



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 3576

2 AMENDMENT NO. _____. Amend Senate Bill 3576 on page 1, by
3 replacing line 5 with the following:

4 "changing Sections 1-15.15, 10-20, 20-25, 20-60, 20-120,
5 35-15, 35-20, 35-25, 35-30, 35-35, 35-40, 40-15, 50-10.5,
6 50-35, 50-38, and 50-39 and by adding Sections 1-11 and
7 1-15.108 as follows:

8 (30 ILCS 500/1-11 new)

9 Sec. 1-11. Applicability of certain Public Acts. The
10 changes made to this Code by Public Act 96-793, Public Act
11 96-795, and this amendatory Act of the 96th General Assembly
12 apply to those procurements for which contractors were first
13 solicited on or after July 1, 2010.

14 (30 ILCS 500/1-15.15)

15 (Text of Section before amendment by P.A. 96-795)

16 Sec. 1-15.15. Chief Procurement Officer. "Chief

1 Procurement Officer" means:

2 (1) for procurements for construction and
3 construction-related services committed by law to the
4 jurisdiction or responsibility of the Capital Development
5 Board, the executive director of the Capital Development
6 Board.

7 (2) for procurements for all construction,
8 construction-related services, operation of any facility,
9 and the provision of any service or activity committed by
10 law to the jurisdiction or responsibility of the Illinois
11 Department of Transportation, including the direct or
12 reimbursable expenditure of all federal funds for which the
13 Department of Transportation is responsible or accountable
14 for the use thereof in accordance with federal law,
15 regulation, or procedure, the Secretary of Transportation.

16 (3) for all procurements made by a public institution
17 of higher education, a representative designated by the
18 Governor.

19 (4) for all procurements made by the Illinois Power
20 Agency, the Director of the Illinois Power Agency.

21 (5) for all other procurements, the Director of the
22 Department of Central Management Services.

23 (Source: P.A. 95-481, eff. 8-28-07.)

24 (Text of Section after amendment by P.A. 96-795)

25 Sec. 1-15.15. Chief Procurement Officer. "Chief

1 Procurement Officer" means any of the 4 persons appointed or
2 approved by a majority of the members of the Executive Ethics
3 Commission ~~for~~:

4 (1) for procurements for construction and
5 construction-related services committed by law to the
6 jurisdiction or responsibility of the Capital Development
7 Board, the independent chief procurement officer appointed
8 by a majority of the members of the Executive Ethics
9 Commission.

10 (2) for procurements for all construction,
11 construction-related services, operation of any facility,
12 and the provision of any construction or
13 construction-related service or activity committed by law
14 to the jurisdiction or responsibility of the Illinois
15 Department of Transportation, including the direct or
16 reimbursable expenditure of all federal funds for which the
17 Department of Transportation is responsible or accountable
18 for the use thereof in accordance with federal law,
19 regulation, or procedure, the independent chief
20 procurement officer appointed by the Secretary of
21 Transportation with the consent of the majority of the
22 members of the Executive Ethics Commission.

23 (3) for all procurements made by a public institution
24 of higher education, the independent chief procurement
25 officer appointed by a majority of the members of the
26 Executive Ethics Commission.

1 (4) (Blank).

2 (5) for all other procurements, the independent chief
3 procurement officer appointed by a majority of the members
4 of the Executive Ethics Commission.

5 (Source: P.A. 95-481, eff. 8-28-07; 96-795, eff. 7-1-10 (see
6 Section 5 of P.A. 96-793 for the effective date of changes made
7 by P.A. 96-795).)

8 (30 ILCS 500/1-15.108 new)

9 Sec. 1-15.108. Subcontractor. "Subcontractor" means a
10 person or entity that enters into a contractual agreement with
11 a total value of \$25,000 or more with a person or entity who
12 has or is seeking a contract subject to this Code pursuant to
13 which the person or entity provides some or all of the goods,
14 services, property, remuneration, or other forms of
15 consideration that are the subject of the primary State
16 contract, including subleases from a lessee of a State
17 contract.

18 (30 ILCS 500/10-20)

19 (This Section may contain text from a Public Act with a
20 delayed effective date)

21 Sec. 10-20. Independent chief procurement officers.

22 (a) Appointment. Within 60 days after the effective date of
23 this amendatory Act of the 96th General Assembly, the Executive
24 Ethics Commission, with the advice and consent of the Senate

1 shall appoint or approve 4 chief procurement officers, one for
2 each of the following categories:

3 (1) for procurements for construction and
4 construction-related services committed by law to the
5 jurisdiction or responsibility of the Capital Development
6 Board;

7 (2) for procurements for all construction,
8 construction-related services, operation of any facility,
9 and the provision of any service or activity committed by
10 law to the jurisdiction or responsibility of the Illinois
11 Department of Transportation, including the direct or
12 reimbursable expenditure of all federal funds for which the
13 Department of Transportation is responsible or accountable
14 for the use thereof in accordance with federal law,
15 regulation, or procedure, the chief procurement officer
16 recommended for approval under this item appointed by the
17 Secretary of Transportation after consent by the Executive
18 Ethics Commission;

19 (3) for all procurements made by a public institution
20 of higher education; and

21 (4) for all other procurement needs of State agencies.

22 A chief procurement officer shall be responsible to the
23 Executive Ethics Commission but must be located within the
24 agency that the officer provides with procurement services. The
25 chief procurement officer for higher education shall have an
26 office located within the Board of Higher Education, unless

1 otherwise designated by the Executive Ethics Commission. The
2 chief procurement officer for all other procurement needs of
3 the State shall have an office located within the Department of
4 Central Management Services, unless otherwise designated by
5 the Executive Ethics Commission.

6 (b) Terms and independence. Each chief procurement officer
7 appointed under this Section shall serve for a term of 5 years
8 beginning on the date of the officer's appointment. The chief
9 procurement officer may be removed for cause after a hearing by
10 the Executive Ethics Commission. The Governor or the director
11 of a State agency directly responsible to the Governor may
12 institute a complaint against the officer by filing such
13 complaint with the Commission. The Commission shall have a
14 hearing based on the complaint. The officer and the complainant
15 shall receive reasonable notice of the hearing and shall be
16 permitted to present their respective arguments on the
17 complaint. After the hearing, the Commission shall make a
18 finding on the complaint and may take disciplinary action,
19 including but not limited to removal of the officer.

