and
19 rules.

20 Section 30-30. Design-bid-build construction.

21 (a) Except as provided in subsection (a-5), for building
22 construction contracts in excess of \$250,000, separate
23 specifications may be prepared for all equipment, labor, and
24 materials in connection with the following 5 subdivisions of
25 the work to be performed:

- 1 (1) plumbing;
- 2 (2) heating, piping, refrigeration, and automatic
3 temperature control systems, including the testing and
4 balancing of those systems;
- 5 (3) ventilating and distribution systems for
6 conditioned air, including the testing and balancing of
7 those systems;
- 8 (4) electric wiring; and
- 9 (5) general contract work.

10 Except as provided in subsection (a-5), the specifications
11 may be so drawn as to permit separate and independent bidding
12 upon each of the 5 subdivisions of work. All contracts awarded
13 for any part thereof may award the 5 subdivisions of work
14 separately to responsible and reliable persons, firms, or
15 corporations engaged in these classes of work. The contracts,
16 at the discretion of the construction agency, may be assigned
17 to the successful bidder on the general contract work or to the
18 successful bidder on the subdivision of work designated by the
19 construction agency before the bidding as the prime
20 subdivision of work, provided that all payments will be made
21 directly to the contractors for the 5 subdivisions of work
22 upon compliance with the conditions of the contract.

23 SINGLE PRIME: For single prime projects: (i) the bid of
24 the successful low bidder shall identify the name of the
25 subcontractor, if any, and the bid proposal costs for each of
26 the 5 subdivisions of work set forth in this Section; (ii) the

1 contract entered into with the successful bidder shall provide
2 that no identified subcontractor may be terminated without the
3 written consent of the Capital Development Board; (iii) the
4 contract shall comply with the disadvantaged business
5 practices of the Business Enterprise for Minorities, Women,
6 and Persons with Disabilities Act and the equal employment
7 practices of Section 2-105 of the Illinois Human Rights Act;
8 and (iv) the Capital Development Board shall submit an annual
9 report to the General Assembly and Governor on the bidding,
10 award, and performance of all single prime projects.

11 The Capital Development Board shall determine whether the
12 single prime procurement delivery method is to be pursued.
13 Before electing to use single prime on a project, the Capital
14 Development Board must make a written determination that must
15 include a description as to the particular advantages of the
16 single prime procurement method for that project and an
17 evaluation of the items in paragraphs (1) through (4). The
18 chief procurement officer must review the Capital Development
19 Board's determination and consider the adequacy of information
20 in paragraphs (1) through (4) to determine whether the Capital
21 Development Board may proceed with single prime. Approval by
22 the chief procurement officer shall not be unreasonably
23 withheld. The following factors must be considered by the
24 chief procurement officer in any determination:

25 (1) The benefit that using the single prime
26 procurement method will have on the Capital Development

1 Board's ability to increase participation of
2 minority-owned firms, woman-owned firms, firms owned by
3 persons with a disability, and veteran-owned firms.

4 (2) The likelihood that single prime will be in the
5 best interest of the State by providing a material savings
6 of time or cost over the multiple prime delivery system.
7 The best interest of the State justification must show the
8 specific benefits of using the single prime method,
9 including documentation of the estimates or scheduling
10 impacts of any of the following: project complexity and
11 trade coordination required, length of project,
12 availability of skilled workforce, geographic area,
13 project timelines, project budget, ability to secure
14 minority, women, persons with disabilities and veteran
15 participation, or other information.

16 (3) The type and size of the project and its
17 suitability to the single prime procurement method.

18 (4) Whether the project will comply with the
19 underrepresented business and equal employment practices
20 of the State, as established in the Business Enterprise
21 for Minorities, Women, and Persons with Disabilities Act,
22 Section 45-57 of this Code, and Section 2-105 of the
23 Illinois Human Rights Act.

24 If the chief procurement officer finds that the Capital
25 Development Board's written determination is insufficient, the
26 Capital Development Board shall have the opportunity to cure

1 its determination. Within 15 days of receiving approval from
2 the chief procurement officer, the Capital Development Board
3 shall provide an advisory copy of the written determination to
4 the Procurement Policy Board and the Commission on Equity and
5 Inclusion. The Capital Development Board must maintain the
6 full record of determination for 5 years.

7 (a-5) Beginning on the effective date of this Code for
8 single prime projects in which a public institution of higher
9 education is a construction public university awarding
10 building construction contracts in excess of \$250,000,
11 separate specifications may be prepared for all equipment,
12 labor, and materials in connection with the 5 subdivisions of
13 work enumerated in subsection (a). Any public institution of
14 higher education contract awarded for any part thereof may
15 award 2 or more of the 5 subdivisions of work together or
16 separately to responsible and reliable persons, firms, or
17 corporations engaged in these classes of work if: (i) the
18 public institution of higher education has submitted to the
19 Procurement Policy Board and the Commission on Equity and
20 Inclusion a written notice that includes the reasons for using
21 the single prime method and an explanation of why the use of
22 that method is in the best interest of the State and arranges
23 to have the notice posted on the institution's online
24 procurement webpage and its online Higher Education
25 Procurement Bulletin at least 3 business days following
26 submission to the Procurement Policy Board and the Commission

1 on Equity and Inclusion; (ii) the successful low bidder has
2 prequalified with the public institution of higher education;
3 (iii) the bid of the successful low bidder identifies the name
4 of the subcontractor, if any, and the bid proposal costs for
5 each of the 5 subdivisions of work set forth in subsection (a);
6 (iv) the contract entered into with the successful bidder
7 provides that no identified subcontractor may be terminated
8 without the written consent of the public institution of
9 higher education; and (v) the successful low bidder has
10 prequalified with the University of Illinois or with the
11 Capital Development Board.

12 For building construction projects with a total
13 construction cost valued at \$20,000,000 or less, public
14 institutions of higher education shall not use the single
15 prime delivery method for more than 50% of the total number of
16 projects bid for each fiscal year. Projects with a total
17 construction cost valued at \$20,000,000 or more may be bid
18 using the single prime delivery method at the discretion of
19 the public institution of higher education. With respect to
20 any construction project described in this subsection (a-5),
21 the public institution of higher education shall: (i) specify
22 in writing as a public record that the project shall comply
23 with the Business Enterprise for Minorities, Women, and
24 Persons with Disabilities Act and the equal employment
25 practices of Section 2-105 of the Illinois Human Rights Act;
26 and (ii) report annually to the Governor, General Assembly,

1 Procurement Policy Board, and Auditor General on the bidding,
2 award, and performance of all single prime projects. On and
3 after the effective date of this Code, the public institution
4 of higher education may award in each fiscal year single prime
5 contracts with an aggregate total value of no more than
6 \$100,000,000. The Board of Trustees of the University of
7 Illinois may award in each fiscal year single prime contracts
8 with an aggregate total value of not more than \$300,000,000.

9 For building construction contracts in excess of \$500,000,
10 separate specifications may be prepared for all equipment,
11 labor, and materials in connection with the following 5
12 subdivisions of the work to be performed:

13 (1) plumbing;

14 (2) heating, piping, refrigeration, and automatic
15 temperature control systems, including the testing and
16 balancing of those systems;

17 (3) ventilating and distribution systems for
18 conditioned air, including the testing and balancing of
19 those systems;

20 (4) electric wiring; and

21 (5) general contract work.

22 The specifications must be so drawn as to permit separate
23 and independent bidding upon each of the 5 subdivisions of
24 work. All contracts awarded for any part thereof shall award
25 the 5 subdivisions of work separately to responsible and
26 reliable persons, firms, or corporations engaged in these

1 classes of work. The contracts, at the discretion of the
2 construction public university, may be assigned to the
3 successful bidder on the general contract work or to the
4 successful bidder on the subdivision of work designated by the
5 applicable public university before the bidding as the prime
6 subdivision of work, provided that all payments will be made
7 directly to the contractors for the 5 subdivisions of work
8 upon compliance with the conditions of the contract.

9 Section 30-35. Expenditure in excess of contract price.

10 (a) Germaneness. No funds in excess of the contract price
11 may be obligated or expended unless the additional work to be
12 performed or materials to be furnished is germane to the
13 original contract. Even if germane to the original contract,
14 no additional expenditures or obligations may, in their total
15 combined amounts, be in excess of the percentages of the
16 original contract amount set forth in subsection (b) unless
17 they have received the prior written approval of the
18 construction agency. If the total of the combined additional
19 expenditures or obligations exceeds the percentages of the
20 original contract amount set forth in subsection (b), the
21 construction agency shall investigate all the additional
22 expenditures or obligations in excess of the original contract
23 amount and shall in writing approve or disapprove subsequent
24 expenditures or obligations and state in detail the reasons
25 for the approval or disapproval.

1 Section 30-50. Mobilization payments.

2 (a) As used in this Section, "mobilization payment" means
3 an advance payment for the preparatory work and operations
4 necessary for the movement of personnel, equipment, supplies,
5 and incidentals to a project site and for all other work or
6 operations that must be performed or costs incurred when
7 beginning work on a project.

8 (b) When a contract under this Code entered into by a
9 public university provides for mobilization payments and the
10 contractor is using the services of a subcontractor, the
11 subcontract shall include terms requiring mobilization
12 payments be made to the subcontractor.

13 Mobilization payments to a subcontractor shall follow the
14 rules as promulgated by the public university chief
15 procurement officer.

16 ARTICLE 33

17 CONSTRUCTION MANAGEMENT SERVICES

18 Section 33-5. Definitions. In this Article:

19 "Construction management services" includes:

20 (1) services provided in the planning and
21 pre-construction phases of a construction project
22 including, but not limited to, consulting with, advising,
23 assisting, and making recommendations to the Board and

1 architect, engineer, or licensed land surveyor on all
2 aspects of planning for project construction; reviewing
3 all plans and specifications as they are being developed
4 and making recommendations with respect to construction
5 feasibility, availability of material and labor, time
6 requirements for procurement and construction, and
7 projected costs; making, reviewing, and refining budget
8 estimates based on the Board's program and other available
9 information; making recommendations to the Board and the
10 architect or engineer regarding the division of work in
11 the plans and specifications to facilitate the bidding and
12 awarding of contracts; soliciting the interest of capable
13 contractors and taking bids on the project; analyzing the
14 bids received; and preparing and maintaining a progress
15 schedule during the design phase of the project and
16 preparation of a proposed construction schedule; and

17 (2) services provided in the construction phase of the
18 project including, but not limited to, maintaining
19 competent supervisory staff to coordinate and provide
20 general direction of the work and progress of the
21 contractors on the project; directing the work as it is
22 being performed for general conformance with working
23 drawings and specifications; establishing procedures for
24 coordinating among the Board, architect or engineer,
25 contractors, and construction manager with respect to all
26 aspects of the project and implementing those procedures;

1 maintaining job site records and making appropriate
2 progress reports; implementing labor policy in conformance
3 with the requirements of the public owner; reviewing the
4 safety and equal opportunity programs of each contractor
5 for conformance with the public owner's policy and making
6 recommendations; reviewing and processing all applications
7 for payment by involved contractors and material suppliers
8 in accordance with the terms of the contract; making
9 recommendations and processing requests for changes in the
10 work and maintaining records of change orders; scheduling
11 and conducting job meetings to ensure orderly progress of
12 the work; developing and monitoring a project progress
13 schedule, coordinating and expediting the work of all
14 contractors and providing periodic status reports to the
15 owner and the architect or engineer; and establishing and
16 maintaining a cost-control system and conducting meetings
17 to review costs.

18 "Construction manager" means any individual, sole
19 proprietorship, firm, partnership, corporation, or other legal
20 entity providing construction management services for the
21 Board and prequalified by the State in accordance with Section
22 33-10 of the Illinois Procurement Code.

23 "Board" means the Capital Development Board or, to the
24 extent that the services are to be procured by a public
25 institution of higher education, the public institution of
26 higher education.

1 Section 33-10. Prequalification. The Board shall establish
2 procedures to prequalify firms seeking to provide construction
3 management services or may use prequalification lists from
4 other State agencies to meet the requirements of this Section.

5 Section 33-15. Public notice. Whenever a project requiring
6 construction management services is proposed for a State
7 public university, the Board shall provide no less than a
8 14-day advance notice published in the Higher Education
9 Procurement Bulletin setting forth the projects and services
10 to be procured. The Higher Education Procurement Bulletin
11 shall be available electronically and may be available in
12 print. The Higher Education Procurement Bulletin shall include
13 a description of each project and shall state the time and
14 place for interested firms to submit a letter of interest,
15 and, if required by the public notice, a statement of
16 qualifications.

17 Section 33-20. Evaluation procedure. The Board shall
18 evaluate the construction managers submitting letters of
19 interest and other prequalified construction managers, taking
20 into account qualifications; and the Board may consider, but
21 shall not be limited to considering, ability of personnel,
22 past record and experience, performance data on file,
23 willingness to meet time requirements, location, workload of

1 the construction manager, and any other qualifications-based
2 factors as the Board may determine in writing are applicable.
3 The Board may conduct discussions with and require public
4 presentations by construction managers deemed to be the most
5 qualified regarding their qualifications, approach to the
6 project, and ability to furnish the required services.

