



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB4219

by Rep. Greg Harris

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10  
30 ILCS 500/1-15.120 new  
30 ILCS 500/1-15.125 new  
30 ILCS 500/1-15.130 new  
30 ILCS 500/45-35  
30 ILCS 500/50-2

Amends the Illinois Procurement Code. Provides that if a form, schedule to a form, or line item in a form issued by the United States Internal Revenue Service (IRS) is mentioned in this Code and that form, schedule to a form, or line item in a form is renumbered, then any reference to that renumbered form, schedule to a form, or line item in a form in this Code shall be construed as though the renumbering had not occurred. Provides that a not-for-profit organization shall not be exempt from this Code if it receives a grant subject to continuing disclosure requirements or was previously exempt under a purchase of care exemption. Sets forth documentation that must be disclosed by these organizations. Adds a Section that sets forth disclosure requirements for not-for-profit organizations subject to this Code. Sets forth additional disclosure requirements, including a copy of the organization's IRS Form 990, for not-for-profit organizations in Sections regarding facilities for persons with severe disabilities and continuing disclosure requirements. Defines terms. Effective immediately.

LRB098 16908 JWD 51983 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by  
5 changing Sections 1-10, 45-35, and 50-2 and by adding Sections  
6 1-15.120, 1-15.125, and 1-15.130 as follows:

7 (30 ILCS 500/1-10)

8 Sec. 1-10. Application.

9 (a) This Code applies only to procurements for which  
10 contractors were first solicited on or after July 1, 1998. This  
11 Code shall not be construed to affect or impair any contract,  
12 or any provision of a contract, entered into based on a  
13 solicitation prior to the implementation date of this Code as  
14 described in Article 99, including but not limited to any  
15 covenant entered into with respect to any revenue bonds or  
16 similar instruments. All procurements for which contracts are  
17 solicited between the effective date of Articles 50 and 99 and  
18 July 1, 1998 shall be substantially in accordance with this  
19 Code and its intent.

20 (a-5) If a form, schedule to a form, or line item in a form  
21 issued by the United States Internal Revenue Service is  
22 specifically cited by number or letter in a provision of this  
23 Code and if, after the effective date of the Public Act that

1 established that citation, the United States Internal Revenue  
2 Service form, schedule to a form, or line item in a form cited  
3 is redesignated without any other change whatever being made to  
4 it, then the provision of this Code containing that citation  
5 shall be construed as though the redesignation of the form,  
6 schedule to a form, or line item in a form of the United States  
7 Internal Revenue Service had not occurred.

8 (a-10) For purposes of this Section, the terms "interested  
9 persons" and "related for-profit organization" have the  
10 meanings ascribed to those terms in Sections 1-15.120 and  
11 1-15.125 of this Code.

12 (b) This Code shall apply regardless of the source of the  
13 funds with which the contracts are paid, including federal  
14 assistance moneys. This Code shall not apply to:

15 (1) Contracts between the State and its political  
16 subdivisions or other governments, or between State  
17 governmental bodies except as specifically provided in  
18 this Code.

19 (2) Grants, except all grants that are subject to for  
20 the filing requirements of Section 20-80 and the  
21 not-for-profit organization continuing disclosure  
22 requirements of Section 50-2 of this Code. If a  
23 not-for-profit organization receives any grant that would  
24 be exempt from this Code under this paragraph (2), then the  
25 not-for-profit organization must also submit a copy of the  
26 IRS Form 990, including, but not limited to, the following