20 The salary of a chief procurement officer shall be
21 established by the Executive Ethics Commission and may not be
22 diminished during the officer's term. The salary may not exceed
23 the salary of the director of a State agency for which the
24 officer serves as chief procurement officer.

25 (c) Qualifications. In addition to any other requirement or
26 qualification required by State law, each chief procurement

1 officer must within 12 months of employment be a Certified
2 Professional Public Buyer or a Certified Public Purchasing
3 Officer, pursuant to certification by the Universal Public
4 Purchasing Certification Council, and must reside in Illinois.

5 (d) Fiduciary duty. Each chief procurement officer owes a
6 fiduciary duty to the State.

7 (e) Vacancy. In case of a vacancy in one or more of the
8 offices of a chief procurement officer under this Section
9 during the recess of the Senate, the Executive Ethics
10 Commission shall make a temporary appointment until the next
11 meeting of the Senate, when the Executive Ethics Commission
12 shall nominate some person to fill the office, and any person
13 so nominated who is confirmed by the Senate shall hold office
14 during the remainder of the term and until his or her successor
15 is appointed and qualified. If the Senate is not in session at
16 the time this amendatory Act of the 96th General Assembly takes
17 effect, the Executive Ethics Commission shall make a temporary
18 appointment as in the case of a vacancy.

19 (f) Acting chief procurement officers. Prior to August 31,
20 2010, the Executive Ethics Commission may, until an initial
21 chief procurement officer is appointed and qualified,
22 designate some person as an acting chief procurement officer to
23 execute the powers and discharge the duties vested by law in
24 that chief procurement officer. An acting chief procurement
25 officer shall serve no later than the appointment of the
26 initial chief procurement officer pursuant to subsection (a) of

1 this Section. Nothing in this subsection shall prohibit the
2 Executive Ethics Commission from appointing an acting chief
3 procurement officer as a chief procurement officer.

4 (g) Transition schedule. Notwithstanding any other
5 provision of this Act or this amendatory Act of the 96th
6 General Assembly, the chief procurement officers on the
7 effective date of Public Act 96-793 shall continue to serve as
8 chief procurement officers until August 31, 2010 and shall
9 retain their powers and duties pertaining to procurements,
10 provided the chief procurement officer appointed or approved by
11 the Executive Ethics Commission shall approve any rules
12 promulgated to implement this Code or the provisions of this
13 amendatory Act of the 96th General Assembly. The chief
14 procurement officers appointed or approved by the Executive
15 Ethics Commission shall assume the position of chief
16 procurement officer upon appointment and work in collaboration
17 with the current chief procurement officer and staff. On
18 September 1, 2010, the chief procurement officers appointed by
19 the Executive Ethics Commission shall assume the powers and
20 duties of the chief procurement officers.

21 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
22 for the effective date of P.A. 96-795).)

23 (30 ILCS 500/20-25)

24 (Text of Section before amendment by P.A. 96-795)

25 Sec. 20-25. Sole source procurements. In accordance with

1 standards set by rule, contracts may be awarded without use of
2 the specified method of source selection when there is only one
3 economically feasible source for the item. At least 2 weeks
4 before entering into a sole source contract, the purchasing
5 agency shall publish in the Illinois Procurement Bulletin a
6 notice of intent to do so along with a description of the item
7 to be procured and the intended sole source contractor.

8 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

9 (Text of Section after amendment by P.A. 96-795)

10 Sec. 20-25. Sole source procurements.

11 (a) In accordance with standards set by rule, contracts may
12 be awarded without use of the specified method of source
13 selection when there is only one economically feasible source
14 for the item. A State contract may not be awarded as a sole
15 source procurement unless approved by the chief procurement
16 officer following a public hearing at which the chief
17 procurement officer and purchasing agency present written
18 justification for the procurement method. The Procurement
19 Policy Board and the public may present testimony.

20 (b) This Section may not be used as a basis for amending a
21 contract for professional or artistic services if the amendment
22 would result in an increase in the amount paid under the
23 contract of more than 5% of the initial award, or would extend
24 the contract term beyond the time reasonably needed for a
25 competitive procurement, not to exceed 2 months.

1 (c) Notice of intent to enter into a sole source contract
2 shall be provided to the Procurement Policy Board and published
3 in the online electronic Bulletin at least 14 days before the
4 public hearing required in subsection (a). The notice shall
5 include the sole source procurement justification form
6 prescribed by the Board, a description of the item to be
7 procured, the intended sole source contractor, and the date,
8 time, and location of the public hearing. A copy of the notice
9 and all documents provided at the hearing shall be included in
10 the subsequent Procurement Bulletin.

11 (d) By August 1 each year, each chief procurement officer
12 shall file a report with the General Assembly identifying each
13 contract the officer sought under the sole source procurement
14 method and providing the justification given for seeking sole
15 source as the procurement method for each of those contracts.

16 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
17 for the effective date of changes made by P.A. 96-795).)

18 (30 ILCS 500/20-60)

19 Sec. 20-60. Duration of contracts.

20 (a) Maximum duration. A contract, other than a contract
21 entered into pursuant to the State University Certificates of
22 Participation Act, may be entered into for any period of time
23 deemed to be in the best interests of the State but not
24 exceeding 10 years inclusive, beginning January 1, 2010, of
25 proposed contract renewals. The length of a lease for real

1 property or capital improvements shall be in accordance with
2 the provisions of Section 40-25. A contract for bond or
3 mortgage insurance awarded by the Illinois Housing Development
4 Authority, however, may be entered into for any period of time
5 less than or equal to the maximum period of time that the
6 subject bond or mortgage may remain outstanding.

