**Section 4.5037 Vendor Registration, Certification and Prohibition on Political Contributions**

a) Introduction

Illinois statute [10 ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37] restricts political contributions by vendors and affiliated entities, requires registration with the State Board of Elections (SBEL), and requires solicitation and contract certifications relative to the requirements of the statutes. This Section supplements requirements found in the statutes and does not excuse compliance with any of those requirements.

b) General Registration Requirements

1) These requirements apply to contracts, bids and offers that are subject to the Code:

A) Bids/offers referenced in this Section are those submitted in response to a competitive solicitation that is posted to the Bulletin, regardless of the value assigned to the procurement.

B) Bids and offers include pending bids and offers.

C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of $50,000, or whose aggregate value of bids/offers for State contracts exceeds $50,000, or whose aggregate value of State contracts and bids/offers exceeds $50,000.

D) This value is calculated on a calendar-year basis.

2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/offers. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/offers meets the threshold for registration.

3) An "executive employee" means:

A) the President, Chairman of the Board, Chief Executive Officer and/or other individuals who fulfill equivalent duties as the President, Chairman of the Board or Chief Executive Officer; and/or

B) any employee whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.

4) Businesses required to register have a continuing duty to ensure that the registration is accurate in accordance with Sections 20-160 and 50-37 of the Code.

c) Bids and Proposals

1) In order to be considered for award, a vendor who meets the requirements for registration must be registered with SBEL as of the date the bid or offer is due and shall be able to produce a copy of the Registration Certificate on that date.

2) If a vendor who meets the requirements for registration is not registered by the date the bid or offer is due, the CPO-HE shall review the bid or offer to determine whether the bidder or offeror made a good faith effort to comply with the registration requirements prior to the bid or offer being due.

A) Good faith effort may consist of, but is not limited to, an attempt to register either as a parent or subsidiary, registration under a prior name, acts of God that made registration impossible, or other demonstrated effort to register in advance of the bid or offer being due.

B) If the CPO-HE finds good faith efforts were made to register, the CPO-HE shall notify the bidder or offeror it has 5 business days to achieve compliance with the registration requirements.

3) Prior to award or execution of a contract, the SPO, or a designee of the SPO, shall verify that the vendor who meets the requirements for registration has registered with SBEL and shall document vendor compliance.

4) Annual certification through the vendor portal in accordance with Section 4.1535 satisfies the requirements of this Section.

5) A bid or offer that fails to meet the requirements for registration with SBEL shall be rejected as non-responsive.

d) Contracts

Documentation of vendor compliance must be in the procurement file in relation to any contract for which a vendor is required to register as set forth in this subsection (d), unless the vendor certifies it is not required to register.

1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds $50,000, the vendor must provide documentation of vendor compliance upon request and make the appropriate contract certification, if it has not already done so. The Registration Certificate or other evidence of vendor compliance may be provided by reference to and incorporation of the vendor's prequalification by the CPO-HE.

2) A university shall identify in the solicitation whether the contract is estimated to exceed $50,000 annually. Vendors submitting bids or offers for master contracts estimated to exceed $50,000 annually regardless of consumption are required to register with SBEL.

3) For indefinite quantity/estimated value contracts that are not estimated to exceed $50,000 annually, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds $50,000.

4) For change orders, if the value of the change order, by itself or in combination with the contract being renewed plus other contracts and bids/proposals exceeds $50,000 annually, the vendor must provide the Registration Certificate or other evidence of vendor compliance upon request and make the appropriate contract certification, if it has not already done so.

5) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate or other evidence of vendor compliance upon request. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.

6) Contract certification required by Section 20-160 of the Code shall be included in or added to each contract that must be filed with the State Comptroller in accordance with Section 20-80 of the Code and those written two-party contracts that need not be filed with the Comptroller. Universities may require written confirmation of the rule-imposed certification at any time.

e) Each solicitation issued and contract executed by the State shall be deemed to contain a statement that the contract is voidable under Section 50-60 of the Code if the bidder, offeror or contractor fails to comply with Section 20-160 of the Code.

f) Prohibited Political Contributions

1) Upon discovery of a political contribution that is potentially prohibited by Section 50-37 of the Code, the CPO-HE, within 5 business days, shall send a letter requesting response from the business entity that made the potential prohibited contribution acknowledging or denying that the contribution was prohibited.

2) If the CPO-HE determines that a political contribution was prohibited, all contracts held by the contributing business entity are voidable, and the CPO-HE shall determine if the circumstances surrounding the prohibited political contribution warrant the voiding of these contracts.

3) If a business entity violates Section 50-37(b) of the Code three or more times within a 36 month period, the CPO-HE shall void all contracts with the business entity and the business entity shall be prohibited from responding to any solicitation issued by any State agency or entering into a contract with any university for three years from the date of the last violation.

4) If the CPO-HE determines that a prohibited political contribution is grounds to suspend a business entity pursuant to Section 4.5560(b), the business entity shall have the right to a hearing in accordance with Section 4.5560(h), to be conducted in accordance with Subpart V.

g) Notice

1) Notice of each violation of Section 50-37 and any penalty imposed for each violation shall be published in the Illinois Register and the Bulletin.

2) The CPO-HE shall directly notify a political committee in receipt of a prohibited political contribution that payment equal to the amount of the contribution is due the State of Illinois within 30 days after publication of the violation in the Illinois Register.

3) If an amount owed by a political committee as a result of a prohibited political contribution is not paid and is deemed uncollectible for any reason, notice of the political committee's nonpayment shall be published in the Illinois Register and the Bulletin.

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