1 sections and corresponding schedules that require the  
2 reporting of any ownership interests, operating  
3 agreements, partnerships, or other duties, activities, or  
4 transactions that exist between the not-for-profit  
5 organization, interested persons, and its related  
6 for-profit owners, subsidiaries, partners, affiliates, or  
7 unrelated organizations: (A) Part IV, Line 28, Schedule L;  
8 (B) Part IV, Line 34, Schedule R; and (C) Part VI, Line 3,  
9 Schedule O. This disclosure shall, at a minimum, include  
10 business identification of the for-profit organization, a  
11 list of the business transactions between the related  
12 for-profit organization and the not-for-profit  
13 organization under the terms of the relationship, and  
14 whether more than 50% of the not-for-profit organization's  
15 management, including current or former officers,  
16 directors, trustees, family members, or key employees, is  
17 delivered from the relationship. The not-for-profit  
18 organization shall also furnish an affidavit stating that  
19 the copy of the IRS Form 990 (and its accompanying  
20 schedules) is an authentic copy of the IRS Form 990  
21 submitted to the IRS. If a not-for-profit organization has  
22 entered into a multi-year grant, then, by July 1 of each  
23 fiscal year covered by the grant after the initial fiscal  
24 year, the not-for-profit organization must submit a copy of  
25 the IRS Form 990 for the most recent fiscal year along with  
26 an affidavit verifying the same.

1           (3) Purchase of care.However, if a not-for-profit  
2 organization provides services that would be exempt from  
3 this Code under this paragraph (3), then the not-for-profit  
4 organization must also submit a copy of the IRS Form 990,  
5 including, but not limited to, the following sections and  
6 corresponding schedules that require the reporting of any  
7 ownership interests, operating agreements, partnerships,  
8 or other duties, activities, or transactions that exist  
9 between the not-for-profit organization, interested  
10 persons, and its related for-profit owners, subsidiaries,  
11 partners, affiliates, or unrelated organizations: (A) Part  
12 IV, Line 28, Schedule L; (B) Part IV, Line 34, Schedule R;  
13 and (C) Part VI, Line 3, Schedule O. This disclosure shall,  
14 at a minimum, include business identification of the  
15 for-profit organization, a list of the business  
16 transactions between the related for-profit organization  
17 and the not-for-profit organization under the terms of the  
18 relationship, and whether more than 50% of the  
19 not-for-profit organization's management, including  
20 current or former officers, directors, trustees, family  
21 members, or key employees, is delivered from the  
22 relationship. The not-for-profit organization shall also  
23 furnish an affidavit stating that the copy of the IRS Form  
24 990 (and its accompanying schedules) is an authentic copy  
25 of the IRS Form 990 submitted to the IRS. If a  
26 not-for-profit organization has entered into a multi-year

1       purchase of care contract, then, by July 1 of each fiscal  
2       year covered by the purchase of care contract after the  
3       initial fiscal year, the not-for-profit organization must  
4       submit a copy of the IRS Form 990 for the most recent  
5       fiscal year along with an affidavit verifying the same.

6           (4) Hiring of an individual as employee and not as an  
7       independent contractor, whether pursuant to an employment  
8       code or policy or by contract directly with that  
9       individual.

10          (5) Collective bargaining contracts.

11          (6) Purchase of real estate, except that notice of this  
12       type of contract with a value of more than \$25,000 must be  
13       published in the Procurement Bulletin within 7 days after  
14       the deed is recorded in the county of jurisdiction. The  
15       notice shall identify the real estate purchased, the names  
16       of all parties to the contract, the value of the contract,  
17       and the effective date of the contract.

18          (7) Contracts necessary to prepare for anticipated  
19       litigation, enforcement actions, or investigations,  
20       provided that the chief legal counsel to the Governor shall  
21       give his or her prior approval when the procuring agency is  
22       one subject to the jurisdiction of the Governor, and  
23       provided that the chief legal counsel of any other  
24       procuring entity subject to this Code shall give his or her  
25       prior approval when the procuring entity is not one subject  
26       to the jurisdiction of the Governor.

1           (8) Contracts for services to Northern Illinois  
2 University by a person, acting as an independent  
3 contractor, who is qualified by education, experience, and  
4 technical ability and is selected by negotiation for the  
5 purpose of providing non-credit educational service  
6 activities or products by means of specialized programs  
7 offered by the university.

8           (9) Procurement expenditures by the Illinois  
9 Conservation Foundation when only private funds are used.