7 (b) Subject to appropriation. All contracts made or entered
8 into shall recite that they are subject to termination and
9 cancellation in any year for which the General Assembly fails
10 to make an appropriation to make payments under the terms of
11 the contract.

12 (c) The chief procurement officer shall file a proposed
13 extension or renewal of a contract with the Procurement Policy
14 Board prior to entering into any extension or renewal if the
15 cost associated with the extension or renewal exceeds \$249,999.
16 The Procurement Policy Board may object to the proposed
17 extension or renewal within 30 calendar days and require a
18 hearing before the Board prior to entering into the extension
19 or renewal. If the Procurement Policy Board does not object
20 within 30 calendar days or takes affirmative action to
21 recommend the extension or renewal, the chief procurement
22 officer may enter into the extension or renewal of a contract.
23 This subsection does not apply to any emergency procurement,
24 any procurement under Article 40, or any procurement exempted
25 by Section 1-10(b) of this Code. If any State agency contract
26 is paid for in whole or in part with federal-aid funds, grants,

1 or loans and the provisions of this subsection would result in
2 the loss of those federal-aid funds, grants, or loans, then the
3 contract is exempt from the provisions of this subsection in
4 order to remain eligible for those federal-aid funds, grants,
5 or loans, and the State agency shall file notice of this
6 exemption with the Procurement Policy Board prior to entering
7 into the proposed extension or renewal. Nothing in this
8 subsection permits a chief procurement officer to enter into an
9 extension or renewal in violation of subsection (a). By August
10 1 each year, the Procurement Policy Board shall file a report
11 with the General Assembly identifying for the previous fiscal
12 year (i) the proposed extensions or renewals that were filed
13 with the Board and whether the Board objected and (ii) the
14 contracts exempt from this subsection.

15 (Source: P.A. 95-344, eff. 8-21-07; 96-15, eff. 6-22-09;
16 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the
17 effective date of changes made by P.A. 96-795).)

18 (30 ILCS 500/20-120)

19 (This Section may contain text from a Public Act with a
20 delayed effective date)

21 Sec. 20-120. Subcontractors.

22 (a) Any contract granted under this Code shall state
23 whether the services of a subcontractor will or may be used.
24 ~~The To the extent that the information is known, the~~ contract
25 shall include the names and addresses of all known

1 subcontractors with subcontracts with an annual value of more
2 than \$25,000 and the expected amount of money each will receive
3 under the contract. For procurements subject to the authority
4 of the chief procurement officer appointed pursuant to
5 subsection (a)(2) of Section 10-20, the contract shall include
6 only the names and addresses of all known subcontractors of the
7 primary contractor with subcontracts with an annual value of
8 more than \$25,000. The contractor shall provide the chief
9 procurement officer or State purchasing officer a copy of any
10 subcontract with an annual value of more than \$25,000 so
11 identified within 20 days after the execution of the State
12 contract or after execution of the subcontract, whichever is
13 later. A subcontractor, or contractor on behalf of a
14 subcontractor, may identify information that is deemed
15 proprietary or confidential. If the chief procurement officer
16 determines the information is not relevant to the primary
17 contract, the chief procurement officer may excuse the
18 inclusion of the information. If the chief procurement officer
19 determines the information is proprietary or could harm the
20 business interest of the subcontractor, the chief procurement
21 officer may, in his or her discretion, redact the information.
22 Redacted information shall not become part of the public
23 record.

24 (b) If at any time during the term of a contract, a
25 contractor adds or changes any subcontractors, he or she shall
26 promptly notify, in writing, the chief procurement officer,

1 State purchasing officer, or their designee of the names and
2 addresses and the expected amount of money each new or replaced
3 subcontractor will receive. The contractor shall provide to the
4 responsible chief procurement officer a copy of the subcontract
5 within 20 days after the execution of the subcontract.

6 (c) In addition to any other requirements of this Code, a
7 subcontract subject to this Section must include all of the
8 subcontractor's certifications required by Article 50 of the
9 Code.

10 (d) This Section applies to procurements solicited
11 ~~executed~~ on or after the effective date of this amendatory Act
12 of the 96th General Assembly.

13 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
14 for the effective date of P.A. 96-795).)

15 (30 ILCS 500/35-15)

16 Sec. 35-15. Prequalification.

17 (a) The chief procurement officer for matters other than
18 construction ~~Director of Central Management Services, the~~
19 ~~Illinois Power Agency,~~ and the higher education chief
20 procurement officer shall each develop appropriate and
21 reasonable prequalification standards and categories of
22 professional and artistic services.

23 (b) The prequalifications and categorizations shall be
24 submitted to the Procurement Policy Board and published for
25 public comment prior to their submission to the Joint Committee

1 on Administrative Rules for approval.

2 (c) The chief procurement officer for matters other than
3 construction ~~Director of Central Management Services, the~~
4 ~~Illinois Power Agency,~~ and the higher education chief
5 procurement officer shall each also assemble and maintain a
6 comprehensive list of prequalified and categorized businesses
7 and persons.

8 (d) Prequalification shall not be used to bar or prevent
9 any qualified business or person for bidding or responding to
10 invitations for bid or proposal.

11 (Source: P.A. 95-481, eff. 8-28-07.)

12 (30 ILCS 500/35-20)

13 Sec. 35-20. Uniformity in procurement.

14 (a) The chief procurement officer for matters other than
15 construction ~~Director of Central Management Services, the~~
16 ~~Illinois Power Agency,~~ and the higher education chief
17 procurement officer shall each develop, cause to be printed,
18 and distribute uniform documents for the solicitation, review,
19 and acceptance of all professional and artistic services.

20 (b) All chief procurement officers, State purchasing
21 officers, and their designees shall use the appropriate uniform
22 procedures and forms specified in this Code for all
23 professional and artistic services.

24 (c) These forms shall include in detail, in writing, at
25 least:

- 1 (1) a description of the goal to be achieved;
- 2 (2) the services to be performed;
- 3 (3) the need for the service;
- 4 (4) the qualifications that are necessary; and
- 5 (5) a plan for post-performance review.