7 The Board shall establish a committee to select
8 construction managers to provide construction management
9 services. A selection committee may include at least one
10 public member. The public member may not be employed or
11 associated with any firm holding a contract with the Board nor
12 may the public member's firm be considered for a contract with
13 that Board while he or she is serving as a public member of the
14 committee.

15 In no case shall the Board, prior to selecting a
16 construction manager for negotiation under Section 33-30, seek
17 formal or informal submission of verbal or written estimates
18 of costs or proposals in terms of dollars, hours required,
19 percentage of construction cost, or any other measure of
20 compensation.

21 Section 33-25. Selection procedure. On the basis of
22 evaluations, discussions, and any presentations, the Board
23 shall select no less than 3 firms it determines to be qualified
24 to provide services for the project and rank them in order of
25 qualifications to provide services regarding the specific

1 project. The Board shall then contract at a fair and
2 reasonable compensation. If fewer than 3 firms submit letters
3 of interest and the Board determines that one or both of those
4 firms are so qualified, the Board may proceed to negotiate a
5 contract under Section 33-30. The decision of the Board shall
6 be final and binding.

7 Section 33-30. Contract negotiation.

8 (a) The Board shall prepare a written description of the
9 scope of the proposed services to be used as a basis for
10 negotiations and shall negotiate a contract with the highest
11 ranked construction management firm at compensation that the
12 Board determines in writing to be fair and reasonable. In
13 making this decision, the Board shall take into account the
14 estimated value, scope, complexity, and nature of the services
15 to be rendered. In no case may the Board establish a payment
16 formula designed to eliminate firms from contention or
17 restrict competition or negotiation of fees.

18 (b) If the Board is unable to negotiate a satisfactory
19 contract with the firm that is highest ranked, negotiations
20 with that firm shall be terminated. The Board shall then begin
21 negotiations with the firm that is next highest ranked. If the
22 Board is unable to negotiate a satisfactory contract with that
23 firm, negotiations with that firm shall be terminated. The
24 Board shall then begin negotiations with the firm that is next
25 highest ranked.

1 (c) If the Board is unable to negotiate a satisfactory
2 contract with any of the selected firms, the Board shall
3 re-evaluate the construction management services requested,
4 including the estimated value, scope, complexity, and fee
5 requirements. The Board shall then compile a list of not less
6 than 3 prequalified firms and proceed in accordance with the
7 provisions of this Code.

8 Section 33-35. Small contracts. The provisions of Sections
9 33-20, 33-25, and 33-30 do not apply to construction
10 management contracts of less than \$25,000.

11 Section 33-40. Emergency services. Sections 33-20, 33-25,
12 and 33-30 do not apply in the procurement of construction
13 management services by the Board (i) when the Board determines
14 in writing that it is in the best interest of the State to
15 proceed with the immediate selection of a firm or (ii) in
16 emergencies when immediate services are necessary to protect
17 the public health and safety, including, but not limited to,
18 earthquake, tornado, storm, or natural or man-made disaster.

19 Section 33-45. Firm performance evaluation. The Board
20 shall evaluate the performance of each firm upon completion of
21 a contract. That evaluation shall be made available to the
22 firm and the firm may submit a written response, with the
23 evaluation and response retained solely by the Board. The

1 evaluation and response shall not be made available to any
2 other person or firm and is exempt from disclosure under the
3 Freedom of Information Act. The evaluation shall be based on
4 the terms identified in the construction manager's contract.

5 Section 33-50. Duties of construction manager; additional
6 requirements for persons performing construction work.

7 (a) Upon the award of a construction management services
8 contract, a construction manager must contract with the Board
9 to furnish his or her skill and judgment in cooperation with,
10 and reliance upon, the services of the project architect or
11 engineer. The construction manager must furnish business
12 administration, management of the construction process, and
13 other specified services to the Board and must perform his or
14 her obligations in an expeditious and economical manner
15 consistent with the interest of the Board. If it is in the
16 State's best interest, the construction manager may provide or
17 perform basic services for which reimbursement is provided in
18 the general conditions to the construction management services
19 contract.

20 (b) The actual construction work on the project must be
21 awarded to contractors under this Code. The Board may further
22 separate additional divisions of work under this Article. This
23 subsection is subject to the applicable provisions of the
24 following Acts:

25 (1) the Prevailing Wage Act;

- 1 (2) the Public Construction Bond Act;
- 2 (3) the Public Works Employment Discrimination Act;
- 3 (4) the Public Works Preference Act (repealed on June
- 4 16, 2010 by Public Act 96-929);
- 5 (5) the Employment of Illinois Workers on Public Works
- 6 Act;
- 7 (6) the Public Contract Fraud Act; and
- 8 (7) the Illinois Architecture Practice Act of 1989,
- 9 the Professional Engineering Practice Act of 1989, the
- 10 Illinois Professional Land Surveyor Act of 1989, and the
- 11 Structural Engineering Practice Act of 1989.

12 Section 33-55. Prohibited conduct. No construction
13 management services contract may be awarded by the Board on a
14 negotiated basis as provided in this Article if the
15 construction manager or an entity that controls, is controlled
16 by, or shares common ownership or control with the
17 construction manager (i) guarantees, warrants, or otherwise
18 assumes financial responsibility for the work of others on the
19 project; (ii) provides the Board with a guaranteed maximum
20 price for the work of others on the project; or (iii) furnishes
21 or guarantees a performance or payment bond for other
22 contractors on the project. In any such case, the contract for
23 construction management services must be let by competitive
24 bidding as in the case of contracts for construction work.

1 ARTICLE 35

2 PROCUREMENT OF PROFESSIONAL AND ARTISTIC SERVICES

3 Section 35-5. Application. All professional and artistic
4 services shall be procured in accordance with the provisions
5 of this Article.

6 Section 35-10. Authority. Each State procurement officer,
7 under the supervision of their respective chief procurement
8 officer, has the authority to select, according to the
9 provisions of this Article, their professional and artistic
10 services.

11 Section 35-15. Prequalification.

12 (a) A chief procurement officer may develop appropriate
13 and reasonable prequalification standards and categories of
14 professional and artistic services.

15 (b) Such prequalifications and categorizations shall be
16 submitted to the Procurement Policy Board and the Commission
17 on Equity and Inclusion and published for public comment prior
18 to their submission to the Joint Committee on Administrative
19 Rules for approval.

20 (c) If prequalification standards are established, the
21 public university chief procurement officer shall promulgate
22 rules for the development of a vendor prequalification
23 process. Information regarding the vendor prequalification

1 process shall be posted on the Higher Education Procurement
2 Bulletin.

3 (d) Prequalification shall not be used to bar or prevent
4 any qualified business or person from bidding or responding to
5 invitations for bid or requests for proposal.

6 Section 35-30. Awards.

7 (a) All State University public solicitations for
8 professional and artistic services, except as provided in this
9 Section, shall be awarded using the competitive request for
10 proposal process outlined in this Section. The scoring for
11 requests for proposals shall include the commitment to
12 diversity factors and methodology described in subsection
13 (e-5) of Section 20-15.

14 (b) For each request for proposal offered, the public
15 university chief procurement officer, State purchasing
16 officer, or his or her designee shall use the appropriate
17 standard solicitation forms available from the public
18 university chief procurement officer.

19 (c) Prepared forms shall be submitted to the public
20 university chief procurement officer for publication in the
21 Higher Education Procurement Bulletin. Notice of the offer or
22 request for proposal shall appear at least 14 calendar days
23 before the response to the offer is due.

24 (d) All interested respondents shall return their
25 responses to the appropriate public university state

1 procurement officer, which shall open and record them. The
2 public university state procurement officer shall forward the
3 responses, together with any information it has available
4 about the qualifications and other State work of the
5 respondents.

6 (e) After evaluation, ranking, and selection, the
7 responsible chief procurement officer, State procurement
8 officer, or their designee shall notify the chief procurement
9 officer. The public university chief procurement officer shall
10 publish the names of the responsible procurement
11 decision-maker, the public university letting the contract,
12 the successful respondent, a contract reference, and value of
13 the let contract in the next appropriate volume of the Higher
14 Education Procurement Bulletin.

15 (f) For all professional and artistic contracts with
16 annualized value that exceeds applicable bid threshold,
17 evaluation and ranking by price are required. Any chief
18 procurement officer or State procurement officer, but not
19 their designees, may select a respondent other than the lowest
20 respondent by price. In any case, when the contract exceeds
21 the applicable bid threshold and the lowest respondent is not
22 selected, the chief procurement officer or the State
23 procurement officer shall forward together with the contract
24 notice of who the low respondent by price was and a written
25 decision as to why another was selected to the public
26 university chief procurement officer.

1 Section 35-35. Exceptions.

2 (a) Exceptions to Section 35-30 are allowed for sole
3 source procurements, emergency procurements, and at the
4 discretion of the chief procurement officer or the State
5 procurement officer, but not their designees, for professional
6 and artistic contracts that are nonrenewable, one year or less
7 in duration, and have a value of less than the applicable bid
8 threshold.

9 (b) All exceptions granted under this Article must still
10 be submitted to the chief procurement officer and published as
11 provided for in subsection (f) of Section 35-30, shall name
12 the authorizing chief procurement officer or State procurement
13 officer, and shall include a brief explanation of the reason
14 for the exception.

15 Section 35-40. Subcontractors.

16 (a) Any contract granted under this Article shall state
17 whether the services of a subcontractor will be used. The
18 contract shall include the names and addresses of all
19 subcontractors with an annual value that exceeds the small
20 purchase maximum established by Section 20-20 of this Code,
21 the general type of work to be performed by these
22 subcontractors, and the expected amount of money each will
23 receive under the contract. Upon the request of the chief
24 procurement officer appointed pursuant to paragraph (2) of

1 subsection (a) of Section 10-20, the contractor shall provide
2 the chief procurement officer a copy of a subcontract so
3 identified within 15 calendar days after the request is made.
4 A subcontractor, or contractor on behalf of a subcontractor,
5 may identify information that is deemed proprietary or
6 confidential. If the chief procurement officer determines the
7 information is not relevant to the primary contract, the chief
8 procurement officer may excuse the inclusion of the
9 information. If the chief procurement officer determines the
10 information is proprietary or could harm the business interest
11 of the subcontractor, the chief procurement officer may, in
12 their discretion, redact the information. Redacted information
13 shall not become part of the public record.

14 (b) If at any time during the term of a contract, a
15 contractor adds or changes any subcontractors, he or she shall
16 promptly notify, in writing, the chief procurement officer or
17 their designee of the names and addresses and the expected
18 amount of money each new or replaced subcontractor will
19 receive. Upon request of the chief procurement officer
20 appointed pursuant to paragraph (2) of subsection (a) of
21 Section 10-20, the contractor shall provide the chief
22 procurement officer a copy of any new or amended subcontract
23 so identified within 15 calendar days after the request is
24 made.

25 (c) In addition to any other requirements of this Code, a
26 subcontract subject to this Section must include all of the

1 subcontractor's certifications required by Article 50 of this
2 Code.

3 ARTICLE 40

4 REAL PROPERTY AND CAPITAL IMPROVEMENT LEASES

5 Section 40-5. Applicability. All leases for real property
6 or capital improvements, including office and storage space,
7 buildings, and other facilities for State Universities where
8 the public university is the lessee, shall be procured in
9 accordance with the provisions of this Article.

10 Section 40-10. Authority. State procurement officers shall
11 have the authority to procure leases for real property or
12 capital improvements.

13 Section 40-15. Method of source selection.

14 (a) Request for information. Except as provided in
15 subsections (b) and (c), all State University contracts for
16 leases of real property or capital improvements shall be
17 awarded by a request for information process in accordance
18 with Section 40-20.

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

21 (1) Property of less than 10,000 square feet with base
22 rent of less than \$200,000 per year.

1 (2) Duration of less than one year that cannot be
2 renewed.

3 (3) Specialized space available at only one location.

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

5 (i) the public university chief procurement officer
6 determines in writing that the renewal or extension is in
7 the best interest of the State or public university; (ii)
8 the public university chief procurement officer submits
9 their written determination and the renewal or extension
10 to the Board; (iii) the Board does not object in writing to
11 the renewal or extension within 30 calendar days after its
12 submission; and (iv) the public university chief
13 procurement officer publishes the renewal or extension in
14 the Higher Education Procurement Bulletin.

15 (c) Leases with governmental units. Leases with other
16 governmental units may be negotiated without using the request
17 for information process when deemed by the chief procurement
18 officer to be in the best interest of the State University.

19 Section 40-20. Request for information.

20 (a) Conditions for use. Leases shall be procured by
21 request for information except as otherwise provided in
22 Section 40-15.

23 (b) Form. A request for information shall be issued and
24 shall include:

25 (1) the type of property to be leased;

- 1 (2) the proposed uses of the property;
- 2 (3) the duration of the lease;
- 3 (4) the preferred location of the property; and
- 4 (5) a general description of the configuration
- 5 desired.

6 (c) Public notice. Public notice of the request for
7 information for the availability of real property to lease
8 shall be published in the Higher Education Procurement
9 Bulletin & the Official Web Page of the University at least 14
10 calendar days before the date set forth in the request for
11 receipt of responses.