10           (10) Procurement expenditures by the Illinois Health  
11 Information Exchange Authority involving private funds  
12 from the Health Information Exchange Fund. "Private funds"  
13 means gifts, donations, and private grants.

14           (11) Public-private agreements entered into according  
15 to the procurement requirements of Section 20 of the  
16 Public-Private Partnerships for Transportation Act and  
17 design-build agreements entered into according to the  
18 procurement requirements of Section 25 of the  
19 Public-Private Partnerships for Transportation Act.

20           (12) Contracts for legal, financial, and other  
21 professional and artistic services entered into on or  
22 before December 31, 2018 by the Illinois Finance Authority  
23 in which the State of Illinois is not obligated. Such  
24 contracts shall be awarded through a competitive process  
25 authorized by the Board of the Illinois Finance Authority  
26 and are subject to Sections 5-30, 20-160, 50-13, 50-20,

1           50-35, and 50-37 of this Code, as well as the final  
2           approval by the Board of the Illinois Finance Authority of  
3           the terms of the contract.

4           Notwithstanding any other provision of law, contracts  
5           entered into under item (12) of this subsection (b) shall be  
6           published in the Procurement Bulletin within 14 days after  
7           contract execution. The chief procurement officer shall  
8           prescribe the form and content of the notice. The Illinois  
9           Finance Authority shall provide the chief procurement officer,  
10          on a monthly basis, in the form and content prescribed by the  
11          chief procurement officer, a report of contracts that are  
12          related to the procurement of goods and services identified in  
13          item (12) of this subsection (b). At a minimum, this report  
14          shall include the name of the contractor, a description of the  
15          supply or service provided, the total amount of the contract,  
16          the term of the contract, and the exception to the Code  
17          utilized. A copy of each of these contracts shall be made  
18          available to the chief procurement officer immediately upon  
19          request. The chief procurement officer shall submit a report to  
20          the Governor and General Assembly no later than November 1 of  
21          each year that shall include, at a minimum, an annual summary  
22          of the monthly information reported to the chief procurement  
23          officer.

24          (c) This Code does not apply to the electric power  
25          procurement process provided for under Section 1-75 of the  
26          Illinois Power Agency Act and Section 16-111.5 of the Public



1 Utilities Act.

2 (d) Except for Section 20-160 and Article 50 of this Code,  
3 and as expressly required by Section 9.1 of the Illinois  
4 Lottery Law, the provisions of this Code do not apply to the  
5 procurement process provided for under Section 9.1 of the  
6 Illinois Lottery Law.

7 (e) This Code does not apply to the process used by the  
8 Capital Development Board to retain a person or entity to  
9 assist the Capital Development Board with its duties related to  
10 the determination of costs of a clean coal SNG brownfield  
11 facility, as defined by Section 1-10 of the Illinois Power  
12 Agency Act, as required in subsection (h-3) of Section 9-220 of  
13 the Public Utilities Act, including calculating the range of  
14 capital costs, the range of operating and maintenance costs, or  
15 the sequestration costs or monitoring the construction of clean  
16 coal SNG brownfield facility for the full duration of  
17 construction.

18 (f) This Code does not apply to the process used by the  
19 Illinois Power Agency to retain a mediator to mediate sourcing  
20 agreement disputes between gas utilities and the clean coal SNG  
21 brownfield facility, as defined in Section 1-10 of the Illinois  
22 Power Agency Act, as required under subsection (h-1) of Section  
23 9-220 of the Public Utilities Act.

24 (g) This Code does not apply to the processes used by the  
25 Illinois Power Agency to retain a mediator to mediate contract  
26 disputes between gas utilities and the clean coal SNG facility

1 and to retain an expert to assist in the review of contracts  
2 under subsection (h) of Section 9-220 of the Public Utilities  
3 Act. This Code does not apply to the process used by the  
4 Illinois Commerce Commission to retain an expert to assist in  
5 determining the actual incurred costs of the clean coal SNG  
6 facility and the reasonableness of those costs as required  
7 under subsection (h) of Section 9-220 of the Public Utilities  
8 Act.