6 (Source: P.A. 95-481, eff. 8-28-07.)

7 (30 ILCS 500/35-25)

8 Sec. 35-25. Uniformity in contract.

9 (a) The chief procurement officer for matters other than
10 construction ~~Director of Central Management Services, the~~
11 ~~Illinois Power Agency,~~ and the higher education chief
12 procurement officer shall each develop, cause to be printed,
13 and distribute uniform documents for the contracting of
14 professional and artistic services.

15 (b) All chief procurement officers, State purchasing
16 officers, and their designees shall use the appropriate uniform
17 contracts and forms in contracting for all professional and
18 artistic services.

19 (c) These contracts and forms shall include in detail, in
20 writing, at least:

- 21 (1) the detail listed in subsection (c) of Section
22 35-20;
- 23 (2) the duration of the contract, with a schedule of
24 delivery, when applicable;
- 25 (3) the method for charging and measuring cost (hourly,

1 per day, etc.);

2 (4) the rate of remuneration; and

3 (5) the maximum price.

4 (Source: P.A. 95-481, eff. 8-28-07.)

5 (30 ILCS 500/35-30)

6 Sec. 35-30. Awards.

7 (a) All State contracts for professional and artistic
8 services, except as provided in this Section, shall be awarded
9 using the competitive request for proposal process outlined in
10 this Section.

11 (b) For each contract offered, the chief procurement
12 officer, State purchasing officer, or his or her designee shall
13 use the appropriate standard solicitation forms available from
14 the chief procurement officer for matters other than
15 construction Department of Central Management Services, the
16 Illinois Power Agency, or the higher education chief
17 procurement officer.

18 (c) Prepared forms shall be submitted to the chief
19 procurement officer for matters other than construction
20 Department of Central Management Services, the Illinois Power
21 Agency, or the higher education chief procurement officer,
22 whichever is appropriate, for publication in its Illinois
23 Procurement Bulletin and circulation to the chief procurement
24 officer for matters other than construction Department of
25 Central Management Services or the higher education chief

1 procurement officer's list of prequalified vendors. Notice of
2 the offer or request for proposal shall appear at least 14 days
3 before the response to the offer is due.

4 (d) All interested respondents shall return their
5 responses to the chief procurement officer for matters other
6 than construction ~~Department of Central Management Services,~~
7 ~~the Illinois Power Agency,~~ or the higher education chief
8 procurement officer, whichever is appropriate, which shall
9 open and record them. The chief procurement officer for matters
10 other than construction ~~Department~~ or higher education chief
11 procurement officer then shall forward the responses, together
12 with any information it has available about the qualifications
13 and other State work of the respondents.

14 (e) After evaluation, ranking, and selection, the
15 responsible chief procurement officer, State purchasing
16 officer, or his or her designee shall notify the chief
17 procurement officer for matters other than construction
18 ~~Department of Central Management Services, the Illinois Power~~
19 ~~Agency,~~ or the higher education chief procurement officer,
20 whichever is appropriate, of the successful respondent and
21 shall forward a copy of the signed contract for the chief
22 procurement officer for matters other than construction
23 ~~Department's, Agency's,~~ or higher education chief procurement
24 officer's file. The chief procurement officer for matters other
25 than construction ~~Department, Agency,~~ or higher education
26 chief procurement officer shall publish the names of the

1 responsible procurement decision-maker, the agency letting the
2 contract, the successful respondent, a contract reference, and
3 value of the let contract in the next appropriate volume of the
4 Illinois Procurement Bulletin.

5 (f) For all professional and artistic contracts with
6 annualized value that exceeds \$25,000, evaluation and ranking
7 by price are required. Any chief procurement officer or State
8 purchasing officer, but not their designees, may select an
9 offeror other than the lowest bidder by price. In any case,
10 when the contract exceeds the \$25,000 threshold and the lowest
11 bidder is not selected, the chief procurement officer or the
12 State purchasing officer shall forward together with the
13 contract notice of who the low bidder was and a written
14 decision as to why another was selected to the chief
15 procurement officer for matters other than construction
16 Department of Central Management Services, the Illinois Power
17 Agency, or the higher education chief procurement officer,
18 whichever is appropriate. The chief procurement officer for
19 matters other than construction Department, Agency, or higher
20 education chief procurement officer shall publish as provided
21 in subsection (e) of Section 35-30, but shall include notice of
22 the chief procurement officer's or State purchasing officer's
23 written decision.

24 (g) The chief procurement officer for matters other than
25 construction Department of Central Management Services, the
26 Illinois Power Agency, and higher education chief procurement

1 officer may each refine, but not contradict, this Section by
2 promulgating rules for submission to the Procurement Policy
3 Board and then to the Joint Committee on Administrative Rules.
4 Any refinement shall be based on the principles and procedures
5 of the federal Architect-Engineer Selection Law, Public Law
6 92-582 Brooks Act, and the Architectural, Engineering, and Land
7 Surveying Qualifications Based Selection Act; except that
8 pricing shall be an integral part of the selection process.

9 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07.)

10 (30 ILCS 500/35-35)

11 Sec. 35-35. Exceptions.

12 (a) Exceptions to Section 35-30 are allowed for sole source
13 procurements, emergency procurements, and at the discretion of
14 the chief procurement officer or the State purchasing officer,
15 but not their designees, for professional and artistic
16 contracts that are nonrenewable, one year or less in duration,
17 and have a value of less than \$20,000.

18 (b) All exceptions granted under this Article must still be
19 submitted to the chief procurement officer for matters other
20 than construction ~~Department of Central Management Services,~~
21 ~~the Illinois Power Agency,~~ or the higher education chief
22 procurement officer, whichever is appropriate, and published
23 as provided for in subsection (f) of Section 35-30, shall name
24 the authorizing chief procurement officer or State purchasing
25 officer, and shall include a brief explanation of the reason

1 for the exception.

2 (Source: P.A. 95-481, eff. 8-28-07.)