12 (d) Response. The request for information response shall
13 consist of written information sufficient to show that the
14 respondent can meet minimum criteria set forth in the request.
15 State procurement officers may enter into discussions with
16 respondents for the purpose of clarifying State University
17 needs and the information supplied by the respondents. On the
18 basis of the information supplied and discussions, if any, a
19 State procurement officer shall make a written determination
20 identifying the responses that meet the minimum criteria set
21 forth in the request for information. Negotiations shall be
22 entered into with all qualified respondents for the purpose of
23 securing a lease that is in the best interest of the State
24 University. A written report of the negotiations shall be
25 retained in the lease files and shall include the reasons for
26 the final selection. All leases shall be reduced to writing;

1 one copy shall be filed with the State of Illinois Comptroller
2 in accordance with the provisions of Section 20-80, and one
3 copy each shall be filed with the Board and the Commission on
4 Equity and Inclusion.

5 When the lowest response by price is not selected, the
6 State procurement officer shall forward to the chief
7 procurement officer, along with the lease, notice of the
8 identity of the lowest respondent by price and written reasons
9 for the selection of a different response. The public
10 university chief procurement officer shall publish the written
11 reasons in the next volume of the Higher Education Procurement
12 Bulletin.

13 (e) Board and Commission on Equity and Inclusion review.
14 Upon receipt of (1) any proposed lease of real property of
15 10,000 or more square feet or (2) any proposed lease of real
16 property with annual rent payments of \$200,000 or more, the
17 Procurement Policy Board and the Commission on Equity and
18 Inclusion shall jointly have 30 calendar days to review the
19 proposed lease. The Board and Commission have 30 calendar days
20 to submit a joint objection. If no joint objection is
21 submitted, then the proposed lease shall become effective
22 according to its terms as submitted. The leasing public
23 university shall make any and all materials available to the
24 Board and the Commission on Equity and Inclusion to assist in
25 the review process.

1 Section 40-25. Length of leases.

2 (a) Maximum term. Except as otherwise provided under
3 subsection (a-5), leases shall be for a term not to exceed 10
4 years inclusive, of proposed contract renewals and shall
5 include a termination option in favor of the State University
6 after 5 years.

7 (a-5) Extended term. A lease for real property owned by a
8 public institution of higher education to be used for
9 healthcare uses, academic facilities, dormitory facilities, or
10 other support uses may exceed 10 years in length when: (i) the
11 lease requires the lessor to make capital improvements in
12 excess of \$100,000; and (ii) the Board of Trustees of the
13 public institution of higher education determines a term of
14 more than 10 years is necessary and is in the best interest of
15 the institution. A lease under this subsection (a-5) may not
16 exceed 30 years in length.

17 (b) Renewal. Leases may include a renewal option. An
18 option to renew may be exercised only when a State procurement
19 officer determines in writing that renewal is in the best
20 interest of the State University and notice of the exercise of
21 the option is published in the Higher Education Procurement
22 Bulletin at least 30 calendar days prior to the exercise of the
23 option.

24 (c) Subject to appropriation. All leases shall recite that
25 they are subject to termination and cancellation in any year
26 for which the General Assembly fails to make an appropriation

1 to make payments under the terms of the lease.

2 (d) Holdover. No lease may continue on a month-to-month or
3 other holdover basis for a total of more than 6 months. The
4 Illinois Comptroller shall withhold payment of leases beyond
5 this holdover period.

6 (e) Any institution of higher education that enters into a
7 lease under this Section shall file with both houses of the
8 General Assembly a report outlining each lease entered into
9 under this Section that is current as of the date of the
10 report.

11 Section 40-30. Purchase option. Leases of all space in
12 entire, free-standing buildings shall include an option to
13 purchase exercisable by the State or State University, unless
14 the public university chief procurement officer determines
15 that inclusion of such purchase option is not in the State's
16 best interest and makes that determination in writing along
17 with the reasons for making that determination and publishes
18 the written determination in the appropriate volume of the
19 Higher Education Procurement Bulletin. Leases from
20 governmental units and not-for-profit entities are exempt from
21 the requirements of this Section.

22 Section 40-33. Leased property square footage reduction.
23 When operational needs indicate that reduction in the square
24 footage of a leased property is necessary and in the best

1 interests of the State University, a contract for the lease of
2 real property may be amended to reduce the square footage of
3 the leased property, regardless of the method of procurement
4 or source selection.

5 Section 40-35. Rent without occupancy. Except when deemed
6 by the Board to be in the best interest of the State, no State
7 public university may incur rental obligations before
8 occupying the space rented.

9 Section 40-40. Local site preferences. Upon the request of
10 the chief executive officer of a unit of local government,
11 leasing preferences may be given to sites located in
12 enterprise zones, tax increment districts, or redevelopment
13 districts.

14 Section 40-45. Leases exempt from Article. A lease entered
15 into by the State or a State University under Section 7.4 of
16 the State Property Control Act is not subject to the
17 provisions of this Article.

18 Section 40-46. Leases exempt from Article. A lease entered
19 into under Section 7.5 of the State Property Control Act is not
20 subject to the provisions of this Article.

21 Section 40-55. Lessor's failure to make improvements. Each

1 lease must provide for actual or liquidated damages upon the
2 lessor's failure to make improvements agreed upon in the
3 lease. The actual or liquidated damages shall consist of a
4 reduction in lease payments equal to the corresponding
5 percentage of the improvement value to the lease value. The
6 actual or liquidated damages shall continue until the lessor
7 complies with the lease and the improvements are certified by
8 the chief procurement officer and the leasing State public
9 university.

10 Section 40-150. Proposed contracts; Procurement Policy
11 Board. This Article is subject to Section 5-30 of this Code.

12 ARTICLE 45

13 PREFERENCES

14 Section 45-5. Procurement preferences. To promote business
15 and employment opportunities in Illinois, procurement
16 preferences are established and shall be applicable to any
17 procurement made under this Code.

18 Section 45-10. Resident bidders and offerors.

19 (a) Amount of preference. When a contract is to be awarded
20 to the lowest responsible bidder or offeror, a resident bidder
21 or offeror shall be allowed a preference as against a
22 non-resident bidder or offeror from any state that gives or

1 requires a preference to bidders or offerors from that state.
2 The preference shall be equal to the preference given or
3 required by the state of the non-resident bidder or offeror.
4 Further, if only non-resident bidders or offerors are bidding,
5 the public university is within its right to specify that
6 Illinois labor and manufacturing locations be used as a part
7 of the manufacturing process, if applicable. This
8 specification may be negotiated as part of the solicitation
9 process.

10 (b) Residency. A resident bidder or offeror is a person
11 authorized by the Secretary of State's Office to transact
12 business in the State of Illinois. The resident bidder must
13 have a bona fide establishment for transacting business within
14 this State where it was actually transacting business on the
15 date when any bid for a public contract is first advertised or
16 announced. A resident bidder or offeror includes a foreign
17 corporation duly authorized to transact business in this State
18 that has a bona fide establishment for transacting business
19 within this State where it was actually transacting business
20 on the date when any bid for a public contract is first
21 advertised or announced.

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

1 Section 45-20. Recycled supplies. When a public contract
2 is to be awarded to the lowest responsible bidder or offeror,
3 an otherwise qualified bidder or offeror who will fulfill the
4 contract through the use of products made of recycled supplies
5 shall be given preference over other bidders or offerors
6 unable to do so, provided that the cost included in the bid of
7 supplies is equal or less than other bids or offers, unless the
8 use of the product constitutes an undue practical hardship.

9 Nothing in this Section shall be construed to apply to a
10 construction agency for the purposes of procuring construction
11 and construction-related services.

12 Section 45-23. Single-use plastics prohibition;
13 preference.

14 (a) For the purposes of this Section:

15 "Compostable" means that the item meets the ASTM D6400
16 standard of compostability and has been certified by the
17 Biodegradable Products Institute as compostable.

18 "Compostable foodware" means containers, bowls, straws,
19 plates, trays, cartons, cups, lids, forks, spoons, knives, and
20 other items that are designed for one-time use for beverages,
21 prepared food, or leftovers from meals that are compostable.

22 "Plastic" means a synthetic material made from linking
23 monomers through a chemical reaction to create an organic
24 polymer chain that can be molded or extruded at high heat into
25 various solid forms retaining their defined shapes during

1 their life cycle and after disposal.

2 "Recyclable foodware" means items that are designed for
3 one-time use for beverages, prepared food, or leftovers from
4 meals and that are commonly accepted in local curbside
5 residential recycling pickup.

6 "Single-use plastic disposable foodware" means containers,
7 bowls, straws, plates, trays, cartons, cups, lids, forks,
8 spoons, knives, and other items that are designed for one-time
9 use for beverages, prepared food, or leftovers from meals and
10 that are made of plastic, are not compostable, and are not
11 accepted in residential curbside recycling pickup.

12 (b) When an institution of higher education is to award a
13 contract to the lowest responsible bidder, an otherwise
14 qualified bidder who will fulfill the contract through the use
15 of compostable foodware or recyclable foodware may be given
16 preference over other bidders unable to do so; provided that
17 the bid is not more than 5% greater than the cost of products
18 that are single-use plastic disposable foodware. The contract
19 awarded the cost preference in this subsection (b) shall also
20 include the option of providing the State public university
21 with single-use plastic straws.

22 Section 45-24. Single-use plastics prohibition;
23 preference.

24 (a) As used in this Section:

25 "Compostable" means that the item meets the ASTM D6400

1 standard of compostability and has been certified by the
2 Biodegradable Products Institute as compostable.

3 "Compostable foodware" means containers, bowls, straws,
4 plates, trays, cartons, cups, lids, forks, spoons, knives, and
5 other items that are designed for one-time use for beverages,
6 prepared food, or leftovers from meals that are compostable.

7 "Disposable food service container" means serviceware
8 designed for one-time use. "Disposable food service container"
9 includes, but is not limited to, serviceware for take-out
10 foods, bakery products, and leftovers from partially consumed
11 meals. "Disposable food service container" does not include
12 polystyrene foam coolers, egg carton containers, ice chests
13 that are used for the processing or shipping of seafood or
14 service ware that is used to contain, transport, or otherwise
15 package raw, uncooked, or butchered meat, poultry, fish, or
16 seafood.

17 "Polystyrene foam" means blown polystyrene and expanded or
18 extruded foams using a styrene monomer.

19 "Recyclable foodware" means items that are designed for
20 one-time use for beverages, prepared food, or leftovers from
21 meals and that are commonly accepted in local curbside
22 residential recycling pick up.

23 "Serviceware" means a container, bowl, plate, tray,
24 carton, cup, lid, or other item designed to contain,
25 transport, serve, or aid in the consumption of food or
26 beverages.

1 "State public university" has the meaning given to that
2 term in Section 1-15 of this Code.

3 (b) After January 1, 2027, State Universities and
4 departments may not procure disposable food service containers
5 that are composed in whole or in part from polystyrene foam for
6 use at any State public university or department and instead
7 shall offer only compostable foodware or recyclable foodware
8 for use at the State public university or department.

9 (c) After January 1, 2028, or at the renewal of its next
10 contract, whichever occurs later, no vendor contracted through
11 a State University or department may provide customers with
12 disposable food service containers that are composed in whole
13 or in part from polystyrene foam at any site owned or leased by
14 the State, and instead shall offer only compostable foodware
15 or recyclable foodware for use at sites owned or leased by the
16 State.

17 Section 45-25. Recyclable supplies. All supplies purchased
18 for use by State Universities must be recyclable paper unless
19 a recyclable substitute cannot be used to meet the
20 requirements of the State Universities or would constitute an
21 undue economic or practical hardship.

22 Section 45-26. Environmentally preferable procurement.

23 (a) Definitions. For the purposes of this Section:

24 (1) "Supplies" means all personal property, including,

1 but not limited to, equipment, materials, printing, and
2 insurance, and the financing of those supplies.

3 (2) "Services" means the furnishing of labor, time, or
4 effort by a contractor, not involving the delivery of a
5 specific end product other than reports or supplies that
6 are incidental to the required performance.

7 (3) "Environmentally preferable supplies" means
8 supplies that are less harmful to the natural environment
9 and human health than substantially similar supplies for
10 the same purpose. Attributes of environmentally preferable
11 supplies include, but are not limited to, the following:

12 (i) made of recycled materials, to the maximum
13 extent feasible;

14 (ii) not containing, emitting, or producing toxic
15 substances;

16 (iii) constituted so as to minimize the production
17 of waste; and

18 (iv) constituted so as to conserve energy and
19 water resources over the course of production,
20 transport, intended use, and disposal.

21 (4) "Environmentally preferable services" means
22 services that are less harmful to the natural environment
23 and human health than substantially similar services for
24 the same purpose. Attributes of "environmentally
25 preferable services" include, but are not limited to, the
26 following:

1 (i) use of supplies made of recycled materials, to
2 the maximum extent feasible;

3 (ii) use of supplies that do not contain, emit, or
4 produce toxic substances;

5 (iii) employment of methods that minimize the
6 production of waste; and

7 (iv) employment of methods that conserve energy
8 and water resources or use energy and water resources
9 more efficiently than substantially similar methods.