9 (h) This Code does not apply to the process to procure or  
10 contracts entered into in accordance with Sections 11-5.2 and  
11 11-5.3 of the Illinois Public Aid Code.

12 (i) Each chief procurement officer may access records  
13 necessary to review whether a contract, purchase, or other  
14 expenditure is or is not subject to the provisions of this  
15 Code, unless such records would be subject to attorney-client  
16 privilege.

17 (j) This Code does not apply to the process used by the  
18 Capital Development Board to retain an artist or work or works  
19 of art as required in Section 14 of the Capital Development  
20 Board Act.

21 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502,  
22 eff. 8-23-11; 97-689, eff. 6-14-12; 97-813, eff. 7-13-12;  
23 97-895, eff. 8-3-12; 98-90, eff. 7-15-13; 98-463, eff. 8-16-13;  
24 98-572, eff. 1-1-14; revised 9-9-13.)

1       Sec. 1-15.120. Interested persons. For the purposes of  
2 non-for-profit organization disclosures, "interested persons"  
3 has the same meaning as "interested persons" used by the  
4 Internal Revenue Service in Schedule L of Form 990.

5           (30 ILCS 500/1-15.125 new)

6       Sec. 1-15.125. Related for-profit organization. For  
7 purposes of not-for-profit organization disclosures, "related  
8 for-profit organization" has the same meaning as "related  
9 organization" used by the Internal Revenue Service in Schedule  
10 R of Form 990.

11           (30 ILCS 500/1-15.130 new)

12       Sec. 1-15.130. Not-for-profit organizations disclosure.  
13 All bids and offers from responsive bidders or offerors, all  
14 subcontracts identified under Section 20-120 of this Code that  
15 are not-for-profit organizations, and not-for-profit  
16 organization contracts subject to this Code shall be  
17 accompanied by a copy of the not-for-profit organization's IRS  
18 Form 990, including, but not limited to, the following sections  
19 and corresponding schedules that require the reporting of any  
20 ownership interests, operating agreements, partnerships, or  
21 other duties, activities, or transactions that exist between  
22 the not-for-profit organization, interested persons, and its  
23 related for-profit owners, subsidiaries, partners, affiliates,  
24 or unrelated organizations: (A) Part IV, Line 28, Schedule L;

1 (B) Part IV, Line 34, Schedule R; and (C) Part VI, Line 3,  
2 Schedule O. This disclosure shall, at a minimum, include  
3 business identification of the for-profit organization, a list  
4 of the business transactions between the related for-profit  
5 organization and the not-for-profit organization under the  
6 terms of the relationship, and whether more than 50% of the  
7 not-for-profit organization's management, including current or  
8 former officers, directors, trustees, family members, or key  
9 employees, is delivered from the relationship. The  
10 not-for-profit organization shall also furnish an affidavit  
11 stating that the copy of the IRS Form 990 (and its accompanying  
12 schedules) is an authentic copy of the IRS Form 990 submitted  
13 to the IRS.

14 (30 ILCS 500/45-35)

15 Sec. 45-35. Facilities for persons with severe  
16 disabilities.

17 (a) Qualification. Supplies and services may be procured  
18 without advertising or calling for bids from any qualified  
19 not-for-profit agency for persons with severe disabilities  
20 that:

21 (1) complies with Illinois laws governing private  
22 not-for-profit organizations;

23 (2) is certified as a sheltered workshop by the Wage  
24 and Hour Division of the United States Department of Labor  
25 or is an accredited vocational program that provides

1 transition services to youth between the ages of 14 1/2 and  
2 22 in accordance with individualized education plans under  
3 Section 14-8.03 of the School Code and that provides  
4 residential services at a child care institution, as  
5 defined under Section 2.06 of the Child Care Act of 1969,  
6 or at a group home, as defined under Section 2.16 of the  
7 Child Care Act of 1969; and

8 (3) meets the applicable Illinois Department of Human  
9 Services just standards.