3 (30 ILCS 500/35-40)

4 Sec. 35-40. Subcontractors.

5 (a) Any contract granted under this Article shall state
6 whether the services of a subcontractor will be used. The
7 contract shall include the names and addresses of all
8 subcontractors and the expected amount of money each will
9 receive under the contract.

10 (b) If at any time during the term of a contract, a
11 contractor adds or changes any subcontractors, he or she shall
12 promptly notify, in writing, the chief procurement officer for
13 matters other than construction ~~Department of Central~~
14 ~~Management Services, the Illinois Power Agency,~~ or the higher
15 education chief procurement officer, whichever is appropriate,
16 and the responsible ~~chief procurement officer,~~ State
17 purchasing officer, or their designee of the names and
18 addresses and the expected amount of money each new or replaced
19 subcontractor will receive.

20 (Source: P.A. 95-481, eff. 8-28-07.)"; and

21 on page 2, by replacing lines 12 and 13 with the following:

22 "(30 ILCS 500/50-10.5)

23 (Text of Section before amendment by P.A. 96-795)

1 Sec. 50-10.5. Prohibited bidders and contractors.

2 (a) Unless otherwise provided, no business shall bid or
3 enter into a contract with the State of Illinois or any State
4 agency if the business or any officer, director, partner, or
5 other managerial agent of the business has been convicted of a
6 felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or
7 Class 2 felony under the Illinois Securities Law of 1953 for a
8 period of 5 years from the date of conviction.

9 (b) Every bid submitted to and contract executed by the
10 State shall contain a certification by the bidder or contractor
11 that the contractor is not barred from being awarded a contract
12 under this Section and that the contractor acknowledges that
13 the contracting State agency shall declare the contract void if
14 the certification completed pursuant to this subsection (b) is
15 false.

16 (c) If a business is not a natural person, the prohibition
17 in subsection (a) applies only if:

18 (1) the business itself is convicted of a felony
19 referenced in subsection (a); or

20 (2) the business is ordered to pay punitive damages
21 based on the conduct of any officer, director, partner, or
22 other managerial agent who has been convicted of a felony
23 referenced in subsection (a).

24 (d) A natural person who is convicted of a felony
25 referenced in subsection (a) remains subject to Section 50-10.

26 (Source: P.A. 93-600, eff. 1-1-04.)

1 (Text of Section after amendment by P.A. 96-795)

2 Sec. 50-10.5. Prohibited bidders and contractors.

3 (a) Unless otherwise provided, no business shall bid or
4 enter into a contract or subcontract under this Code if the
5 business or any officer, director, partner, or other managerial
6 agent of the business has been convicted of a felony under the
7 Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under
8 the Illinois Securities Law of 1953 for a period of 5 years
9 from the date of conviction.

10 (b) Every bid submitted to and contract executed by the
11 State and every subcontract subject to Section 20-120 of this
12 Code shall contain a certification by the bidder, contractor,
13 or subcontractor, respectively, that the bidder, contractor,
14 or subcontractor is not barred from being awarded a contract or
15 subcontract under this Section and acknowledges that the chief
16 procurement officer shall declare the related contract void if
17 any of the certifications completed pursuant to this subsection
18 (b) are false.

19 (c) If a business is not a natural person, the prohibition
20 in subsection (a) applies only if:

21 (1) the business itself is convicted of a felony
22 referenced in subsection (a); or

23 (2) the business is ordered to pay punitive damages
24 based on the conduct of any officer, director, partner, or
25 other managerial agent who has been convicted of a felony

1 referenced in subsection (a).

2 (d) A natural person who is convicted of a felony
3 referenced in subsection (a) remains subject to Section 50-10.

4 (e) No person or business shall bid or enter into a
5 contract under this Code if the person or business:

6 (1) assisted the State of Illinois or a State agency in
7 determining whether there is a need for a contract except
8 as part of a response to a publicly issued request for
9 information; or

10 (2) assisted the State of Illinois or a State agency by
11 reviewing, drafting, or preparing any invitation for bids,
12 a request for proposal, ~~proposals~~ or request for
13 information or provided similar assistance except as part
14 of a publicly issued opportunity to review drafts of all or
15 part of these documents.

16 This subsection does not prohibit a person or business from
17 submitting a bid or proposal or entering into a contract if the
18 person or business: (i) initiates a communication to provide
19 general information about products, services, or industry best
20 practices and, if applicable, that communication is documented
21 in accordance with Section 50-39 or (ii) responds to a
22 communication initiated by an employee of the State for the
23 purposes of providing information to evaluate new products,
24 trends, services, or technologies.

25 For purposes of this subsection (e), "business" includes
26 all individuals with whom a business is affiliated, including,

1 but not limited to, any officer, agent, employee, consultant,
2 independent contractor, director, partner, manager, or
3 shareholder of a business.

4 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
5 for the effective date of changes made by P.A. 96-795).)

6 (30 ILCS 500/50-35)

7 (Text of Section before amendment by P.A. 96-795)

8 Sec. 50-35. Disclosure and potential conflicts of
9 interest.

10 (a) All offers from responsive bidders or offerors with an
11 annual value of more than \$10,000 shall be accompanied by
12 disclosure of the financial interests of the contractor,
13 bidder, or proposer. The financial disclosure of each
14 successful bidder or offeror shall become part of the publicly
15 available contract or procurement file maintained by the
16 appropriate chief procurement officer.

17 (b) Disclosure by the responsive bidders or offerors shall
18 include any ownership or distributive income share that is in
19 excess of 5%, or an amount greater than 60% of the annual
20 salary of the Governor, of the bidding entity or its parent
21 entity, whichever is less, unless the contractor or bidder (i)
22 is a publicly traded entity subject to Federal 10K reporting,
23 in which case it may submit its 10K disclosure in place of the
24 prescribed disclosure, or (ii) is a privately held entity that
25 is exempt from Federal 10k reporting but has more than 400

1 shareholders, in which case it may submit the information that
2 Federal 10k reporting companies are required to report under 17
3 CFR 229.401 and list the names of any person or entity holding
4 any ownership share that is in excess of 5% in place of the
5 prescribed disclosure. The form of disclosure shall be
6 prescribed by the applicable chief procurement officer and must
7 include at least the names, addresses, and dollar or
8 proportionate share of ownership of each person identified in
9 this Section, their instrument of ownership or beneficial
10 relationship, and notice of any potential conflict of interest
11 resulting from the current ownership or beneficial
12 relationship of each person identified in this Section having
13 in addition any of the following relationships:

14 (1) State employment, currently or in the previous 3
15 years, including contractual employment of services.

