**Section 4.15 Definition of Terms Used in This Part**

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined in this Section, and each term listed in this Section shall have the meaning set forth unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Amendment" − A written modification to a contract. An amendment may memorialize an action authorized by specific language in the contract (e.g., exercise of an option or showing price decrease or increase based on CPI), or may memorialize nonmaterial changes (e.g., change in names of notice contacts or number of periodic status meetings). An amendment may also be a change order as defined in this Section.

"Best Interest of the State" – For purposes of this Part, best interest of the State also includes best interest of the procuring university.

"Bid" − The response submitted by a bidder in a competitive sealed bidding process, to an Invitation for Bid or to a multi-step sealed bidding process.

"Bidder" − *One who submits a response in a competitive sealed bidding process, to an invitation for bid, or to a multi-step sealed bidding process.* [30 ILCS 500/1-15.02]

"Brand Name or Equal Specification" − A specification that uses one or more manufacturers' names or catalogue numbers to describe the standard of quality, performance and other characteristics needed to meet university requirements and that allows the submission of equivalent products.

"Brand Name Specification" − A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Building Services" – Repairs to or maintenance of the structure, but does not include janitorial, window washing services, or services provided by university employees.

"Bulletin" – The volume of the Illinois Procurement Bulletin published by the CPO-HE, unless the context clearly means the volume of another CPO or the Illinois Procurement Bulletin generally.

"Change Order" – *A change in a contract term, other than as specifically provided for in the contract,* which is determined necessary to address needs that are best met by the contract holder, and that *authorizes or necessitates any increase or decrease in the cost of the contract or the time for completion*. [30 ILCS 500/1-15.12] A change order is an amendment to the contract.

"*Chief Procurement Office*" – *The offices to which the Chief Procurement Officers are appointed pursuant to Section 10-20* of the Code. [30 ILCS 500/1-15.13]

"Chief Procurement Officer" or "CPO-HE" – The Chief Procurement Officer for Public Institutions of Higher Education, as created by Section 10-20(3) of the Code, or a designee.

"Code" − The Illinois Procurement Code [30 ILCS 500].

"Concession" – The right granted by a license, lease or other agreement to use State property, whether tangible or intangible. Also includes the right to engage in a certain activity on the lessor's property (e.g., a refreshment or parking concession).

"*Construction*" – As used in this Part, *building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings, or real property.* [30 ILCS 5/1-15.20]

"Construction Agency" – *The Capital Development Board for construction or remodeling of State-owned facilities; the Illinois Department of Transportation for construction or maintenance of roads, highways, bridges, and airports; the Illinois Toll Highway Authority for construction or maintenance of toll highways; the Illinois Power Agency for construction, maintenance, and expansion of Agency-owned facilities, as defined in Section 1-10 of the Illinois Power Agency Act* [20 ILCS 3855]*; and any other State agency (including universities) entering into construction contracts as authorized by law or by delegation from the Chief Procurement Officer.* [30 ILCS 500/1-15.25]

"Construction Manager Services" – Services provided in the planning, pre-construction and construction phases of a construction project.

"Construction-related Professional Services" – Services performed that are governed by the Architectural, Engineering, and Land Surveying Qualifications‑Based Selection Act [30 ILCS 535]. "Professional Services" as used in this Part means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

"Construction Support" – Equipment, supplies and services necessary to the operation of a construction agency's construction program, but does not include construction-related services.

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist a university in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a university. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part.

"*Contract*" − *All types of State agreements, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property* for which *the State is the lessee, or capital improvements, and including renewals, master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.* [30 ILCS 500/1-15.30] The term "contract" includes, but is not limited to purchase, installment purchase, lease and rental contracts. The term contract, as used in the Code and this Part, does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, and for which there is no authorized competition, bonds, Certificates of Participation or contracts relating to bonds or Certificates of Participation issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency. Also referred to as a "State contract" or a "university contract".