10 Section 45-35. Not-for-profit agencies for persons with
11 significant disabilities.

12 (a) Qualification. Supplies and services may be
13 procured without advertising or calling for bids from any
14 qualified not-for-profit agency for persons with
15 significant disabilities that:

16 (1) complies with Illinois laws governing private
17 not-for-profit organizations;

18 (2) provides for payment of a wage for contractual
19 services under this Section that is no less than the
20 applicable local or Illinois minimum wage, whichever is
21 higher, for all employees performing work on the contract,
22 including subcontractors performing work on the contract;
23 and

24 (3) is (A) a disability-serving organization that is
25 accredited by a nationally recognized accrediting

1 organization or licensed by the Department of Human
2 Services or (B) a Center for Independent Living.

3 (b) Participation. To participate, the not-for-profit
4 public university must have indicated an interest in providing
5 the supplies and services, must meet the specifications and
6 needs of the using public university, and must set a fair and
7 reasonable price.

8 Section 45-40. Gas mileage.

9 (a) Specification. Contracts for the purchase or lease of
10 new passenger automobiles, other than station wagons, vans,
11 four-wheel drive vehicles, emergency vehicles, and police and
12 fire vehicles, shall specify the procurement of a model that,
13 according to the most current mileage study published by the
14 U.S. Environmental Protection Agency, can achieve at least the
15 minimum average fuel economy in miles per gallon imposed upon
16 manufacturers of vehicles under Title V of The Motor Vehicle
17 Information and Cost Savings Act.

18 (b) Exemptions. The State procurement officer may exempt
19 procurements from the requirement of subsection (a) when there
20 is a demonstrated need, submitted in writing, for an
21 automobile that does not meet the minimum average fuel economy
22 standards. The chief procurement officer shall promulgate
23 rules for determining need consistent with the intent of this
24 Section.

25 (c) Unsuccessful procurement effort. When a public

1 university has issued a public solicitation, which does not
2 result in an award, the University may post an academic quick
3 purchase award to fulfill the academic need while the
4 University's State Procurement Officer researches changes to
5 ensure a successful, long term solution, which may require a
6 separate public procurement, consistent with this Code. The
7 academic quick purchase award will be publicly posted to
8 bulletin and will detail the efforts of the prior
9 solicitation, the justification of the need for the quick
10 purchase and the written determination of the academic impact
11 if such action were not taken.

12 Any resulting academic quick purchase will be documented
13 as required by the Rules set forth by the public university
14 chief procurement officer. The initial term of such contract
15 may not exceed 18-months.

16 Section 45-45. Small businesses.

17 (a) Set-asides. The public university chief procurement
18 officer has authority to designate as small business
19 set-asides a fair proportion of construction, supply, and
20 service contracts for award to small businesses in Illinois.

21 (b) Small business. "Small business" means a business that
22 is independently owned and operated and that is not dominant
23 in its field of operation. The public university chief
24 procurement officer shall establish a detailed definition by
25 rule, using in addition to the foregoing criteria other

1 criteria, including the number of employees and the dollar
2 volume of business.

3 Section 45-46. Mid-size businesses.

4 (a) As used in the Section, "mid-size business" means a
5 business that is independently owned and operated and that is
6 not dominant in its field of operation. "Mid-size business"
7 includes a construction business with annual sales and
8 receipts as defined by rule.

9 Section 45-57. Veterans.

10 (a) Set-aside goal. It is the goal of the State to promote
11 and encourage the continued economic development of small
12 businesses owned and controlled by qualified veterans and that
13 qualified service-disabled veteran-owned small businesses
14 (referred to as SDVOSB) and veteran-owned small businesses
15 (referred to as VOSB) participate in the State University's
16 procurement process as both prime contractors and
17 subcontractors. Not less than 3% of the total dollar amount of
18 State University contracts, as defined by the Commission on
19 Equity and Inclusion, shall be established as a goal to be
20 awarded to SDVOSB and VOSB. That portion of a contract under
21 which the contractor subcontracts with a SDVOSB or VOSB may be
22 counted toward the goal of this subsection. The Commission on
23 Equity and Inclusion shall adopt rules to implement compliance
24 with this subsection by all State Universities.

1 (b) Fiscal year reports. By each November 1, each chief
2 procurement officer shall report to the Commission on Equity
3 and Inclusion on all of the following for the immediately
4 preceding fiscal year, and by each March 1 the Commission on
5 Equity and Inclusion shall compile and report that information
6 to the General Assembly:

7 (1) The total number of VOSB, and the number of
8 SDVOSB, who submitted bids for contracts under this Code.

9 (2) The total number of VOSB, and the number of
10 SDVOSB, who entered into contracts with the State under
11 this Code and the total value of those contracts.

12 (b-5) The Commission on Equity and Inclusion shall submit
13 an annual report to the Governor and the General Assembly that
14 shall include the following:

15 (1) a year-by-year comparison of the number of
16 certifications the State has issued to veteran-owned small
17 businesses and service-disabled veteran-owned small
18 businesses;

19 (2) the obstacles, if any, the Commission on Equity
20 and Inclusion faces when certifying veteran-owned
21 businesses and possible rules or changes to rules to
22 address those issues;

23 (3) a year-by-year comparison of awarded contracts to
24 certified veteran-owned small businesses and
25 service-disabled veteran-owned small businesses; and

26 (4) any other information that the Commission on

1 Equity and Inclusion deems necessary to assist
2 veteran-owned small businesses and service-disabled
3 veteran-owned small businesses to become certified with
4 the State.

5 The Commission on Equity and Inclusion shall conduct a
6 minimum of 2 outreach events per year to ensure that
7 veteran-owned small businesses and service-disabled
8 veteran-owned small businesses know about the procurement
9 opportunities and certification requirements with the State.
10 The Commission on Equity and Inclusion may receive
11 appropriations for outreach.

12 (c) Yearly review and recommendations. Each year, the
13 public university chief procurement officer shall review the
14 progress of all State Universities under its jurisdiction in
15 meeting the goal described in subsection (a), with input from
16 statewide veterans' service organizations and from the
17 business community, including businesses owned by qualified
18 veterans, and shall make recommendations to be included in the
19 Commission on Equity and Inclusion's report to the General
20 Assembly regarding continuation, increases, or decreases of
21 the percentage goal. The recommendations shall be based upon
22 the number of businesses that are owned by qualified veterans
23 and on the continued need to encourage and promote businesses
24 owned by qualified veterans.

25 (d) Governor's recommendations. To assist the State in
26 reaching the goal described in subsection (a), the Governor

1 shall recommend to the General Assembly changes in programs to
2 assist businesses owned by qualified veterans.

3 (e) Definitions. As used in this Section: "Armed forces of
4 the United States" means the United States Army, Navy, Air
5 Force, Space Force, Marine Corps, Coast Guard, or service in
6 active duty as defined under 38 U.S.C. Section 101. Service in
7 the Merchant Marine that constitutes active duty under Section
8 401 of federal Public Act 95-202 shall also be considered
9 service in the armed forces for purposes of this Section.

10 "Certification" means a determination made by the Illinois
11 Department of Veterans Affairs and the Commission on Equity
12 and Inclusion that a business entity is a qualified
13 service-disabled veteran-owned small business or a qualified
14 veteran-owned small business for whatever purpose. A SDVOSB or
15 VOSB owned and controlled by women, minorities, or persons
16 with disabilities, as those terms are defined in Section 2 of
17 the Business Enterprise for Minorities, Women, and Persons
18 with Disabilities Act, may also select and designate whether
19 that business is to be certified as a "women-owned business",
20 "minority-owned business", or "business owned by a person with
21 a disability", as defined in Section 2 of the Business
22 Enterprise for Minorities, Women, and Persons with
23 Disabilities Act. "Control" means the exclusive, ultimate,
24 majority, or sole control of the business, including, but not
25 limited to, capital investment and all other financial
26 matters, property, acquisitions, contract negotiations, legal

1 matters, officer director-employee selection and comprehensive
2 hiring, operation responsibilities, cost-control matters,
3 income and dividend matters, financial transactions, and
4 rights of other shareholders or joint partners. Control shall
5 be real, substantial, and continuing, not pro forma. Control
6 shall include the power to direct or cause the direction of the
7 management and policies of the business and to make the
8 day-today as well as major decisions in matters of policy,
9 management, and operations. Control shall be exemplified by
10 possessing the requisite knowledge and expertise to run the
11 particular business, and control shall not include simple
12 majority or absentee ownership.

13 "Qualified service-disabled veteran" means a veteran who
14 has been found to have 10% or more service-connected
15 disability by the United States Department of Veterans Affairs
16 or the United States Department of Defense.

17 "Qualified service-disabled veteran-owned small business"
18 or "SDVOSB" means a small business (i) that is at least 51%
19 owned by one or more qualified service-disabled veterans
20 living in Illinois or, in the case of a corporation, at least
21 51% of the stock of which is owned by one or more qualified
22 service-disabled veterans living in Illinois; (ii) that has
23 its home office in Illinois; and (iii) for which items (i) and
24 (ii) are factually verified annually by the Commission on
25 Equity and Inclusion.

26 "Qualified veteran-owned small business" or "VOSB" means a

1 small business (i) that is at least 51% owned by one or more
2 qualified veterans living in Illinois or, in the case of a
3 corporation, at least 51% of the stock of which is owned by one
4 or more qualified veterans living in Illinois; (ii) that has
5 its home office in Illinois; and (iii) for which items (i) and
6 (ii) are factually verified annually by the Commission on
7 Equity and Inclusion.

8 "Service-connected disability" means a disability incurred
9 in the line of duty in the active military, naval, or air
10 service as described in 38 U.S.C. 101(16).

11 "Small business" means a business that has annual gross
12 sales of less than \$150,000,000 as evidenced by the federal
13 income tax return of the business. A firm with gross sales in
14 excess of this cap may apply to the Commission on Equity and
15 Inclusion for certification for a particular contract if the
16 firm can demonstrate that the contract would have significant
17 impact on SDVOSB or VOSB as suppliers or subcontractors or in
18 employment of veterans or service-disabled veterans.

19 "State public university" has the meaning provided in
20 Section 1-15 of this Code.

21 "Time of hostilities with a foreign country" means any
22 period of time in the past, present, or future during which a
23 declaration of war by the United States Congress has been or is
24 in effect or during which an emergency condition has been or is
25 in effect that is recognized by the issuance of a Presidential
26 proclamation or a Presidential executive order and in which

1 the armed forces expeditionary medal or other campaign service
2 medals are awarded according to Presidential executive order.

3 "Veteran" means a person who (i) has been a member of the
4 armed forces of the United States or, while a citizen of the
5 United States, was a member of the armed forces of allies of
6 the

7 United States in time of hostilities with a foreign
8 country and (ii) has served under one or more of the following
9 conditions: (a) the veteran served a total of at least 6
10 months; (b) the veteran served for the duration of hostilities
11 regardless of the length of the engagement; (c) the veteran
12 was discharged on the basis of hardship; or (d) the veteran was
13 released from active duty because of a service-connected
14 disability and was discharged under honorable conditions.

15 (f) Certification program. The Illinois Department of
16 Veterans Affairs and the Commission on Equity and Inclusion
17 shall work together to devise a certification procedure to
18 assure that businesses taking advantage of this Section are
19 legitimately classified as qualified service-disabled
20 veteran-owned small businesses or qualified veteran-owned
21 small businesses.

22 The Commission on Equity and Inclusion shall: (1) compile
23 and maintain a comprehensive list of certified veteran-owned
24 small businesses and service-disabled veteran-owned small
25 businesses; (2) assist veteran-owned small businesses and
26 service-disabled veteran-owned small businesses in complying

1 with the procedures for bidding on State contracts; (3)
2 provide training for State agencies regarding the goal setting
3 process and compliance with veteran-owned small business and
4 service-disabled veteran-owned small business goals; and (4)
5 implement and maintain an electronic portal on the Commission
6 on Equity and Inclusion's website for the purpose of
7 completing and submitting veteran-owned small business and
8 service-disabled veteran-owned small business certificates.

9 The Commission on Equity and Inclusion, in consultation
10 with the Department of Veterans Affairs, may develop programs
11 and agreements to encourage cities, counties, towns,
12 townships, and other certifying entities to adopt uniform
13 certification procedures and certification recognition
14 programs. (f-5) A business shall be certified by the
15 Commission on Equity and Inclusion as a service-disabled
16 veteran-owned small business or a veteran-owned small business
17 for purposes of this Section if the Commission on Equity and
18 Inclusion determines that the business has been certified as a
19 service-disabled veteran-owned small business or a
20 veteran-owned small business by the Vets First Verification
21 Program of the United States Department of Veterans Affairs,
22 and the business has provided to the Commission on Equity and
23 Inclusion the following: (1) documentation showing
24 certification as a service-disabled veteran-owned small
25 business or a veteran-owned small business by the Vets First
26 Verification Program of the United States Department of

1 Veterans Affairs; (2) proof that the business has its home
2 office in Illinois; and (3) proof that the qualified veterans
3 or qualified service-disabled veterans live in the State of
4 Illinois.

5 The policies of the Commission on Equity and Inclusion
6 regarding recognition of the Vets First Verification Program
7 of the United States Department of Veterans Affairs shall be
8 reviewed annually by the Commission on Equity and Inclusion,
9 and recognition of service-disabled veteran-owned small
10 businesses and veteran-owned small businesses certified by the
11 Vets First Verification Program of the United States
12 Department of Veterans Affairs may be discontinued by the
13 Commission on Equity and Inclusion by rule upon a finding that
14 the certification standards of the Vets First Verification
15 Program of the United States Department of Veterans Affairs do
16 not meet the certification requirements established by the
17 Commission on Equity and Inclusion.