16 (2) State employment of spouse, father, mother, son, or
17 daughter, including contractual employment for services in
18 the previous 2 years.

19 (3) Elective status; the holding of elective office of
20 the State of Illinois, the government of the United States,
21 any unit of local government authorized by the Constitution
22 of the State of Illinois or the statutes of the State of
23 Illinois currently or in the previous 3 years.

24 (4) Relationship to anyone holding elective office
25 currently or in the previous 2 years; spouse, father,
26 mother, son, or daughter.

1 (5) Appointive office; the holding of any appointive
2 government office of the State of Illinois, the United
3 States of America, or any unit of local government
4 authorized by the Constitution of the State of Illinois or
5 the statutes of the State of Illinois, which office
6 entitles the holder to compensation in excess of expenses
7 incurred in the discharge of that office currently or in
8 the previous 3 years.

9 (6) Relationship to anyone holding appointive office
10 currently or in the previous 2 years; spouse, father,
11 mother, son, or daughter.

12 (7) Employment, currently or in the previous 3 years,
13 as or by any registered lobbyist of the State government.

14 (8) Relationship to anyone who is or was a registered
15 lobbyist in the previous 2 years; spouse, father, mother,
16 son, or daughter.

17 (9) Compensated employment, currently or in the
18 previous 3 years, by any registered election or re-election
19 committee registered with the Secretary of State or any
20 county clerk in the State of Illinois, or any political
21 action committee registered with either the Secretary of
22 State or the Federal Board of Elections.

23 (10) Relationship to anyone; spouse, father, mother,
24 son, or daughter; who is or was a compensated employee in
25 the last 2 years of any registered election or re-election
26 committee registered with the Secretary of State or any

1 county clerk in the State of Illinois, or any political
2 action committee registered with either the Secretary of
3 State or the Federal Board of Elections.

4 (c) The disclosure in subsection (b) is not intended to
5 prohibit or prevent any contract. The disclosure is meant to
6 fully and publicly disclose any potential conflict to the chief
7 procurement officers, State purchasing officers, their
8 designees, and executive officers so they may adequately
9 discharge their duty to protect the State.

10 (d) In the case of any contract for personal services in
11 excess of \$50,000; any contract competitively bid in excess of
12 \$250,000; any other contract in excess of \$50,000; when a
13 potential for a conflict of interest is identified, discovered,
14 or reasonably suspected it shall be reviewed and commented on
15 in writing by the Governor of the State of Illinois, or by an
16 executive ethics board or commission he or she might designate.
17 The comment shall be returned to the responsible chief
18 procurement officer who must rule in writing whether to void or
19 allow the contract, bid, offer, or proposal weighing the best
20 interest of the State of Illinois. The comment and
21 determination shall become a publicly available part of the
22 contract, bid, or proposal file.

23 (e) These thresholds and disclosure do not relieve the
24 chief procurement officer, the State purchasing officer, or
25 their designees from reasonable care and diligence for any
26 contract, bid, offer, or proposal. The chief procurement

1 officer, the State purchasing officer, or their designees shall
2 be responsible for using any reasonably known and publicly
3 available information to discover any undisclosed potential
4 conflict of interest and act to protect the best interest of
5 the State of Illinois.

6 (f) Inadvertent or accidental failure to fully disclose
7 shall render the contract, bid, proposal, or relationship
8 voidable by the chief procurement officer if he or she deems it
9 in the best interest of the State of Illinois and, at his or
10 her discretion, may be cause for barring from future contracts,
11 bids, proposals, or relationships with the State for a period
12 of up to 2 years.

13 (g) Intentional, willful, or material failure to disclose
14 shall render the contract, bid, proposal, or relationship
15 voidable by the chief procurement officer if he or she deems it
16 in the best interest of the State of Illinois and shall result
17 in debarment from future contracts, bids, proposals, or
18 relationships for a period of not less than 2 years and not
19 more than 10 years. Reinstatement after 2 years and before 10
20 years must be reviewed and commented on in writing by the
21 Governor of the State of Illinois, or by an executive ethics
22 board or commission he or she might designate. The comment
23 shall be returned to the responsible chief procurement officer
24 who must rule in writing whether and when to reinstate.

25 (h) In addition, all disclosures shall note any other
26 current or pending contracts, proposals, leases, or other

1 ongoing procurement relationships the bidding, proposing, or
2 offering entity has with any other unit of State government and
3 shall clearly identify the unit and the contract, proposal,
4 lease, or other relationship.

5 (Source: P.A. 95-331, eff. 8-21-07.)

6 (Text of Section after amendment by P.A. 96-795)

7 Sec. 50-35. Financial disclosure and potential conflicts
8 of interest.

9 (a) All offers from responsive bidders or offerors with an
10 annual value of more than \$25,000 ~~\$10,000~~, and all subcontracts
11 identified as, ~~copies of which must be~~ provided by Section
12 20-120 of this Code, shall be accompanied by disclosure of the
13 financial interests of the contractor, bidder, or proposer and
14 each subcontractor to be used. The financial disclosure of each
15 successful bidder or offeror and its subcontractors shall be
16 incorporated as a material term of the contract and shall
17 become part of the publicly available contract or procurement
18 file maintained by the appropriate chief procurement officer.
19 Each disclosure under this Section and Section 50-34 shall be
20 signed and made under penalty of perjury by an authorized
21 officer or employee on behalf of the bidder or offeror, and
22 must be filed with the Procurement Policy Board.

