**Section 8.5035 Disclosure of Financial Interests and Potential Conflicts of Interest**

a) For purposes of Section 50-35(a) of the Code, an "offer from responsive bidders or offerors" means any bid or offer. Disclosures shall be obtained when the award value exceeds $25,000 and for any subcontracts valued at more than $50,000.

b) For purposes of Section 50-35(b) of the Code, "parent entity" means an entity that owns 100% of the bidding or offering entity.

c) Section 50-35(b)(1) of the Code, "contractual employment of services" means any contract to provide services to the State, whether as independent contractor or employee, that is by and between the State and the named individual.

d) "Distributive income" means the income of a company after payment of all expenses, including employee salaries and bonuses, and retained earnings that is distributed to those entitled to receive a share of that income. In the case of a for-profit corporation, distributable income means dividends. When calculating entitlement to distributable income, the entitlement shall be calculated at the end of the company's most recent fiscal year or when distributed.

e) "Personal services" shall be any contract for services subject to the Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services, but excludes contracts with employees who are exempt from the Code under Section 1-10(b)(4).

f) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 USC 78a et seq.).

g) 10K Disclosures

1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section 50-35(b) of the Code. The vendor may be required to identify the specific sections or parts in the 10K disclosure containing information, if any, pertaining to those who have an ownership interest or an interest in the distributive income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the State is not in the 10K, or in a document that may be submitted to the SEC in conjunction with, or in lieu of, the 10K, then that additional documentation shall be provided.

2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of CDB, the CPO or the SPO shall be investigated.

3) In circumstances in which a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code, the SPO or designee may consider information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure in determining whether a potential conflict of interest exists.

h) Form of Disclosure

1) *The form of disclosure shall be prescribed by the CPO and shall include at least the names, addresses and dollar or proportionate share of ownership of each person identified in this Section,* his or her *instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section as having any of the following relationships:*

A) *State employment, currently or in the previous 3 years, including contractual employment of services;*

B) *State employment of spouse, father, mother, son or daughter, including contractual employment for services in the previous 2 years;*

C) *Elective status: the holding of elective office in the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years;*

D) *Relationship to anyone holding elective office currently or in the previous 2 years, including spouse, father, mother, son or daughter;*

E) *Appointive office: the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois that entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years;*

F) *Relationship to anyone holding appointive office currently or in the previous 2 years, including spouse, father, mother, son or daughter;*

G) *Employment, currently or in the previous 3 years, as, or by, any registered lobbyist of the State government;*

H) *Relationship to anyone who is or was a registered lobbyist in the previous 2 years, including spouse, father, mother, son or daughter;*

I) *Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections;*

J) *Relationship to anyone, including spouse, father, mother, son or daughter, who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board or Elections.* [30 ILCS 500/50-35(b)(1) through (10)]

2) *The disclosures required under this Section also include the name and address of each lobbyist required to register under the Lobbyist Registration Act* [25 ILCS 170] *and other agent of the bidder or offeror who is not identified under Section 50-35(a) of the Code and who has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. The disclosure under this subsection* (h)(2) *is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.* [30 ILCS 500/50-35(b-1)]

3) *The* *disclosure required* *under this Section must also include,* for each of the persons identified in subsection (h)(1) or (2), *each of the following that occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this* subsection (h)(3) *is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.* [30 ILCS 500/50-35(b-2)]

i) Intent of Disclosure

*The disclosure required in subsection* (h) *is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the* CPO*, SPOs, their designees and executive officers so they may adequately discharge their duty to protect the State*. [30 ILCS 500/50-35(c)] A potential conflict of interest occurs in procurement when a person who, by reason of official State position or personal or financial relationship to person with official State position, has or may have the ability to influence the award of a State contract to his or her personal benefit.

1) Determination by Procurement Officer. When an alleged conflict of interest, or violation of the Code is identified, it shall be reviewed by the CPO or his or her designee, who must determine whether the contract, subcontract, bid, offer or proposal should be awarded. Prior to making a final determination, the potential conflict shall be submitted to PPB for review in accordance with Section 50-35(d) of the Code. If PPB recommends to allow the contract or subcontract, the CPO or his or her designee may award the contract. If the PPB recommends the contract, bid or offer be voided, then the CPO, may determine to award the contract, considering whether the best interest of the State of Illinois will be served. Upon such determination, the EEC shall hold a public hearing. After the public hearing, the CPO may award the contract. The CPO may, at any juncture, determine to void the contract or award if to do so is determined to be in the best interest of the State. All written determinations and any documents relied upon or made part of any public hearing shall become a publicly available part of the procurement file.

2) Requirements for Reasonable Care and Diligence. *The* statutory *thresholds for disclosure do not relieve the CPO, SPO or their designees from reasonable care and diligence for any contract, bid, offer or proposal. The CPO, SPOs or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.*  [30 ILCS 500/50-35(e)]

3) Inadvertent or Accidental Failure to Fully Disclose. *Inadvertent or accidental failure to disclose shall render the contract, subcontract, bid, proposal or relationship voidable by the CPO if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, subcontracts, bids, proposals or relationships with the State for a period of up to 2 years.* [30 ILCS 500/50-35(f)]

4) Intentional, Willful or Material Failure to Disclose. *Intentional, willful or material failure to disclose shall render the contract, subcontract, bid, proposal or relationship voidable by the CPO if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, subcontracts, bids, proposals or relationships with the State for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented upon by the Governor or by an executive ethics board or commission he or she might designate. The comment must be returned to the* CPO, *who must rule in writing whether and when to reinstate.* [30 ILCS 500/50-35]

5) Other Procurements. *In addition, all disclosures shall note any other current or pending contracts, proposals, subcontracts, leases or other ongoing procurement relationships the bidding, proposing, offering or subcontracting entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease or other relationship.* [30 ILCS 500/50-35(h)] Absent any other requirements of the Code to the contrary (see Section 50-35(i) of the Code), new disclosures are not required for contract amendments.

6) Continuing Obligation. *The contractor or bidder has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process or during the term of any contract.*  [30 ILCS 500/50-35(i)]

j) Subcontractors

IFBs and RFPs shall include a provision to require each bidder or offeror to identify, either in its bid or proposal or within 20 days after notice of award of contract, the identity of known subcontractors that will be used in the performance of the contract, as well as the amounts expected to be paid to each subcontractor. The vendor may be requested to provide copies of subcontracts for those subcontracts valued over $50,000, as well as disclosure forms and standard certifications, in such form as is approved by the CPO office.

k) Hearing

Any hearing conducted by the CPO/SPO and required under Section 50-35 of the Code shall be conducted in accordance with Subpart T.