**Section 500.1275 Procurement Communications Reporting Requirement**

a) *Reporting Requirement*

1) *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 State 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 CPO. These communications do not include the following:*

A) *statements by a person publicly made in a public forum;*

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 an OAG employee to the Auditor General or other employees of the OAG, or to an employee of another State agency who, through the communication, is either*:

i) *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* OAG; *or*

ii) *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 a request for information, request for proposal, request for qualifications, invitation for bid, or a small purchase, sole source, or emergency solicitation, or questions and answers posted to the* Auditor General *Bulletin to supplement the procurement action, provided that the communications are made in accordance with the 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 the solicitation, guidelines, or procedures, including, but not limited to, the posting of procurement opportunities, the process for approving a procurement or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes.*

2) *The reporting requirement does not apply to any communication asking for clarification regarding a contract solicitation so long as there is no competitive advantage to the person or business and the question and answer, if material, are posted to the* Auditor General *Bulletin as an addendum to the solicitation.*

3) *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)]

b) *The report required by subsection (a) shall be submitted monthly and include at least the following:*

1) *the date and time of each communication;*

2) *the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended;*

3) *the identity and job title of the person to whom each communication was made;*

4) *if a response is made, the identity and job title of the person making each response;*

5) *a detailed summary of the points made by each person involved in the communication;*

6) *the duration of the communication;*

7) *the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and*

8) *any other pertinent information.* [30 ILCS 500/50-39(b)]

c) *Additionally, when an oral communication made by a person required to register under the Lobbyist Registration Act 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 subsection (b).*  [30 ILCS 500/50-39(c)]

d) The CPO shall make each report submitted pursuant to this Section available on the Auditor General Bulletin within 7 calendar days after receipt of the report. *No trade secrets or other proprietary or confidential information shall be included in any communication reported to the* CPO. [30 ILCS 500/50-39(b)]

e) The reporting requirements shall also be conveyed through ethics training under the State Officials and Employees Ethics Act [5 ILCS 430]. An employee who knowingly and intentionally violates this Section shall be subject to suspension or discharge.

f) *For purposes of this Section:*

1) *"Active Procurement Matter" means a procurement process beginning with requisition or determination of need by an agency and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or review period, if applicable. "Active procurement matter" also includes communications relating to change orders, renewals, or extensions.*

2) *"Material Information" means information that a reasonable person would deem important in determining his or her course of action and pertains to significant issues, including, but not limited to, price, quantity, and terms of payment or performance.*

3) *"Material Argument" means a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. "Material argument" does not include general information about products, services, or industry best practices or a response to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services, or technologies.* [30 ILCS 500/50-39(g)]

(Source: Amended at 42 Ill. Reg. 3193, effective February 16, 2018)