23 (b) Disclosure shall include any ownership or distributive
24 income share that is in excess of 5%, or an amount greater than
25 60% of the annual salary of the Governor, of the disclosing

1 entity or its parent entity, whichever is less, unless the
2 contractor, bidder, or subcontractor (i) is a publicly traded
3 entity subject to Federal 10K reporting, in which case it may
4 submit its 10K disclosure in place of the prescribed
5 disclosure, or (ii) is a privately held entity that is exempt
6 from Federal 10k reporting but has more than 400 shareholders,
7 in which case it may submit the information that Federal 10k
8 reporting companies are required to report under 17 CFR 229.401
9 and list the names of any person or entity holding any
10 ownership share that is in excess of 5% in place of the
11 prescribed disclosure. The form of disclosure shall be
12 prescribed by the applicable chief procurement officer and must
13 include at least the names, addresses, and dollar or
14 proportionate share of ownership of each person identified in
15 this Section, their instrument of ownership or beneficial
16 relationship, and notice of any potential conflict of interest
17 resulting from the current ownership or beneficial
18 relationship of each person identified in this Section having
19 in addition any of the following relationships:

20 (1) State employment, currently or in the previous 3
21 years, including contractual employment of services.

22 (2) State employment of spouse, father, mother, son, or
23 daughter, including contractual employment for services in
24 the previous 2 years.

25 (3) Elective status; the holding of elective office of
26 the State of Illinois, the government of the United States,

1 any unit of local government authorized by the Constitution
2 of the State of Illinois or the statutes of the State of
3 Illinois currently or in the previous 3 years.

4 (4) Relationship to anyone holding elective office
5 currently or in the previous 2 years; spouse, father,
6 mother, son, or daughter.

7 (5) Appointive office; the holding of any appointive
8 government office of the State of Illinois, the United
9 States of America, or any unit of local government
10 authorized by the Constitution of the State of Illinois or
11 the statutes of the State of Illinois, which office
12 entitles the holder to compensation in excess of expenses
13 incurred in the discharge of that office currently or in
14 the previous 3 years.

15 (6) Relationship to anyone holding appointive office
16 currently or in the previous 2 years; spouse, father,
17 mother, son, or daughter.

18 (7) Employment, currently or in the previous 3 years,
19 as or by any registered lobbyist of the State government.

20 (8) Relationship to anyone who is or was a registered
21 lobbyist in the previous 2 years; spouse, father, mother,
22 son, or daughter.

23 (9) Compensated employment, currently or in the
24 previous 3 years, by any registered election or re-election
25 committee registered with the Secretary of State or any
26 county clerk in the State of Illinois, or any political

1 action committee registered with either the Secretary of
2 State or the Federal Board of Elections.

3 (10) Relationship to anyone; spouse, father, mother,
4 son, or daughter; who is or was a compensated employee in
5 the last 2 years of any registered election or re-election
6 committee registered with the Secretary of State or any
7 county clerk in the State of Illinois, or any political
8 action committee registered with either the Secretary of
9 State or the Federal Board of Elections.

10 (b-1) The disclosure required under this Section must also
11 include the name and address of each lobbyist required to
12 register under the Lobbyist Registration Act and other agent of
13 the bidder or offeror who is not identified under subsections
14 (a) and (b) and who has communicated, is communicating, or may
15 communicate with any State officer or employee concerning the
16 bid or offer. The disclosure under this subsection is a
17 continuing obligation and must be promptly supplemented for
18 accuracy throughout the process and throughout the term of the
19 contract if the bid or offer is successful.

20 (b-2) The disclosure required under this Section must also
21 include, for each of the persons identified in subsection (b)
22 or (b-1), each of the following that occurred within the
23 previous 10 years: debarment from contracting with any
24 governmental entity; professional licensure discipline;
25 bankruptcies; adverse civil judgments and administrative
26 findings; and criminal felony convictions. The disclosure

1 under this subsection is a continuing obligation and must be
2 promptly supplemented for accuracy throughout the process and
3 throughout the term of the contract if the bid or offer is
4 successful.

5 (c) The disclosure in subsection (b) is not intended to
6 prohibit or prevent any contract. The disclosure is meant to
7 fully and publicly disclose any potential conflict to the chief
8 procurement officers, State purchasing officers, their
9 designees, and executive officers so they may adequately
10 discharge their duty to protect the State.

11 (d) When a potential for a conflict of interest is
12 identified, discovered, or reasonably suspected, the chief
13 procurement officer or State procurement officer shall send the
14 contract to the Procurement Policy Board. The Board shall
15 recommend, in writing, whether to allow or void the contract,
16 bid, offer, or subcontract weighing the best interest of the
17 State of Illinois. All recommendations shall be submitted to
18 the chief procurement officer. The chief procurement officer
19 must hold a public hearing if the Procurement Policy Board
20 makes a recommendation to (i) void a contract or (ii) void a
21 bid or offer and the chief procurement officer selected or
22 intends to award the contract to the bidder or offeror. A chief
23 procurement officer is prohibited from awarding a contract
24 before a hearing if the Board recommendation does not support a
25 bid or offer. The recommendation and proceedings of any
26 hearing, if applicable, shall become part of the contract, bid,

1 or proposal file and shall be available to the public.

2 (e) These thresholds and disclosure do not relieve the
3 chief procurement officer, the State purchasing officer, or
4 their designees from reasonable care and diligence for any
5 contract, bid, offer, or proposal. The chief procurement
6 officer, the State purchasing officer, or their designees shall
7 be responsible for using any reasonably known and publicly
8 available information to discover any undisclosed potential
9 conflict of interest and act to protect the best interest of
10 the State of Illinois.

11 (f) Inadvertent or accidental failure to fully disclose
12 shall render the contract, bid, proposal, subcontract, or
13 relationship voidable by the chief procurement officer if he or
14 she deems it in the best interest of the State of Illinois and,
15 at his or her discretion, may be cause for barring from future
16 contracts, bids, proposals, subcontracts, or relationships
17 with the State for a period of up to 2 years.