"*Contract Award*" – Except as otherwise defined in this Section for specific categories of procurements, *the determination that a particular* vendor *has been selected from among other* potential vendors *to receive a contract, subject to* resolution of any protest and *the successful completion of final negotiations. "Contract award" is evidenced by the posting of a Notice of Award or a Notice of Intent to Award to the respective volume of the Illinois Procurement Bulletin* after all State agency required and SPO approvals have been obtained. [30 ILCS 500/15-25(b-5)]

"Contract Let" – The act of awarding a contract to a bidder that responded to an invitation for bids as part of a letting.

"Contractor" or "Vendor" − An individual, firm, partnership, corporation, joint venture or other legal entity that seeks, or has entered into, a contract with a State agency as defined in Section 1-15.30 of the Code. The terms contractor and vendor are used interchangeably for the purposes of the Code and this Part. In appropriate circumstances, the term shall also include subcontractors.

"Day" − Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State or university holiday, as applicable, in which event the period shall run to the end of the next business day.

"Designee" – A person or category of persons identified by the CPO-HE or an SPO, in writing, to exercise procurement authority or to assist with the procurement process. A designee acts under procurement authority of the CPO‑HE or SPO and has the responsibility for taking procurement actions in accordance with applicable laws, rules and policies, as limited by the terms of the delegation.

"Domestic Product" – A product that meets the requirements of the Procurement of Domestic Products Act [30 ILCS 517].

"*Electronic Procurement*" – The *conducting of some or all procurement functions over the internet.* [30 ILCS 500/1-15.40]

"Emergency Statement" – The statement filed with the Auditor General and the Procurement Policy Board setting forth the actual or estimated amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement.

"Emergency Contract Award" – For purposes of an emergency contract, an emergency contract is awarded on the earlier of the date a State agency communicates to a vendor to start work, notice is published on the Illinois Procurement Bulletin identifying the vendor of the required supplies or services, or the date the contract is signed by both parties.

"Estimated Cost" – The amount expected to be paid for a procurement transaction. It is representative of all known work and may include potential and expected unscheduled work arising out of the requirements. The total estimated contract cost is not necessarily equivalent to the maximum cost.

"Evaluation Criteria" – The standards or factors by which the vendor and its bid or offer may be evaluated. These criteria may include, but are not limited to, specialized experience, technical qualifications, competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.

"*Expatriated Entity*" – *A foreign incorporated entity that is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002 (6 USC 395(b)) or any subsidiary of that entity. The federal regulations found at 26 CFR 1.7874-3 may be used to determine when 6 USC 395(b)(3) applies.* [30 ILCS 500/1-15.120]

"Fiduciary Duty" – A CPO's, SPO's, or PCM's obligation to serve the best interest of the State of Illinois.

"Germane" – Closely or significantly related to, arising out of, or directly incidental to the original contract. Additional work or materials are germane if they are of small or minor importance, or are ordinary and comparatively unimportant departures from the details in the specifications. Changes that are a substantial departure from the nature, scope or scale of the original contract are not germane. (See Attorney General Opinion S-939.)

"*Grant*" – Unless otherwise specified, *the furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to the Code.* [30 ILCS 500/1-15.42] When a grantor provides a grant or award to a university that authorizes or allows the university to award subgrants or subawards, the subgrant or subaward shall also be deemed a grant that is made by the university as agent of the grantor.

"Grounds Services" – Lawn care, landscaping, and snow and ice removal services.

*"HUBZone Business" – A business that operates and employs people in Historically Underutilized Business Zones (HUBZone) as designated by the federal HUBZone Empowerment Act* (15 USC 657a). [30 ILCS 500/45-95(a)].

"*Invitation for Bids*" or "IFB" − *The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.* [30 ILCS 500/1-15.45] Also referred to as "Competitive Sealed Bidding".

"Items" − Anything that may be procured under the Code and this Part.

"Letting" – A construction agency's act of advertising an invitation for bids for one or more construction projects.

"Master Contract" – A definite quantity, indefinite quantity or requirements contract awarded under the Code through which universities may place purchase orders. Master contracts include use by a single university, or for multiple State purchasing entities or other entities as authorized under the Governmental Joint Purchasing Act [30 ILCS 525].

"Multiple Award" – An award that is made to two or more bidders or offerors for similar supplies, services, or construction-related services.