18 (g) Penalties.

19 (1) Administrative penalties. The chief procurement
20 officers appointed pursuant to Section 10-20 shall suspend
21 any person who commits a violation of Section 17-10.3 or
22 subsection (d) of Section 33E-6 of the Criminal Code of
23 2012 relating to this Section from bidding on, or
24 participating as a contractor, subcontractor, or supplier
25 in, any State University contract or project for a period
26 of not less than 3 years, and, if the person is certified

1 as a service-disabled veteran-owned small business or a
2 veteran-owned small business, then the Commission on
3 Equity and Inclusion shall revoke the business's
4 certification for a period of not less than 3 years. An
5 additional or subsequent violation shall extend the
6 periods of suspension and revocation for a period of not
7 less than 5 years. The suspension and revocation shall
8 apply to the principals of the business and any subsequent
9 business formed or financed by, or affiliated with, those
10 principals.

11 (2) Reports of violations. Each State public
12 university shall report any alleged violation of Section
13 17-10.3 or subsection (d) of Section 33E-6 of the Criminal
14 Code of 2012 relating to this Section to the chief
15 procurement officers appointed pursuant to Section 10-20.
16 The chief procurement officers appointed pursuant to
17 Section 10-20 shall subsequently report all such alleged
18 violations to the Attorney General, who shall determine
19 whether to bring a civil action against any person for the
20 violation.

21 (3) List of suspended persons. The chief procurement
22 officers appointed pursuant to Section 10-20 shall monitor
23 the status of all reported violations of Section 17-10.3
24 or subsection (d) of Section 33E-6 of the Criminal Code of
25 1961 or the Criminal Code of 2012 relating to this Section
26 and shall maintain and make available to all State

1 agencies a central listing of all persons that committed
2 violations resulting in suspension.

3 (4) Use of suspended persons. During the period of a
4 person's suspension under paragraph (1) of this
5 subsection, a State public university shall not enter into
6 any contract with that person or with any contractor using
7 the services of that person as a subcontractor.

8 (5) Duty to check list. Each State public university
9 shall check the central listing provided by the chief
10 procurement officers appointed pursuant to Section 10-20
11 under paragraph (3) of this subsection to verify that a
12 person being awarded a contract by that State public
13 university, or to be used as a subcontractor or supplier
14 on a contract being awarded by that State public
15 university, is not under suspension pursuant to paragraph
16 (1) of this subsection.

17 (h) On and after the effective date of this Code, all
18 powers, duties, rights, and responsibilities of the Department
19 of Central Management Services with respect to the
20 requirements of this Section are transferred to the Commission
21 on Equity and Inclusion. All books, records, papers,
22 documents, property (real and personal), contracts, causes of
23 action, and pending business pertaining to the powers, duties,
24 rights, and responsibilities transferred by this Code from the
25 Department of Central Management Services to the Commission on
26 Equity and Inclusion, including, but not limited to, material

1 in electronic or magnetic format and necessary computer
2 hardware and software, shall be transferred to the Commission
3 on Equity and Inclusion. The powers, duties, rights, and
4 responsibilities transferred from the Department of Central
5 Management Services by this Code shall be vested in and shall
6 be exercised by the Commission on Equity and Inclusion.

7 Whenever reports or notices are now required to be made or
8 given or papers or documents furnished or served by any person
9 to or upon the Department of Central Management Services in
10 connection with any of the powers, duties, rights, and
11 responsibilities transferred by this Code, the same shall be
12 made, given, furnished, or served in the same manner to or upon
13 the Commission on Equity and Inclusion.

14 Section 45-60. Vehicles powered by agricultural
15 commodity-based fuel. In awarding contracts requiring the
16 procurement of vehicles, preference may be given to an
17 otherwise qualified bidder or offeror who will fulfill the
18 contract through the use of vehicles powered by ethanol
19 produced from Illinois corn or biodiesel fuels produced from
20 Illinois soybeans.

21 Section 45-67. Encouragement to hire qualified veterans. A
22 chief procurement officer may, as part of any solicitation,
23 encourage potential contractors to consider hiring qualified
24 veterans and to notify them of any available financial

1 incentives or other advantages associated with hiring such
2 persons.

3 Section 45-70. Encouragement to hire ex-offenders. A chief
4 procurement officer may, as part of any solicitation,
5 encourage potential contractors to consider hiring Illinois
6 residents discharged from any Illinois adult correctional
7 center, in appropriate circumstances, and to notify them of
8 any available financial incentives or other advantages
9 associated with hiring such persons.

10 Section 45-75. Biobased products. When a State contract is
11 to be awarded to the lowest responsible bidder, an otherwise
12 qualified bidder who will fulfill the contract through the use
13 of biobased products may be given preference over other
14 bidders unable to do so, provided that the cost included in the
15 bid of biobased products is not more than 5% greater than the
16 cost of products that are not biobased.

17 For the purpose of this Section, a biobased product is
18 defined as in the federal Biobased Products Preferred
19 Procurement Program.

20 Section 45-90. Small business contracts. .

21 (a) Not less than 10% of the total dollar amount of State
22 contracts shall be established as a goal to be awarded as a
23 contract or subcontract to small businesses.

1 (b) The percentage in subsection (a) relates to the total
2 dollar amount of State contracts during each State fiscal
3 year, calculated by examining independently each type of
4 contract for each State official or public university which
5 lets such contracts.

6 (c) Each State university shall file with their chief
7 procurement officer an annual compliance plan which shall
8 outline the goals for contracting with small businesses for
9 the then-current fiscal year, the manner in which the public
10 university intends to reach these goals, and a timetable for
11 reaching these goals. The chief procurement officer shall
12 review and approve the plan of the public university and may
13 reject any plan that does not comply with this Section.

14 (d) Each State university shall file with its chief
15 procurement officer an annual report of its utilization of
16 small businesses during the preceding fiscal year, including
17 lapse period spending and a mid-fiscal year report of its
18 utilization to date for the then-current fiscal year. The
19 reports shall include a self-evaluation of the efforts of the
20 State official or university to meet its goals.

21 (e) The chief procurement officer shall make public
22 presentations, at least once a year, directed at providing
23 information to small businesses about the contracting process
24 and how to apply for contracts or subcontracts.

25 (f) Each chief procurement officer shall file, no later
26 than November 1 of each year, an annual report with the

1 Governor and the General Assembly that shall include, but need
2 not be limited to, the following:

3 (1) a summary of the number of contracts awarded and
4 the average contract amount by each State official or
5 public university; and

6 (2) an analysis of the level of overall goal
7 achievement concerning purchases from small businesses.

8 (g) Each chief procurement officer may adopt rules to
9 implement and administer this Section.

10 Section 45-100. Electric vehicles. For purposes of this
11 Section, "electric vehicle" means a vehicle that is
12 exclusively powered by and refueled by electricity, must be
13 plugged in to charge or utilize a pre-charged battery, and is
14 permitted to operate on public roadways. "Electric vehicle"
15 does not include hybrid electric vehicles and extended-range
16 electric vehicles that are also equipped with conventional
17 fueled propulsion or auxiliary engines. For purposes of this
18 Section, "Manufactured in Illinois" means, in the case of
19 electric vehicles, that design, final assembly, processing,
20 packaging, testing, or other process that adds value, quality,
21 or reliability occurs in Illinois.

22 In awarding contracts requiring the procurement of
23 electric vehicles, preference shall be given to an otherwise
24 qualified bidder or offeror who will fulfill the contract
25 through the use of electric vehicles manufactured in Illinois.

1 Specifications for contracts for electric vehicles shall
2 include a price preference of 20% for electric vehicles
3 manufactured in Illinois. The Public University may require
4 additional information from bidders or offerors to verify
5 whether an electric vehicle is manufactured in Illinois as
6 defined by this Section.

7 Section 45-105. Bid preference for Illinois businesses.

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

12 (b) Construction agencies procuring construction and
13 construction-related professional services shall make
14 reasonable efforts to contract with Illinois businesses.

15 (c) As used in this Section, "Illinois business" means a
16 contractor that is operating and headquartered in Illinois and
17 providing, at the time that an invitation for a bid or notice
18 of contract opportunity is first advertised, construction or
19 construction-related professional services, and is operating
20 as:

21 (1) a sole proprietor whose primary residence is in
22 Illinois;

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

25 (3) a business organized as a domestic partnership

1 under the Uniform Partnership Act of 1997;

2 (4) a business organized as a domestic limited
3 partnership under the Uniform Limited Partnership Act of
4 2001;

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

7 (6) a business organized under the Professional
8 Limited Liability Company Act.

9 "Illinois business" does not include any subcontractors.

10 ARTICLE 50

11 PROCUREMENT ETHICS AND DISCLOSURE

12 Section 50-1. Purpose. It is the express duty of the
13 public university chief procurement officer, State Purchasing
14 Officers, and their designees to maximize the value of the
15 expenditure of public moneys in procuring goods, services, and
16 contracts for the State of Illinois public universities and to
17 act in a manner that maintains the integrity and public trust
18 of State government. In discharging this duty, they are
19 charged to use all available information, reasonable efforts,
20 and reasonable actions to protect, safeguard, and maintain the
21 procurement process of the State of Illinois.

22 Section 50-2. Continuing disclosure; false certification.
23 Every person that has entered into a contract for more than one

1 year in duration for the initial term or for any renewal term
2 shall certify, by January 1 of each fiscal year covered by the
3 contract after the initial fiscal year, to the public
4 university chief procurement officer or the applicable state
5 procurement officer of any changes that affect its ability to
6 satisfy the requirements of this Article pertaining to
7 eligibility for a contract award. If a contractor or
8 subcontractor continues to meet all requirements of this
9 Article, it shall not be required to submit any certification
10 or if the work under the contract has been substantially
11 completed before contract expiration but the contract has not
12 yet expired. If a contractor or subcontractor is not able to
13 truthfully certify that it continues to meet all requirements,
14 it shall provide with its certification a detailed explanation
15 of the circumstances leading to the change in certification
16 status. A contractor or subcontractor that makes a false
17 statement material to any given certification required under
18 this Article is, in addition to any other penalties or
19 consequences prescribed by law, subject to liability under the
20 Illinois False Claims Act for submission of a false claim.

21 Section 50-5. Bribery.

22 (a) Prohibition. No person or business shall be awarded a
23 contract or subcontract under this Code who:

24 (1) has been convicted under the laws of Illinois or
25 any other state of bribery or attempting to bribe an

1 officer or employee of the State of Illinois or any other
2 state in that officer's or employee's official capacity;
3 or

4 (2) has made an admission of guilt of that conduct
5 that is a matter of record but has not been prosecuted for
6 that conduct.

7 (b) Businesses. No business shall be barred from
8 contracting with any Illinois public university, or
9 subcontracting under such a contract, as a result of a
10 conviction under this Section of any employee or agent of the
11 business if the employee or agent is no longer employed by the
12 business and:

13 (1) the business has been finally adjudicated not
14 guilty; or

15 (2) the business demonstrates to the governmental
16 entity with which it seeks to contract or which is a
17 signatory to the contract to which the subcontract
18 relates, and that entity finds that the commission of the
19 offense was not authorized, requested, commanded, or
20 performed by a director, officer, or high managerial agent
21 on behalf of the business as provided in paragraph (2) of
22 subsection (a) of Section 5-4 of the Criminal Code of
23 2012.

24 (c) Conduct on behalf of business. For purposes of this
25 Section, when an official, agent, or employee of a business
26 committed the bribery or attempted bribery on behalf of the

1 business and in accordance with the direction or authorization
2 of a responsible official of the business, the business shall
3 be chargeable with the conduct.

4 (d) Certification. Every bid or offer submitted to every
5 contract executed by an Illinois public university shall
6 contain a certification by the bidder, offeror, potential
7 contractor, contractor, or the subcontractor, respectively,
8 that the bidder, offeror, potential contractor, contractor or
9 subcontractor is not barred from being awarded a contract or
10 subcontract under this Section and acknowledges that the
11 public university chief procurement officer may declare the
12 related contract void if any certifications required by this
13 Section are false. If the false certification is made by a
14 subcontractor, then the contractor's submitted bid or offer
15 and the executed contract may not be declared void, unless the
16 contractor refuses to terminate the subcontract upon the
17 University's request after a finding that the subcontract's
18 certification was false. A bidder, offeror, potential
19 contractor, contractor, or subcontractor who makes a false
20 statement, material to the certification, commits a Class 3
21 felony.

22 Section 50-10. Felons.

23 (a) Unless otherwise provided, no person or business
24 convicted of a felony shall do business with a State of
25 Illinois public university, or enter into a subcontract, from

1 the date of conviction until 5 years after the date of
2 completion of the sentence for that felony, unless no person
3 held responsible by a prosecutorial office for the facts upon
4 which the conviction was based continues to have any
5 involvement with the business.

6 For purposes of this subsection (a), "completion of
7 sentence" means completion of all sentencing related to the
8 felony conviction or admission and includes, but is not
9 limited to, the following: incarceration, mandatory supervised
10 release, probation, work release, house arrest, or commitment
11 to a mental facility.

