**Section 4.5039 Procurement Communication Reporting Requirement**

a) Reporting Requirement

*Any written or oral communication received by a State employee who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including, but not limited to, an application, a contract or a project, shall be reported to the Procurement Policy Board* in accordance with rules of the Executive Ethics Commission (2 Ill. Adm. Code 1620). [30 ILCS 500/50-39(a)]

b) Excepted Communications

1) Reportable communications *do not include the following:*

A) *statements made by a person publicly in a public forum.* However, communications made in a public forum, if privately, must be reported;

B) *statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter;*

C) *statements made by a State employee to:*

i) *the State employee's agency head;*

ii) *other employees of that agency;*

iii) *employees of the Executive Ethics Commission*, including the CPO-HE, SPOs, PCMs and other CPO-HE staff*; or*

iv) *an employee of another State agency who, through the communication, is either:*

*• exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate SPO; or*

*• exercising oversight, supervisory, or management authority over the procurement in the normal course of business and as part of official responsibilities;*

D) *Unsolicited communications providing general information about products, services, or industry best practices before those products or services become involved in a procurement matter;*

E) *Communications received in response to procurement solicitations, including, but not limited to, vendor responses to:*

i) *an IFB, RFI, RFP, Request for Qualifications, small purchase, sole source or emergency procurement; or*

ii) *questions or answers posted to the Bulletin to supplement the procurement action, provided that the communications are made in accordance with instructions contained in the procurement solicitation, procedures, or guidelines;*

F) *Communications that are privileged, protected or confidential under law; and*

G) *Communications that are part of a formal procurement process as set out by statute, rule, or solicitation, guidelines, or procedures, including but not limited to:*

i) *the posting of procurement opportunities;*

ii) *the process for approving a procurement business case or its equivalent;*

iii) *fiscal approval;*

iv) *submission of bids or offers;*

v) *the finalization of contract terms and conditions with an awardee or apparent awardee; and*

vi) *any other similar formal procurement process.*

2) *The provisions of this Section shall not apply to communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of a contract.* [30 ILCS 500/50-39(a)]

3) The reporting requirement does not apply to communications asking for clarification on a published solicitation provided:

A) the response did not provide a competitive advantage to the person or business who asked for clarification; and

B) the question and answer were published to the Bulletin as an addendum to the solicitation.

4) *No trade secret or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.* [30 ILCS 500/50-39(b)]

c) *When an oral communication made by a person required to register under the Lobbyist Registration Act* [25 ILCS 170] *is received by a State employee that is covered under this Section, all individuals who initiate or participate in the oral communication shall submit a written report to that State employee that memorializes the communication and includes, but is not limited to, the items listed in Section 50‑39 of the Code.*  [30 ILCS 500/50-39(c)]

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