"Natural Resources Services" – Services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not needing special expertise, training or education. These services include, but are not limited to, assisting in the operation of tree nurseries, fish hatcheries, game farms and sanctuaries; cleaning and maintenance of specialized facilities; repairing fences and building cages; mowing; and trail and ancillary facility repair.

"*Offer*" or "Proposal" – The response submitted by an offeror in a competitive sealed proposal process or to a Request for Proposals or Request for Information for real estate or capital improvement leases.

"*Offeror*" or "Respondent" – *Any person who submits a proposal in response to a competitive sealed proposal process or a request for proposals.* [30 ILCS 500/1-15.52]

"*Person*" – *Any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity.* [30 ILCS 500/1-15.55]

"Procurement Compliance Monitor" or "PCM" – An individual appointed by the Executive Ethics Commission under Section 10-15 of the Code to oversee and review procurement processes.

"Procurement Officer" − The Chief Procurement Officer or appropriate State Purchasing Officer who is responsible for the particular procurement action.

"Procurement Policy Board" or "PPB" – The body created by Section 5-5 of the Code.

"Proposal" or "Offer" − The response to a Request for Proposals or Request for Information for real estate or capital improvement leases.

"Protest Review Office" – The office of the person designated in the solicitation document to whom protests must be directed. This person will respond to or coordinate the response to the protest.

"*Purchase of Care*" − *A contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitative, social, or human services directly to a recipient of a State aid program* [30 ILCS 500/1-15.68]. Purchase of care includes the furnishing of services directly to recipients of State aid programs or applicants for a State aid program. Purchase of care contracts may include some services that are administrative in nature, as long as the contract primarily provides direct care to recipients of State aid programs. Examples of purchase of care contracts include, but are not limited to, contracts related to care coordination programs under Title XIX of the Social Security Act, including contracts with managed care organizations; primary care case management services; prepaid ambulatory health plans; prepaid inpatient health plans; and direct care services provided under the Children and Family Services Act [20 ILCS 505]. Contracts that do not pertain to direct services to State aid recipients or that are primarily administrative in nature exceed the scope of the definition of a purchase of care contract and are not exempt from the requirements of the Code.

"*Purchasing Agency*" – *A State agency that enters into a contract at the direction of a State Purchasing Officer authorized by a Chief Procurement Officer or* at the direction of  *a Chief Procurement Officer.* [30 ILCS 500/1-15.70]

"Quality Based Selection" or "QBS" – The source selection method for architectural, engineering and land surveying services, as defined by the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

*"Qualified HUBZone Small Business Concern" – A business that qualifies under the HUBZone program administered by the U.S. Small Business Administration.* [30 ILCS 500/45-95(a)]

"Qualified Products List" − An approved list of supplies described by model or catalogue numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Renewal" – An agreement between the parties to a contract to authorize an additional contract period under the terms and conditions of the renewal provision in the original contract. Any renewal of a real estate lease for which a renewal provision is not present may be allowed in accordance with Sections 4.4015 and 4.4025.

"Request for Information" or "RFI" – The process of requesting information from interested parties to aid the State in decision making. This type of RFI is not a procurement method and will not result in a participant receiving a contract.

"Request for Information for Real Property or Capital Improvement Leases" or "RFI-Real Property Leases" or "RFI-RPL" – The process of seeking proposals for leases of real property or capital improvements as outlined under Article 40 of the Code.

"*Request for Proposals*" or "RFP" − *The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.* [30 ILCS 500/1-15.75]

"Request for Proposals-Professional and Artistic" or "RFP-P&A" − The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals for professional and artistic services as defined in Section 1-15.60 of the Code.

"Requesting Agency" – The agency that requests that the CPO-HE or SPO conduct a procurement for its use. All procurements reserved to the CPO-HE that have not been delegated must be initiated by a purchase request.

"*Responsible Bidder*", "Responsible *Potential Contractor*" or "Responsible *Offeror*" − *A person who has the capability in all respects to perform fully the contract requirements and* who has *the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or offer is submitted for a State contract.* [30 ILCS 500/1-15.80]

"*Responsive Bidder*" − *A person who has submitted a bid that conforms in all material respects to the Invitation for Bids.* [30 ILCS 500/1-15.85]

"*Responsive Offeror*" – *A person who has submitted an offer that conforms in all material respects to the Request for Proposals.* [30 ILCS 500/1-15.86]

"Scoring Tool" – The document used to record the method used by the individuals evaluating the responses to a solicitation to judge qualifications or otherwise show whether or how well the responses met requirements set forth in the solicitation.