18 (g) Intentional, willful, or material failure to disclose
19 shall render the contract, bid, proposal, subcontract, or
20 relationship voidable by the chief procurement officer if he or
21 she deems it in the best interest of the State of Illinois and
22 shall result in debarment from future contracts, bids,
23 proposals, subcontracts, or relationships for a period of not
24 less than 2 years and not more than 10 years. Reinstatement
25 after 2 years and before 10 years must be reviewed and
26 commented on in writing by the Governor of the State of

1 Illinois, or by an executive ethics board or commission he or
2 she might designate. The comment shall be returned to the
3 responsible chief procurement officer who must rule in writing
4 whether and when to reinstate.

5 (h) In addition, all disclosures shall note any other
6 current or pending contracts, proposals, subcontracts, leases,
7 or other ongoing procurement relationships the bidding,
8 proposing, offering, or subcontracting entity has with any
9 other unit of State government and shall clearly identify the
10 unit and the contract, proposal, lease, or other relationship.

11 (i) The contractor or bidder has a continuing obligation to
12 supplement the disclosure required by this Section throughout
13 the bidding process or during the term of any contract.

14 (Source: P.A. 95-331, eff. 8-21-07; 96-795, eff. 7-1-10 (see
15 Section 5 of P.A. 96-793 for the effective date of changes made
16 by P.A. 96-795).)

17 (30 ILCS 500/50-38)

18 (This Section may contain text from a Public Act with a
19 delayed effective date)

20 Sec. 50-38. Lobbying restrictions.

21 (a) A person or business that is let or awarded a contract
22 is not entitled to receive any payment, compensation, or other
23 remuneration from the State to compensate the person or
24 business for any expenses related to travel, lodging, or meals
25 that are paid by the person or business to any officer, agent,

1 employee, consultant, independent contractor, director,
2 partner, manager, or shareholder.

3 (b) Any bidder or offeror on a State contract that hires a
4 person required to register under the Lobbyist Registration Act
5 to assist in obtaining a contract shall (i) disclose all costs,
6 fees, compensation, reimbursements, and other remunerations
7 paid or to be paid to the lobbyist related to the contract,
8 (ii) not bill or otherwise cause the State of Illinois to pay
9 for any of the lobbyist's costs, fees, compensation,
10 reimbursements, or other remuneration, and (iii) sign a
11 verification certifying that none of the lobbyist's costs,
12 fees, compensation, reimbursements, or other remuneration were
13 billed to the State. This information, along with all
14 supporting documents, shall be filed with the agency awarding
15 the contract and with the Secretary of State. The chief
16 procurement officer shall post this information, together with
17 the contract award notice, in the online Procurement Bulletin.

18 (c) Ban on contingency fee. No person or entity shall
19 retain a person or entity required to register under the
20 Lobbyist Registration Act to attempt to influence the outcome
21 of a procurement decision made under this Code for compensation
22 contingent in whole or in part upon the decision or
23 procurement. Any person who violates this subsection is guilty
24 of a business offense and shall be fined not more than \$10,000.

25 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
26 for the effective date of P.A. 96-795).)

1 (30 ILCS 500/50-39)

2 (This Section may contain text from a Public Act with a
3 delayed effective date)

4 Sec. 50-39. Procurement communications reporting
5 requirement.

6 (a) Any written or oral communication received by a State
7 employee that imparts or requests material information or makes
8 a material argument regarding potential action concerning a
9 procurement matter, including, but not limited to, an
10 application, a contract, or a project, shall be reported to the
11 Procurement Policy Board. These communications do not include
12 the following: (i) statements by a person publicly made in a
13 public forum; (ii) statements regarding matters of procedure
14 and practice, such as format, the number of copies required,
15 the manner of filing, and the status of a matter; and (iii)
16 statements made by a State employee of the agency to the agency
17 head or other employees of that agency or to the employees of
18 the Executive Ethic Commission. The provisions of this Section
19 shall not apply to communications regarding the administration
20 and implementation of an existing contract, except
21 communications regarding change orders or the renewal or
22 extension of a contract.

23 (b) The report required by subsection (a) shall be
24 submitted monthly and include at least the following: (i) the
25 date and time of each communication; (ii) the identity of each

1 person from whom the written or oral communication was
2 received, the individual or entity represented by that person,
3 and any action the person requested or recommended; (iii) the
4 identity and job title of the person to whom each communication
5 was made; (iv) if a response is made, the identity and job
6 title of the person making each response; (v) a detailed
7 summary of the points made by each person involved in the
8 communication; (vi) the duration of the communication; (vii)
9 the location or locations of all persons involved in the
10 communication and, if the communication occurred by telephone,
11 the telephone numbers for the callers and recipients of the
12 communication; and (viii) any other pertinent information.

13 (c) Additionally, when an oral communication made by a
14 person required to register under the Lobbyist Registration Act
15 is received by a State employee that is covered under this
16 Section, all individuals who initiate or participate in the
17 oral communication shall submit a written report to that State
18 employee that memorializes the communication and includes, but
19 is not limited to, the items listed in subsection (b).

20 (d) The Procurement Policy Board shall make each report
21 submitted pursuant to this Section available on its website
22 within 7 days after its receipt of the report. The Procurement
23 Policy Board may promulgate rules to ensure compliance with
24 this Section.

25 (e) The reporting requirements shall also be conveyed
26 through ethics training under the State Employees and Officials

1 Ethics Act. An employee who knowingly and intentionally
2 violates this Section shall be subject to suspension or
3 discharge. The Executive Ethics Commission shall promulgate
4 rules, including emergency rules, to implement this Section.

5 (f) This Section becomes operative on January 1, 2011.

6 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
7 for the effective date of changes made by P.A. 96-795).)

8 Section 95. No acceleration or delay. Where this Act makes
9 changes in a statute that is represented in this Act by text
10 that is not yet or no longer in effect (for example, a Section
11 represented by multiple versions), the use of that text does
12 not accelerate or delay the taking effect of (i) the changes
13 made by this Act or (ii) provisions derived from any other
14 Public Act.

15 Section 99. Effective date. This Act takes effect July 1,
16 2010."