12 (b) Every bid or offer submitted to the State's public
13 universities, every contract executed by a State public
14 university, every subcontract shall contain a certification by
15 the bidder, offeror, potential contractor, contractor, or
16 subcontractor, respectively, that it is not barred from being
17 awarded a contract or subcontract under this Section and
18 acknowledges that the public university chief procurement
19 officer may declare the related contract void if any of the
20 certifications required by this Section are false. If the
21 false certification is made by a subcontractor, then the
22 contractor's submitted bid or offer and the executed contract
23 may not be declared void, unless the contractor refuses to
24 terminate the subcontract upon the State's request after a
25 finding that the subcontract's certification was false.

1 Section 50-10.5. Prohibited bidders, offerors, potential
2 contractors, and contractors.

3 (a) Unless otherwise provided, no business shall bid,
4 offer, enter into a contract or subcontract under this Code,
5 or any officer, director, partner, or other managerial agent
6 of the business has been convicted of a felony under the
7 Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under
8 the Illinois Securities Law of 1953 for a period of 5 years
9 from the date of conviction.

10 (b) Every bid and offer submitted to the State
11 Universities, every contract executed by the State
12 Universities, and every subcontract subject to Section 20-120
13 of this Code shall contain a certification by the bidder,
14 offeror, potential contractor, contractor, or subcontractor,
15 respectively, that the bidder, offeror, potential contractor,
16 contractor, or subcontractor is not barred from being awarded
17 a contract or subcontract under this Section and acknowledges
18 that the chief procurement officer shall declare the related
19 contract void if any of the certifications completed pursuant
20 to this subsection (b) are false. If the false certification
21 is made by a subcontractor, then the contractor's submitted
22 bid or offer and the executed contract may not be declared
23 void, unless the contractor refuses to terminate the
24 subcontract upon the public university's chief procurement
25 officer's request after a finding that the subcontract's
26 certification was false.

1 (c) If a business is not a natural person, the prohibition
2 in subsection (a) applies only if:

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

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

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

11 (e) No person or business shall bid, offer, make a
12 submission to a vendor portal, or enter into a contract under
13 this Code if the person or business assisted an employee of the
14 State of Illinois, who, by the nature of his or her duties, has
15 the authority to participate personally and substantially in
16 the decision to award a State contract, by reviewing,
17 drafting, directing, or preparing any invitation for bids, a
18 request for proposal, or request for information or provided
19 similar assistance except as part of a publicly issued
20 opportunity to review drafts of all or part of these
21 documents.

22 This subsection does not prohibit a person or business
23 from submitting a bid or offer or entering into a contract if
24 the person or business: (i) initiates a communication with an
25 employee to provide general information about products,
26 services, or industry best practices, (ii) responds to a

1 communication initiated by an employee of the State for the
2 purposes of providing information to evaluate new products,
3 trends, services, or technologies, or (iii) asks for
4 clarification regarding a solicitation, so long as there is no
5 competitive advantage to the person or business and the
6 question and answer, if material, are posted to the Higher
7 Education Procurement Bulletin as an addendum to the
8 solicitation.

9 Nothing in this Section prohibits a vendor developing
10 technology, goods, or services from bidding or offering to
11 supply that technology or those goods or services if the
12 subject demonstrated to the State represents industry trends
13 and innovation and is not specifically designed to meet the
14 State University's needs.

15 Nothing in this Section prohibits a person performing
16 construction-related services from initiating contact with a
17 business that performs construction for the purpose of
18 obtaining market costs or production time to determine the
19 estimated costs to complete the construction project.

20 For purposes of this subsection (e), "business" includes
21 all individuals with whom a business is affiliated, including,
22 but not limited to, any officer, agent, employee, consultant,
23 independent contractor, director, partner, or manager of a
24 business.

25 No person or business shall submit specifications to a
26 State University unless requested to do so by an employee of

1 the University. No person or business who contracts with a
2 State University to write specifications for a particular
3 procurement need shall submit a bid or proposal or receive a
4 contract for that procurement need.

5 Nothing in this subsection (e) shall prohibit a person or
6 business from submitting an unsolicited proposal under Section
7 19 of the Public-Private Partnerships for Transportation Act.

8 Section 50-11. Debt delinquency.

9 (a) If a person submits a bid or offer for, enters into a
10 contract or subcontract under this Code, or makes a submission
11 to a vendor portal and that person knows or should know that he
12 or she or any affiliate is delinquent in the payment of any
13 debt to the State of Illinois, that person or affiliate must
14 cure the debt delinquency within 7 calendar days by satisfying
15 the entire debt, or the person or affiliate must enter into a
16 deferred payment plan to pay off the debt, subject to the State
17 of Illinois Comptroller's ability to process the payment, or
18 must be actively disputing or seeking a resolution of the
19 debt. For purposes of this Section, the phrase "delinquent in
20 the payment of any debt" shall be determined by the Debt
21 Collection Bureau. For purposes of this Section, the term
22 "affiliate" 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

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

11 (b) Every bid and offer submitted to the State University,
12 every vendor's submission to a vendor portal, every contract
13 executed by a State University and every subcontract subject
14 to Section 20-120 of this Code shall contain a certification
15 by the bidder, offeror, potential contractor, contractor, or
16 subcontractor, respectively, that the bidder, offeror,
17 respondent, potential contractor, contractor or the
18 subcontractor and its affiliate is not barred from being
19 awarded a contract or subcontract under this Section and
20 acknowledges that the chief procurement officer may declare
21 the related contract void if any of the certifications
22 completed pursuant to this subsection (b) are false. If the
23 false certification is made by a subcontractor, then the
24 contractor's submitted bid or offer and the executed contract
25 may not be declared void, unless the contractor refuses to
26 terminate the subcontract upon the State's request after a

1 finding that the subcontract's certification was false.

2 Section 50-12. Collection and remittance of Illinois Use
3 Tax.

4 (a) No person shall enter into a contract with a State
5 University or enter into a subcontract under this Code unless
6 the person and all affiliates of the person collect and remit
7 Illinois Use Tax on all sales of tangible personal property
8 into the State of Illinois in accordance with the provisions
9 of the Illinois Use Tax Act regardless of whether the person or
10 affiliate is a "retailer maintaining a place of business
11 within this State" as defined in Section 2 of the Use Tax Act.
12 For purposes of this Section, the term "affiliate" means any
13 entity that (1) directly, indirectly, or constructively
14 controls another entity, (2) is directly, indirectly, or
15 constructively controlled by another entity, or (3) is subject
16 to the control of a common entity. For purposes of this
17 subsection (a), an entity controls another entity if it owns,
18 directly or individually, more than 10% of the voting
19 securities of that entity. As used in this subsection (a), the
20 term "voting security" means a security that (1) confers upon
21 the holder the right to vote for the election of members of the
22 board of directors or similar governing body of the business
23 or (2) is convertible into, or entitles the holder to receive
24 upon its exercise, a security that confers such a right to
25 vote. A general partnership interest is a voting security.

1 (b) Every bid and offer submitted to a State University,
2 every submission to a vendor portal, every contract executed
3 by a State University and every subcontract subject to Section
4 20-120 of this Code shall contain a certification by the
5 bidder, offeror, potential contractor, contractor, or
6 subcontractor, respectively, that the bidder, offeror,
7 respondent, potential contractor, contractor, or subcontractor
8 is not barred from bidding for or entering into a contract
9 under subsection (a) of this Section and acknowledges that the
10 public university chief procurement officer may declare the
11 related contract void if any of the certifications completed
12 pursuant to this subsection (b) are false. If the false
13 certification is made by a subcontractor, then the
14 contractor's submitted bid or offer and the executed contract
15 may not be declared void, unless the contractor refuses to
16 terminate the subcontract upon the State's request after a
17 finding that the subcontract's certification was false.

18 Section 50-13. Conflicts of interest.

19 (a) Prohibition. It is unlawful for any person holding an
20 elective office in this State, holding a seat in the General
21 Assembly, or appointed to or employed in any of the offices or
22 agencies of State government and who receives compensation for
23 such employment in excess of 60% of the salary of the Governor
24 of the State of Illinois, or who is an officer or employee of
25 the Capital Development Board or the Illinois Toll Highway

1 Authority, or who is the spouse or minor child of any such
2 person to have or acquire any contract, or any direct
3 pecuniary interest in any contract therein, whether for
4 stationery, printing, paper, or any services, materials, or
5 supplies, that will be wholly or partially satisfied by the
6 payment of funds appropriated by the General Assembly of the
7 State of Illinois or in any contract of the Capital
8 Development Board or the Illinois Toll Highway Authority.

9 (b) Interests. It is unlawful for any firm, partnership,
10 association, or corporation, in which any person listed in
11 subsection (a) is entitled to receive (i) more than 7 1/2% of
12 the total distributable income or (ii) an amount in excess of
13 the salary of the Governor, to have or acquire any such
14 contract or direct pecuniary interest therein.

15 (c) Combined interests. It is unlawful for any firm,
16 partnership, association, or corporation, in which any person
17 listed in subsection (a) together with his or her spouse or
18 minor children is entitled to receive (i) more than 15%, in the
19 aggregate, of the total distributable income or (ii) an amount
20 in excess of 2 times the salary of the Governor, to have or
21 acquire any such contract or direct pecuniary interest
22 therein.

23 (c-5) Appointees and firms. In addition to any provisions
24 of this Code, the interests of certain appointees and their
25 firms are subject to Section 3A-35 of the Illinois
26 Governmental Ethics Act.

1 (d) Securities. Nothing in this Section invalidates the
2 provisions of any bond or other security previously offered or
3 to be offered for sale or sold by or for the State of Illinois.

4 (e) Prior interests. This Section does not affect the
5 validity of any contract made between the State and an officer
6 or employee of the State or member of the General Assembly, his
7 or her spouse, minor child, or other immediate family member
8 living in his or her residence or any combination of those
9 persons if that contract was in existence before his or her
10 election or employment as an officer, member, or employee. The
11 contract is voidable, however, if it cannot be completed
12 within 365 calendar days after the officer, member, or
13 employee takes office or is employed.

14 (f) Exceptions.

15 (1) Public aid payments. This Section does not apply
16 to payments made for a public aid recipient.

17 (2) Teaching. This Section does not apply to a
18 contract for personal services as a teacher or school
19 administrator between a member of the General Assembly or
20 his or her spouse, or a State officer or employee or his or
21 her spouse, and any school district, public community
22 college district, the University of Illinois, Southern
23 Illinois University, Illinois State University, Eastern
24 Illinois University, Northern Illinois University, Western
25 Illinois University, Chicago State University, Governors
26 State University, or Northeastern Illinois University.

1 (3) Ministerial duties. This Section does not apply to
2 a contract for personal services of a wholly ministerial
3 character, including, but not limited to, services as a
4 laborer, clerk, typist, stenographer, page, bookkeeper,
5 receptionist, or telephone switchboard operator, made by a
6 spouse or minor child of an elective or appointive State
7 officer or employee or of a member of the General
8 Assembly.

9 (4) Child and family services. This Section does not
10 apply to payments made to a member of the General
11 Assembly, a State officer or employee, his or her spouse
12 or minor child acting as a foster parent, homemaker,
13 advocate, or volunteer for or in behalf of a child or
14 family served by the Department of Children and Family
15 Services.

16 (5) Licensed professionals. Contracts with licensed
17 professionals, provided they are competitively bid or part
18 of a reimbursement program for specific, customary goods
19 and services through the Department of Children and Family
20 Services, the Department of Human Services, the Department
21 of Healthcare and Family Services, the Department of
22 Public Health, or the Department on Aging.

23 (g) Penalty. A person convicted of a violation of this
24 Section is guilty of a business offense and shall be fined not
25 less than \$1,000 nor more than \$5,000.

1 Section 50-14. Environmental Protection Act violations.

2 (a) Unless otherwise provided, no person or business found
3 by a court or the Pollution Control Board to have committed a
4 willful or knowing violation of the Environmental Protection
5 Act shall do business with the State of Illinois or any State
6 public university or enter into a subcontract that is subject
7 to this Code from the date of the order containing the finding
8 of violation until 5 years after that date, unless the person
9 or business can show that no person involved in the violation
10 continues to have any involvement with the business.

11 (b) A person or business otherwise barred from doing
12 business with the State of Illinois or any State public
13 university or subcontracting under this Code by subsection (a)
14 may be allowed to do business with the State of Illinois or any
15 State public university if it is shown that there is no
16 practicable alternative to the State to contracting with that
17 person or business.

18 (c) Every bid or offer submitted to the State, every
19 contract executed by the State, every submission to a vendor
20 portal, and every subcontract subject to Section 20-120 of
21 this Code shall contain a certification by the bidder,
22 offeror, potential contractor, contractor, or subcontractor,
23 respectively, that the bidder, offeror, potential contractor,
24 contractor, or subcontractor is not barred from being awarded
25 a contract or subcontract under this Section and acknowledges
26 that the contracting State public university may declare the

1 related contract void if any of the certifications completed
2 pursuant to this subsection (c) are false. If the false
3 certification is made by a subcontractor, then the
4 contractor's submitted bid or offer and the executed contract
5 may not be declared void, unless the contractor refuses to
6 terminate the subcontract upon the State's request after a
7 finding that the subcontract's certification was false.