"*Services*" *− The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance* and its financing. [30 ILCS 500/1-15.90]

"Site Technician Services – These services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not needing special expertise, training or education. These services include, but are not limited to, the maintenance of the site, including operating small farm-type equipment and trucks that do not require a Class C or D driver's license.

"Solicitation" – The document (e.g., IFB, QBS, RFP, RFP-P&A, or RFI-Real Property Lease) posted to the Procurement Bulletin requesting interested parties to submit a response for evaluation by the State. A request for information to determine if there is any interest on the part of a university in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.

"Specification for a Common or General Use Item" − A specification that has been developed and approved for repeated use in procurements.

"*Specifications*" – *Any description, provision or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing or preparing a supply, service, professional or artistic service, construction, or other item for delivery*. [30 ILCS 500/1-15.95]

"State" – As appropriate, collectively or individually, the State of Illinois, a State agency as defined in this Section, and all officers and employees of the foregoing.

"*State Agency*" – Generally, *all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code* [40 ILCS 5] *or to the University of Illinois Foundation* or any other university foundation*. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act* [110 ILCS 805]*, and the Illinois Comprehensive Health Insurance Board.* [30 ILCS 500/1-15.100] For purposes of this Part, State agency means only State universities that are under the jurisdiction of the CPO-HE, unless the context indicates otherwise.

"State Purchasing Officer" or "SPO" – An individual appointed by the CPO-HE in accordance with Section 10-10 of the Code and assigned to exercise procurement authority at the direction of the CPO-HE.

"State Witness" – An employee of the State who observes the opening of bids or sealed proposals.

"*Subcontract*" – *A contract between a person and* another *person who has a contract subject to the Code, pursuant to which the subcontractor provides to the contractor or, if the contract price exceeds $50,000, another subcontractor some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency. For purposes of the Code, a "subcontract" does not include purchases of goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to the Code.* [30 ILCS 500/1-15.107]

"*Subcontractor*" – *A person or entity who enters into a contractual agreement with a total value of $50,000 or more with a person or entity who has a contract subject to the Code pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract.* *For purposes of the Code, a person or entity is not a "subcontractor" if that person only provides goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to the Code.* [30 ILCS 500/1-15.108]

"Subfactor" – A subset of a main evaluation factor. Main evaluation factors are identified in the solicitation.

"*Supplies*" − *All personal property, including, but not limited to, equipment, materials, printing, and insurance and the financing of those supplies that can be procured regularly or are available on the commercial market.* [30 ILCS 500/1‑15.110] For purposes of this Part, the term "goods" is equivalent to the term "supplies".

"*Supplier*" – *Any person or entity providing supplies, including, but not limited to, equipment, materials, printing, and insurance, and the financing of those supplies that can be procured regularly or are available on the commercial market.*[30 ILCS 500/1-15.111]

"University" – The colleges, universities and institutions under the jurisdiction of the governing boards identified in the definition of "state agency" in accordance with Section 1-15.100 of the Code. For purposes of the Code and this Part only, "university" also includes the Illinois Math and Science Academy. The terms "university" and "public institution of higher education" are used interchangeably for the purposes of the Code and this Part.

"Unsolicited Bid" or "Unsolicited Offer" or "Unsolicited Proposal" − Any bid, offer or proposal other than one submitted in response to a solicitation.

"*Utilization Plan*" − *A form and additional documentations included in all bids or proposals that demonstrate a vendor's proposed utilization of vendors certified by the Business Enterprise Program* (see 30 ILCS 575) and the Veterans Business Program (Section 45-57 of the Code) *to meet the targeted goal. The utilization plan shall demonstrate that the vendor has either:*

*met the entire contract goal; or*

*requested a full or partial waiver and made good faith efforts towards meeting the goal.* [30 ILCS 575/2(A)(11)]

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)