10 (b) Participation. To participate, the not-for-profit  
11 agency must

12 (1) have indicated an interest in providing the  
13 supplies and services,

14 (2) must meet the specifications and needs of the using  
15 agency, and must set a fair market price.

16 (3) submit a copy of the IRS Form 990, including, but  
17 not limited to, the following sections and corresponding  
18 schedules that require the reporting of any ownership  
19 interests, operating agreements, partnerships, or other  
20 duties, activities, or transactions that exist between the  
21 not-for-profit organization, interested persons, and its  
22 related for-profit owners, subsidiaries, partners,  
23 affiliates, or unrelated organizations: (A) Part IV, Line  
24 28, Schedule L; (B) Part IV, Line 34, Schedule R; and (C)  
25 Part VI, Line 3, Schedule O. This disclosure shall, at a  
26 minimum, include business identification of the for-profit

1       organization, a list of the business transactions between  
2       the related for-profit organization and the not-for-profit  
3       organization under the terms of the relationship, and  
4       whether more than 50% of the not-for-profit organization's  
5       management, including current or former officers,  
6       directors, trustees, family members, or key employees, is  
7       delivered from the relationship. The not-for-profit  
8       organization shall also furnish an affidavit stating that  
9       the copy of the IRS Form 990 (and its accompanying  
10       schedules) is an authentic copy of the IRS Form 990  
11       submitted to the IRS.

12       (c) Committee. There is created within the Department of  
13       Central Management Services a committee to facilitate the  
14       purchase of products and services of persons so severely  
15       disabled by a physical, developmental, or mental disability or  
16       a combination of any of those disabilities that they cannot  
17       engage in normal competitive employment. This committee is  
18       called the State Use Committee. The committee shall consist of  
19       the Director of the Department of Central Management Services  
20       or his or her designee, the Director of the Department of Human  
21       Services or his or her designee, one public member representing  
22       private business who is knowledgeable of the employment needs  
23       and concerns of persons with developmental disabilities, one  
24       public member representing private business who is  
25       knowledgeable of the needs and concerns of rehabilitation  
26       facilities, one public member who is knowledgeable of the

1 employment needs and concerns of persons with developmental  
2 disabilities, one public member who is knowledgeable of the  
3 needs and concerns of rehabilitation facilities, and 2 public  
4 members from a statewide association that represents  
5 community-based rehabilitation facilities, all appointed by  
6 the Governor. The public members shall serve 2 year terms,  
7 commencing upon appointment and every 2 years thereafter. A  
8 public member may be reappointed, and vacancies shall be filled  
9 by appointment for the completion of the term. In the event  
10 there is a vacancy on the Committee, the Governor must make an  
11 appointment to fill that vacancy within 30 calendar days after  
12 the notice of vacancy. The members shall serve without  
13 compensation but shall be reimbursed for expenses at a rate  
14 equal to that of State employees on a per diem basis by the  
15 Department of Central Management Services. All members shall be  
16 entitled to vote on issues before the committee.

17 The committee shall have the following powers and duties:

18 (1) To request from any State agency information as to  
19 product specification and service requirements in order to  
20 carry out its purpose.

21 (2) To meet quarterly or more often as necessary to  
22 carry out its purposes.

23 (3) To request a quarterly report from each  
24 participating qualified not-for-profit agency for persons  
25 with severe disabilities describing the volume of sales for  
26 each product or service sold under this Section.

1 (4) To prepare a report for the Governor annually.

2 (5) To prepare a publication that lists all supplies  
3 and services currently available from any qualified  
4 not-for-profit agency for persons with severe  
5 disabilities. This list and any revisions shall be  
6 distributed to all purchasing agencies.

7 (6) To encourage diversity in supplies and services  
8 provided by qualified not-for-profit agencies for persons  
9 with severe disabilities and discourage unnecessary  
10 duplication or competition among facilities.