8 Section 50-14.5. Lead Poisoning Prevention Act violations.
9 Owners of residential buildings who have committed a willful
10 or knowing violation of the Lead Poisoning Prevention Act are
11 prohibited from doing business with the State of Illinois or
12 any State public university, or subcontracting under this
13 Code, until the violation is mitigated.

14 Section 50-15. Negotiations.

15 (a) It is unlawful for any person employed in or on a
16 continual contractual relationship with any of the offices of
17 State Universities to participate in contract negotiations on
18 behalf of that office or public university with any firm,
19 partnership, association, or corporation with whom that person
20 has a contract for future employment or is negotiating
21 concerning possible future employment.

22 (b) Any person convicted of a violation of this Section is
23 guilty of a business offense and shall be fined not less than
24 \$1,000 nor more than \$5,000.

1 Section 50-17. Expatriated entities.

2 (a) Except as provided in subsection (b) of this Section,
3 no business or member of a unitary business group, as defined
4 in the Illinois Income Tax Act, shall submit a bid for or enter
5 into a contract with a State public university under this Code
6 if that business or any member of the unitary business group is
7 an expatriated entity.

8 (b) An expatriated entity or a member of a unitary
9 business group with an expatriated entity as a member may
10 submit a bid for or enter into a contract with a State
11 University under this Code if the appropriate chief
12 procurement officer determines that either of the following
13 apply:

14 (1) the contract is awarded as a sole source
15 procurement under Section 20-25 of this Code, provided
16 that the appropriate chief procurement officer (i)
17 includes in the notice of intent to enter into a sole
18 source contract a prominent statement that the intended
19 sole source contractor is an expatriated entity and (ii)
20 holds a public hearing at which the chief procurement
21 officer and purchasing agency or public university present
22 written justification for the use of a sole source
23 contract with an expatriated entity and any member of the
24 public may present testimony; or

25 (2) the purchase is of pharmaceutical products, drugs,

1 biologics, vaccines, medical supplies, or devices used to
2 provide medical and health care or treat disease or used
3 in medical or research diagnostic tests, and medical
4 nutritionals regulated by the Food and Drug Administration
5 under the Federal Food, Drug, and Cosmetic Act.

6 Section 50-20. Exemptions. The public university chief
7 procurement officer may approve a request to exempt named
8 individuals from the prohibitions of Section 50-13 when, in
9 his or her judgment, the public interest in having the
10 individual in the service of the State University outweighs
11 the public policy evidenced in that Section. The public
12 university chief procurement officer shall publish written
13 notice of such approval on the Higher Education Procurement
14 Bulletin prior to the execution of any contract and includes a
15 statement setting forth the name of the individual and all the
16 pertinent facts that would make that Section applicable,
17 setting forth the reason for the exemption, and declaring the
18 individual exempted from that Section.

19 Section 50-21. Bond issuances.

20 (a) A State University shall not enter into a contract
21 with respect to the issuance of bonds or other securities by
22 the State or a State public university with any entity that
23 uses an independent consultant.

24 As used in this subsection, "independent consultant" means

1 a person used by the entity to obtain or retain securities
2 business through direct or indirect communication by the
3 person with a State University official or employee on behalf
4 of the entity when the communication is undertaken by the
5 person in exchange for or with the understanding of receiving
6 payment from the entity or another person. "Independent
7 consultant" does not include (i) a finance professional
8 employed by the entity or (ii) a person whose sole basis of
9 compensation from the entity is the actual provision of legal,
10 accounting, or engineering advice, services, or assistance in
11 connection with the securities business that the entity seeks
12 to obtain or retain.

13 (b) Prior to entering into a contract with a State public
14 university with respect to the issuance of bonds or other
15 securities by the State or a State public university, a
16 contracting party subject to the Municipal Securities
17 Rulemaking Board's Rule G-37, or a successor rule, shall
18 include a certification that the contracting entity is and
19 shall remain for the duration of the contract in compliance
20 with the Rule's requirements for reporting political
21 contributions. Subsequent failure to remain in compliance
22 shall make the contract voidable by the State.

23 (c) If a federal agency finds that an entity has knowingly
24 violated in Illinois the Municipal Securities Rulemaking
25 Board's Rule G-37 (or any successor rule) with respect to the
26 making of prohibited political contributions or payments, then

1 the chief procurement officer shall impose a penalty that is
2 at least twice the fine assessed against that entity by the
3 federal agency. The chief procurement officer shall also bar
4 that entity from participating in any State public university
5 contract with respect to the issuance of bonds or other
6 securities for a period of one year. The one-year period shall
7 begin upon the expiration of any debarment period imposed by a
8 federal public university. If no debarment is imposed by a
9 federal agency, then the one-year period shall begin on the
10 date the chief procurement officer is advised of the
11 violation.

12 If a federal agency finds that an entity has knowingly
13 violated in Illinois the Municipal Securities Rulemaking
14 Board's Rule G-38 (or any successor rule) with respect to the
15 prohibition on obtaining or retaining municipal securities
16 business, then the chief procurement officer shall bar that
17 entity from participating in any State public university
18 contract with respect to the issuance of bonds or other
19 securities for a period of one year. The one-year period shall
20 begin upon the expiration of any debarment period imposed by a
21 federal. If no debarment is imposed by a federal public
22 university, then the one-year period shall begin on the date
23 the chief procurement officer is advised of the violation.

24 (d) Nothing in this Section shall be construed to apply
25 retroactively, but shall apply prospectively on and after the
26 effective date of this Code.

1 Section 50-25. Inducement. Any person who offers or pays
2 any money or other valuable thing to any person to induce him
3 or her not to provide a submission to a bid, or submit an offer
4 for a State public university contract or as recompense for
5 not having bid on or submitted an offer for a State contract or
6 provided a submission to a vendor portal is guilty of a Class 4
7 felony. Any person who accepts any money or other valuable
8 thing for not bidding or submitting an offer for a University
9 contract, or who withholds a bid, offer, or submission to
10 vendor portal in consideration of the promise for the payment
11 of money or other valuable thing is guilty of a Class 4 felony.

12 Section 50-30. Revolving door prohibition.

13 (a) Chief procurement officers and State procurement
14 officers whose principal duties are directly related to
15 University procurement, and executive officers confirmed by
16 the Senate are expressly prohibited for a period of 2 years
17 after terminating an affected position from engaging in any
18 procurement activity relating to the State University most
19 recently employing them in an affected position for a period
20 of at least 6 months. The prohibition includes but is not
21 limited to: lobbying the procurement process; specifying;
22 bidding; proposing bid, proposal, or contract documents; on
23 their own behalf or on behalf of any firm, partnership,
24 association, or corporation.

1 (b) In addition to any other provisions of this Code,
2 employment of former State employees is subject to the State
3 Officials and Employees Ethics Act.

4 Section 50-35. Financial disclosure and potential
5 conflicts of interest.

6 (a) All bids and offers from responsive bidders, offerors,
7 vendors, or contractors with an annual value that exceeds the
8 small purchase threshold established under subsection (a) of
9 Section 20-20 of this Code, shall be accompanied by disclosure
10 of the financial interests of the bidder, offeror, potential
11 contractor, or contractor and each subcontractor to be used.
12 The financial disclosure of each successful bidder, offeror,
13 potential contractor, or contractor shall be incorporated as a
14 material term of the contract and shall become part of the
15 publicly available contract or procurement file maintained by
16 the appropriate university state procurement officer. Each
17 disclosure under this Section shall be signed and made under
18 penalty of perjury by an authorized officer or employee on
19 behalf of the bidder, offeror, potential contractor.

20 (b) Disclosure requirements & conflict of interest
21 information, forms and posting requirements will be defined by
22 the public university chief procurement officer and clarified
23 by rule.

24 Section 50-36. Disclosure of business in Iran.

1 (a) As used in this Section:

2 "Business operations" means engaging in commerce in any
3 form in Iran, including, but not limited to, acquiring,
4 developing, maintaining, owning, selling, possessing, leasing,
5 or operating equipment, facilities, personnel, products,
6 services, personal property, real property, or any other
7 apparatus of business or commerce.

8 "Company" means any sole proprietorship, organization,
9 association, corporation, partnership, joint venture, limited
10 partnership, limited liability partnership, limited liability
11 company, or other entity or business association, including
12 all wholly owned subsidiaries, majority-owned subsidiaries,
13 parent companies, or affiliates of those entities or business
14 associations, that exists for the purpose of making profit.

15 "Mineral-extraction activities" include exploring,
16 extracting, processing, transporting, or wholesale selling or
17 trading of elemental minerals or associated metal alloys or
18 oxides (ore), including gold, copper, chromium, chromite,
19 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc.

20 "Oil-related activities" include, but are not limited to,
21 owning rights to oil blocks; exporting, extracting, producing,
22 refining, processing, exploring for, transporting, selling, or
23 trading of oil; and constructing, maintaining, or operating a
24 pipeline, refinery, or other oil-field infrastructure. The
25 mere retail sale of gasoline and related consumer products is
26 not considered an oil-related activity.

1 "Petroleum resources" means petroleum, petroleum
2 byproducts, or natural gas.

3 "Substantial action" means adopting, publicizing, and
4 implementing a formal plan to cease scrutinized business
5 operations within one year and to refrain from any such new
6 business operations.

7 (b) Each bid or offer submitted for a State contract,
8 other than a small purchase defined in Section 20-20, shall
9 include a disclosure of whether or not the bidder, offeror, or
10 any of its corporate parents or subsidiaries, within the 24
11 months before submission of the bid or offer had business
12 operations that involved contracts with or provision of
13 supplies or services to the Government of Iran, companies in
14 which the Government of Iran has any direct or indirect equity
15 share, consortiums or projects commissioned by the Government
16 of Iran, or companies involved in consortiums or projects
17 commissioned by the Government of Iran and:

18 (1) more than 10% of the company's revenues produced
19 in or assets located in Iran involve oil-related
20 activities or mineral-extraction activities; less than 75%
21 of the company's revenues produced in or assets located in
22 Iran involve contracts with or provision of oil-related or
23 mineral-extraction products or services to the Government
24 of Iran or a project or consortium created exclusively by
25 that government; and the company has failed to take
26 substantial action; or

1 (2) the company has made an investment of \$20 million
2 or more, or any combination of investments of at least \$10
3 million each that in the aggregate equals or exceeds \$20
4 million in any 12-month period, that directly or
5 significantly contributes to the enhancement of Iran's
6 ability to develop petroleum resources of Iran.

7 (c) A bid or offer that does not include the disclosure
8 required by subsection (b) may be given a period after the bid
9 or offer is submitted to cure non-disclosure. A chief
10 procurement officer may consider the disclosure when
11 evaluating the bid or offer or awarding the contract.

12 (d) Each chief procurement officer shall provide the State
13 Comptroller with the name of each entity disclosed under
14 subsection (b) as doing business or having done business in
15 Iran. The State Comptroller shall post that information on his
16 or her official website.

17 Section 50-37. Prohibition of political contributions.

18 (a) As used in this Section:

19 The terms "contract", "State contract", and "contract with
20 a State public university" each mean any contract, as defined
21 in this Code, between a business entity and a State public
22 university let or awarded pursuant to this Code. The terms
23 "contract", "State contract", and "contract with a State
24 public university" do not include cost reimbursement
25 contracts; purchase of care agreements as defined in Section

1 1-15 of this Code; contracts for projects eligible for full or
2 partial federal-aid funding reimbursements authorized by the
3 Federal Highway Administration; grants, including, but not
4 limited to, grants for job training or transportation; and
5 grants, loans, or tax credit agreements for economic
6 development purposes.

7 "Contribution" means a contribution as defined in Section
8 9-1.4 of the Election Code.

9 "Declared candidate" means a person who has filed a
10 statement of candidacy and petition for nomination or election
11 in the principal office of the State Board of Elections.

12 "State public university" means and includes all boards,
13 commissions, agencies, institutions, authorities, and bodies
14 politic and corporate of the State, created by or in
15 accordance with the Illinois Constitution or State statute, of
16 the executive branch of State government and does include
17 colleges, universities, public employee retirement systems,
18 and institutions under the jurisdiction of the governing
19 boards of the University of Illinois, Southern Illinois
20 University, Illinois State University, Eastern Illinois
21 University, Northern Illinois University, Western Illinois
22 University, Chicago State University, Governors State
23 University, Northeastern Illinois University,

24 "Officeholder" means the Governor, Lieutenant Governor,
25 Attorney General, Secretary of State, Comptroller, or
26 Treasurer. The Governor shall be considered the officeholder

1 responsible for awarding all contracts by all officers and
2 employees of, and potential contractors and others doing
3 business with, executive branch State agencies under the
4 jurisdiction of the Executive Ethics Commission and not within
5 the jurisdiction of the Attorney General, the Secretary of
6 State, the Comptroller, or the Treasurer.

7 "Affiliated person" means (i) any person with any
8 ownership interest or distributive share of the bidding or
9 contracting business entity in excess of 7.5%, (ii) executive
10 employees of the bidding or contracting business entity, and
11 (iii) the spouse of any such persons. "Affiliated person" does
12 not include a person prohibited by federal law from making
13 contributions or expenditures in connection with a federal,
14 state, or local election.

