**Section 4.2060 Duration of Contracts − General**

a) General

The term of a contract, including potential renewals, may not exceed 10 years.

1) A software license designated as a perpetual license is not considered a multi-term contract; it is instead a one-time purchase.

2) The length of a lease for real property or capital improvements shall be in accordance with Section 40-25 of the Code.

3) The length of an energy conservation program contract or energy savings contract or leases shall be in accordance with Section 25-45 of the Code and the Public University Energy Conservation Act [110 ILCS 62].

4) The length of a lease for State-owned dark fiber networks shall be in accordance with Section 20-60 of the Code.

b) Subject to Appropriation

Each contract is contingent upon and subject to the availability of funds. The State, at its sole option, may terminate or suspend a contract, in whole or in part and without penalty or further payment being required if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay that obligation or if funds needed are insufficient for any reason. Each contract payable in whole or in part by any funds appropriated by the Illinois General Assembly shall recite that the contract is subject to termination and cancellation for lack or insufficiency of funding. A vendor will be notified in writing by the university of a failure or reduction or decrease of appropriation affecting a contract. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-Year Contracts

A multi-year contract may be used when:

1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or

2) a multi-year contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:

A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping costs during the period of contract performance;

B) lower production costs because of a larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or

D) the cost and burden of contract solicitation, award and administration of the procurement may be reduced.

d) Multi-Term Contract Procedure

The solicitation shall state:

1) the proposed term;

2) the amount of supplies or services required for the proposed contract period;

3) the type of pricing requested (e.g., firm for term); and

4) how award will be determined.

e) Renewals

1) The initial term of a contract plus available renewals may not exceed 10 years. When the original contract specifically calls for an initial term plus renewals, the renewals may be exercised without further procurement activity, except for the publication of the renewal in the Bulletin as required by 30 ILCS 575/8i, Section 15-25 of the Code and Section 4.1525 of this Part, and review by the PPB under Section 5-30 of the Code. The renewal terms and conditions shall not change except as provided in the contract (such as price escalations tied to an index) and as provided by in 30 ILCS 575/8i. Renewal options may be exercised by the university or by mutual agreement of the vendor, but may not be exercised solely at the option of the vendor. Except as provided by 30 ILCS 575/8i, any renewal that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to appropriate procurement procedures established by the Code and this Part.

2) A renewal may only be entered into if authorized by the original contract.

3) At least 6 months prior to exercising a renewal, a university shall review the vendor's performance to determine if good faith efforts toward meeting contract goals identified in the vendor's utilization plan are being met by the vendor. Except for construction and construction-related services, no renewal shall be authorized if the university determines good faith efforts were not exercised in meeting the contract goals agreed to in the utilization plan.

4) All renewals must be in conformance with the underlying contract. The procurement/contract file must contain any renewal justification form prescribed by the CPO-HE.

5) When a renewal will result in the total term, counting the initial term and any previous renewals, exceeding 10 years, the university's need must be procured using one of the methods of source selection authorized by the Code and this Part.

6) Renewals must be fully executed on or before expiration of the current contract term. If the renewal is not exercised prior to expiration of the current contract term, the supplies or services must be procured anew using one of the methods of source selection authorized by the Code and this Part.

f) Filing of Proposed Renewals and Extensions Exceeding $249,999

1) Prior to executing a renewal or extension with a cost estimated to exceed $249,999, the proposed renewal or extension must be submitted to the PPB. The PPB shall have up to 30 days to review and comment on the proposal. The SPO assigned to the university may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.

2) This subsection does not apply to any:

A) emergency procurement;

B) procurement conducted under Article 40 of the Code; or

C) procurement exempted by Sections 1-10(b), 1-12 and 1-13 of the Code.

3) A contract is exempt from this subsection if it is paid for in whole or in part with federal-aid funds, grants or loans and where the provisions of this subsection would result in loss of those federal funds. A university shall file notice of this exemption with the PPB prior to entering the proposed renewal or extension.

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