**Section 1400.5037 Vendor Registration and Certification and Prohibition on Political Contributions**

a) Introduction

Illinois law (Section 9-35 of the Election Code [10 ILCS 5] and Sections 20-160 and 50-37 of the Code) (the statutes) restricts political contributions by vendors and affiliated entities; requires registration with the Illinois State Board of Elections (ISBE); and requires solicitation and contract certifications relative to the requirements of the law. 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 proposals that are subject to this Part.

A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted on or after January 1, 2009, regardless of the value assigned to the procurement.

B) Bids and proposals include pending bids and proposals.

C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of $50,000, whose aggregate value of bids/proposals for State contracts exceeds $50,000, or whose aggregate value of State contracts and bids/proposals 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/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.

3) An "executive employee" means:

A) the President, Chairman of the Board or Chief Executive Officer of a business entity and any other individual who fulfills equivalent duties as the President, Chairman of the Board or Chief Executive Officer of a business entity.

B) any employee of a business entity 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.

c) Bids and Proposals

1) The CPO, or his or her designee, shall determine whether a business entity is required to register with SBEL and, if so, whether the business entity is in compliance with the registration requirements on the date the bid or proposal is due.

2) If the CPO determines that a business entity is required to register with SBEL and the business entity is not in compliance with the registration requirements, then the CPO shall not accept the business entity's bid or proposal.

d) Contracts

A copy of the Registration Certificate must be in the procurement file 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.

2) For indefinite quantity/estimated value contracts, 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.

3) For contract amendments, if the value of the amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals, exceeds $50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.

4) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications. If any violation by the vendor is not cured within 7 days after receipt of notification of the violation, the contract is voidable by the State without penalty.

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

e) Voidable Contracts

Every solicitation issued and contract executed on or after January 1, 2009 shall contain a statement that the contract is voidable 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, within 5 business days, shall send a letter requesting response from the business entity that made the potentially prohibited contribution, acknowledging or denying that the contribution was prohibited.

2) If the CPO determines that a political contribution was prohibited, all contracts held by the contributing business entity are voidable, and the CPO shall determine if the circumstances surrounding the prohibited political contribution warrant the voiding of any 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 shall void all contracts with the business entity and the business entity shall be prohibited from responding to any solicitation issued by the Treasurer or entering into a contract with the Treasurer for 3 years from the date of the last violation.

4) If the CPO determines that a prohibited political contribution is grounds to suspend a business entity pursuant to this Section, the controversy will be referred to the Chief Legal Counsel pursuant to Section 1400.4010.

g) Notice

1) Notice of each violation of Section 50-37 of the Code and any penalty imposed by the CPO or SBEL for each violation shall be published on the Treasurer's Web Site.

2) The CPO 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 on the Treasurer's Web Site.

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 on the Treasurer's Web Site.

(Source: Added at 40 Ill. Reg. 13847, effective September 23, 2016)