15 "Affiliated entity" means (i) any corporate parent and
16 each operating subsidiary of the bidding or contracting
17 business entity, (ii) each operating subsidiary of the
18 corporate parent of the bidding or contracting business
19 entity, (iii) any organization recognized by the United States
20 Internal Revenue Service as a tax-exempt organization
21 described in Section 501(c) of the Internal Revenue Code of
22 1986 (or any successor provision of federal tax law)
23 established by the bidding or contracting business entity, any
24 affiliated entity of that business entity, or any affiliated
25 person of that business entity. "Affiliated entity" does not
26 include an entity prohibited by federal law from making

1 contributions or expenditures in connection with a federal,
2 state, or local election.

3 "Business entity" means any entity doing business for
4 profit, whether organized as a corporation, partnership, sole
5 proprietorship, limited liability company or partnership, or
6 otherwise.

7 "Executive employee" means (i) the President, Chairman, or
8 Chief Executive Officer of a business entity and any other
9 individual that fulfills equivalent duties as the President,
10 Chairman of the Board, or Chief Executive Officer of a
11 business entity; and (ii) any employee of a business entity
12 whose compensation is determined directly, in whole or in
13 part, by the award or payment of contracts by a State public
14 university to the entity employing the employee. A regular
15 salary that is paid irrespective of the award or payment of a
16 contract with a State public university shall not constitute
17 "compensation" under item (ii) of this definition. "Executive
18 employee" does not include any person prohibited by federal
19 law from making contributions or expenditures in connection
20 with a federal, state, or local election.

21 (b) Any business entity whose contracts with State public
22 universities or agencies, in the aggregate, total more than
23 \$50,000, and any affiliated entities or affiliated persons of
24 such business entity, are prohibited from making any
25 contributions to any political committees established to
26 promote the candidacy of (i) the officeholder responsible for

1 awarding the contracts or (ii) any other declared candidate
2 for that office. This prohibition shall be effective for the
3 duration of the term of office of the incumbent officeholder
4 awarding the contracts or for a period of 2 years following the
5 expiration or termination of the contracts, whichever is
6 longer.

7 (c) Any business entity whose aggregate pending bids and
8 offers on State contracts total more than \$50,000, or whose
9 aggregate pending bids and offers on State contracts combined
10 with the business entity's aggregate total value of State and
11 State University contracts exceed \$50,000, and any affiliated
12 entities or affiliated persons of such business entity, are
13 prohibited from making any contributions to any political
14 committee established to promote the candidacy of the
15 officeholder responsible for awarding the contract on which
16 the business entity has submitted a bid or offer during the
17 period beginning on the date the invitation for bids, request
18 for proposals, or any other procurement opportunity is issued
19 and ending on the day after the date the contract is awarded.

20 (c-5) For the purposes of the prohibitions under
21 subsections (b) and (c) of this Section, (i) any contribution
22 made to a political committee established to promote the
23 candidacy of the Governor or a declared candidate for the
24 office of Governor shall also be considered as having been
25 made to a political committee established to promote the
26 candidacy of the Lieutenant Governor, in the case of the

1 Governor, or the declared candidate for Lieutenant Governor
2 having filed a joint petition, or write-in declaration of
3 intent, with the declared candidate for Governor, as
4 applicable, and (ii) any contribution made to a political
5 committee established to promote the candidacy of the
6 Lieutenant Governor or a declared candidate for the office of
7 Lieutenant Governor shall also be considered as having been
8 made to a political committee established to promote the
9 candidacy of the Governor, in the case of the Lieutenant
10 Governor, or the declared candidate for Governor having filed
11 a joint petition, or write-in declaration of intent, with the
12 declared candidate for Lieutenant Governor, as applicable.

13 (d) All contracts between State Universities and a
14 business entity that violate subsection (b) or (c) shall be
15 voidable under Section 50-60. If a business entity violates
16 subsection (b) 3 or more times within a 36-month period, then
17 all contracts between State agencies and that business entity
18 shall be void, and that business entity shall not bid or
19 respond to any invitation to bid or request for proposals from
20 any State public university or otherwise enter into any
21 contract with any State public university for 3 years from the
22 date of the last violation. A notice of each violation and the
23 penalty imposed shall be published in both the Higher
24 Education Procurement Bulletin and the Illinois Register.

25 (e) Any political committee that has received a
26 contribution in violation of subsection (b) or (c) shall pay

1 an amount equal to the value of the contribution to the State
2 no more than 30 calendar days after notice of the violation
3 concerning the contribution appears in the Illinois Register.
4 Payments received by the State pursuant to this subsection
5 shall be deposited into the general revenue fund.

6 Section 50-38. Lobbying restrictions.

7 (a) Any bidder, offeror, potential contractor, or
8 contractor on a State University contract that hires a person
9 required to register under the Lobbyist Registration Act to
10 assist in obtaining a contract shall (i) disclose all costs,
11 fees, compensation, reimbursements, and other remunerations
12 paid or to be paid to the lobbyist related to the contract,
13 (ii) not bill or otherwise cause the State of Illinois to pay
14 for any of the lobbyist's costs, fees, compensation,
15 reimbursements, or other remuneration, and (iii) sign a
16 verification certifying that none of the lobbyist's costs,
17 fees, compensation, reimbursements, or other remuneration were
18 billed to the State. This information, along with all
19 supporting documents, shall be filed with the public
20 university awarding the contract and with the Secretary of
21 State. The public university chief procurement officer shall
22 post this information, together with the contract award
23 notice, in the Higher Education Procurement Bulletin.

24 (b) Ban on contingency fee. No person or entity shall
25 retain a person or entity required to register under the

1 Lobbyist Registration Act to attempt to influence the outcome
2 of a procurement decision made under this Code for
3 compensation contingent in whole or in part upon the decision
4 or procurement. Any person who violates this subsection is
5 guilty of a business offense and shall be fined not more than
6 \$10,000.

7 Section 50-50. Insider information. It is unlawful for any
8 current or former State University employee to knowingly use
9 confidential information available only by virtue of that
10 office or employment for actual or anticipated gain for
11 themselves or another person.

12 Section 50-57. Curability.

13 (a) If, during an active procurement, a deficiency of this
14 Code, or of the procurement rules, regulations, policies, or
15 practices promulgated by the chief procurement officer under
16 this Code occurs, then, at the request of the State
17 procurement officer and public university head, the chief
18 procurement officer may determine that curing the violation or
19 deficiency is in the best interest of the State University.
20 The request to cure shall be in writing and include a clear
21 description of the violation or deficiency. The State
22 procurement officer and public university head shall request a
23 cure only when the integrity, transparency, and efficiency of
24 the procurement can be maintained. In making a determination,

1 the chief procurement officer shall consider the harm to
2 stakeholders and the value to the State University in
3 permitting the cure and the seriousness of the violation or
4 deficiency. The determination shall be in writing and include
5 the basis for permitting or denying the request. If a cure is
6 permitted, the determination shall include a clear description
7 of the action necessary to cure the violation or deficiency.

8 (b) The public university chief procurement officer shall
9 post all determinations on their official website within 14
10 days after completion of the procurement. The chief
11 procurement officer shall report to the Governor and General
12 Assembly, by no later than November 1 of each year, a summary
13 of determinations for the previous fiscal year.

14 (c) Any violation suspected or found shall be reported to
15 the OEIG. This does not prohibit curing any procurement.

16 (d) Permitting a cure does not absolve any person, as
17 defined in Section 1-15, from any penalties in law. The chief
18 procurement officer may adopt rules to implement and
19 administer this Section.

20 Section 50-60. Voidable contracts.

21 (a) If any contract or amendment thereto is entered into
22 or purchase or expenditure of funds is made at any time in
23 violation of this Code or any other law, the contract or
24 amendment thereto may be declared void by the chief
25 procurement officer or may be ratified and affirmed, provided

1 the chief procurement officer determines that ratification is
2 in the best interests of the State University. If the contract
3 is ratified and affirmed, it shall be without prejudice to the
4 State's rights to any appropriate damages.

5 (b) If, during the term of a contract, the chief
6 procurement officer determines that the contractor is
7 delinquent in the payment of debt as set forth in Section 50-11
8 of this Code, the chief procurement officer may declare the
9 contract void if it determines that voiding the contract is in
10 the best interests of the State or the State University. The
11 Debt Collection Bureau shall adopt rules for the
12 implementation of this subsection (b).

13 (c) If, during the term of a contract, the chief
14 procurement officer determines that the contractor is in
15 violation of Section 50-10.5 of this Code, the chief
16 procurement officer shall declare the contract void.

17 Section 50-65. Suspension. Any contractor or subcontractor
18 may be suspended for violation of this Code or for failure to
19 conform to specifications or terms of delivery. Suspension
20 shall be for cause and may be for a period of up to 10 years at
21 the discretion of the applicable chief procurement officer.
22 Contractors or subcontractors may be debarred in accordance
23 with rules promulgated by the chief procurement officer or as
24 otherwise provided by law.

1 Section 50-75. Other violations.

2 (a) Any chief procurement officer, State procurement
3 officer, or designee who willfully violates or allows the
4 violation of this Code shall be subject to immediate
5 dismissal, regardless of the Personnel Code, any contract, or
6 any collective bargaining agreement.

7 (b) Except as otherwise provided in this Code, whoever
8 violates this Code or the rules promulgated under it is guilty
9 of a Class A misdemeanor.

10 Section 50-80. Sexual harassment policy. Each bidder who
11 submits a bid or offer for a State University contract under
12 this Code shall have a sexual harassment policy in accordance
13 with paragraph (4) of subsection (A) of Section 2-105 of the
14 Illinois Human Rights Act. A copy of the policy shall be
15 provided to the State public university entering into the
16 contract upon request.

17 Section 50-85. Diversity training. Each chief procurement
18 officer, State procurement officer, procurement compliance
19 monitor, applicable support staff of each chief procurement
20 officer, State public university purchasing and contracting
21 staff, those identified under subsection (c) of Section 5-45
22 of the State Officials and Employees Ethics Act who have the
23 authority to participate personally and substantially in the
24 award of State contracts, and any other State public

1 university staff with substantial procurement and contracting
2 responsibilities as determined by the chief procurement
3 officer, in consultation with the State public university,
4 shall complete annual training for diversity and inclusion.
5 Each chief procurement officer shall prescribe the program of
6 diversity and inclusion training appropriate for each chief
7 procurement officer's jurisdiction.

8 Section 50-90. Certifications. All contracts under this
9 Code with an annual value that exceeds the competitive bid
10 threshold annually shall be accompanied by Standard Illinois
11 Certifications in a form prescribed by the public university
12 chief procurement officer.

13 ARTICLE 53

14 CONCESSIONS

15 Section 53-25. Public university.

16 (a) Each public university may enter into concessions,
17 including the assignment, license, sale, or transfer of
18 interests in or rights to discoveries, inventions, patents, or
19 copyrightable works, for property, whether tangible or
20 intangible, over which it has jurisdiction. Concessions shall
21 be reduced to writing and shall be awarded at the discretion of
22 the institution with jurisdiction over the property. Notice of
23 the award of a concession shall be published in the Higher

1 Education Procurement Bulletin.

2 (b) The duration and terms of concessions and leases for
3 personal property shall be at the discretion of the
4 institution with jurisdiction over the property.

5 (c) Notwithstanding any other provision of law, if the
6 Illinois Finance Authority issues bonds for the financing of
7 buildings, structures, or facilities that are determined by
8 the governing board of a public institution of higher
9 education to be either required by or necessary for the use or
10 benefit of that public institution of higher education, then
11 the duration of any lease for real property entered into by
12 that public university, as lessee or lessor, in connection
13 with the issuance of those bonds shall be at the discretion of
14 that public university.

15

ARTICLE 55

16

MISCELLANEOUS PROVISIONS

17 Section 55-10. Exclusive exercise of powers. On and after
18 120 calendar days following the effective date of this Code,
19 the powers granted under this Code shall be exercised
20 exclusively as granted under this Code, and no State public
21 university may concurrently exercise any such power, unless
22 specifically authorized otherwise by a later enacted law. This
23 Code is not intended to impair any contract entered into
24 before the effective date of this Code.

1 Section 55-15. Severability. If any provision of this Code
2 or any application of it to any person or circumstance is held
3 invalid, that invalidity shall not affect other provisions or
4 applications of this Code that can be given effect without the
5 invalid provision or application, and to this end the
6 provisions of this Code are declared to be severable.

7 Section 55-20. Contracts for food donation; food donation
8 policy.

9 (a) A public university shall not enter into a contract to
10 purchase food with a bidder or offeror if the bidder's or
11 offeror's contract terms prohibit the public entity from
12 donating food to food banks, including, but not limited to,
13 homeless shelters, food pantries, and soup kitchens.

14 (b) Each University that purchases food through a contract
15 procured in accordance with this Code shall adopt a policy
16 that permits the donation of leftover food purchased with
17 State appropriated funds. The policy shall address any daily
18 food operations run by the public university, including
19 one-time events, and shall contain a list of nearby soup
20 kitchens, food pantries, and other non-profit organizations
21 where leftover food can be donated.

22 (c) Each University will publish its food donation policy
23 on its public web page.