11 (7) To develop guidelines to be followed by qualifying  
12 agencies for participation under the provisions of this  
13 Section. The guidelines shall be developed within 6 months  
14 after the effective date of this Code and made available on  
15 a nondiscriminatory basis to all qualifying agencies.

16 (8) To review all bids submitted under the provisions  
17 of this Section and reject any bid for any purchase that is  
18 determined to be substantially more than the purchase would  
19 have cost had it been competitively bid.

20 (9) To develop a 5-year plan for increasing the number  
21 of products and services purchased from qualified  
22 not-for-profit agencies for persons with severe  
23 disabilities, including the feasibility of developing  
24 mandatory set-aside contracts. This 5-year plan must be  
25 developed no later than 180 calendar days after the  
26 effective date of this amendatory Act of the 96th General



1 Assembly.

2 (c-5) Conditions for Use. Each chief procurement officer  
3 shall, in consultation with the State Use Committee, determine  
4 which articles, materials, services, food stuffs, and supplies  
5 that are produced, manufactured, or provided by persons with  
6 severe disabilities in qualified not-for-profit agencies shall  
7 be given preference by purchasing agencies procuring those  
8 items.

9 (d) Former committee. The committee created under  
10 subsection (c) shall replace the committee created under  
11 Section 7-2 of the Illinois Purchasing Act, which shall  
12 continue to operate until the appointments under subsection (c)  
13 are made.

14 (Source: P.A. 96-634, eff. 8-24-09; 97-895, eff. 8-3-12.)

15 (30 ILCS 500/50-2)

16 Sec. 50-2. Continuing disclosure; false certification.

17 (a) Multi-year contracts. Every person that has entered  
18 into a multi-year contract and every subcontractor with a  
19 multi-year subcontract shall certify, by July 1 of each fiscal  
20 year covered by the contract after the initial fiscal year, to  
21 the responsible chief procurement officer whether it continues  
22 to satisfy the requirements of this Article pertaining to  
23 eligibility for a contract award. If a contractor or  
24 subcontractor is not able to truthfully certify that it  
25 continues to meet all requirements, it shall provide with its

1 certification a detailed explanation of the circumstances  
2 leading to the change in certification status. A contractor or  
3 subcontractor that makes a false statement material to any  
4 given certification required under this Article is, in addition  
5 to any other penalties or consequences prescribed by law,  
6 subject to liability under the Illinois False Claims Act for  
7 submission of a false claim.

8 (b) Not-for-profit organizations; multi-year contracts. If  
9 a not-for-profit organization has entered into a multi-year  
10 contract to supply or provide goods or services, then, by July  
11 1 of each fiscal year covered by the contract after the initial  
12 fiscal year, the not-for-profit organization must also submit a  
13 copy of the IRS Form 990, including, but not limited to, the  
14 following sections and corresponding schedules that require  
15 the reporting of any ownership interests, operating  
16 agreements, partnerships, or other duties, activities, or  
17 transactions that exist between the not-for-profit  
18 organization, interested persons, and its related for-profit  
19 owners, subsidiaries, partners, affiliates, or unrelated  
20 organizations: (A) Part IV, Line 28, Schedule L; (B) Part IV,  
21 Line 34, Schedule R; and (C) Part VI, Line 3, Schedule O. This  
22 disclosure shall, at a minimum, include business  
23 identification of the for-profit organization, a list of the  
24 business transactions between the related for-profit  
25 organization and the not-for-profit organization under the  
26 terms of the relationship, and whether more than 50% of the

1 not-for-profit organization's management, including current or  
2 former officers, directors, trustees, family members, or key  
3 employees, is delivered from the relationship. The  
4 not-for-profit organization shall also furnish an affidavit  
5 stating that the copy of the IRS Form 990 (and its accompanying  
6 schedules) is an authentic copy of the IRS Form 990 submitted  
7 to the IRS.

8 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
9 for the effective date of P.A. 96-795); 96-1304, eff. 7-27-10.)

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.