

AN ACT concerning finance.

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

ARTICLE 5. FORMER COAL MINE EMPLOYEE PREFERENCE

Section 5-5. The Illinois Procurement Code is amended by adding Section 45-110 as follows:

(30 ILCS 500/45-110 new)

Sec. 45-110. Former coal mining employees.

(a) In this Section:

"Abandoned mined land reclamation project" means construction or construction-related professional services that are used for reclamation projects awarded by the Department of Natural Resources under the Abandoned Mined Lands and Water Reclamation Act.

"Former coal mine employee" means an individual previously employed in any capacity by a coal mining company that engaged in the extraction of coal deposits or an individual previously employed in any capacity by a coal-fired power plant.

(b) In awarding contracts for Abandoned Mined Land Reclamation Projects with a total value of more than \$100,000, preference shall be given to an otherwise qualified bidder who:

(1) provides proof that at least 2 current employees of the bidder are former coal mine employees and that all such declared former coal mine employees in the bid shall be used in the fulfillment of an awarded Abandoned Mined Land Reclamation Project; or

(2) commits to employing at least 2 former coal mine employees hired in fulfillment of the Abandoned Mined Land Reclamation Project. Under this paragraph (2), the bidder shall provide proof that at least 2 former coal mine employees have been hired within 60 days after the start of construction, and the bidder shall declare that the former coal mine employees, after being hired, shall be used in the fulfillment of an awarded Abandoned Mined Land Reclamation Project.

When the Department of Natural Resources is to award a contract to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of former coal mine employees may be given preference over other bidders unable to do so, if the bid is not more than 2% greater than the low bid.

(c) This Section does not apply to any contract for any project for which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

Section 10-5. The Illinois Procurement Code is amended by changing Sections 1-15.93, 30-30, 33-5, and 45-105 as follows:

(30 ILCS 500/1-15.93)

(Section scheduled to be repealed on January 1, 2026)

Sec. 1-15.93. Single prime. "Single prime" means the design-bid-build procurement delivery method for a building construction project in which the Capital Development Board or a public institution of higher education, as defined in Section 1-13 of this Code, is the construction agency procuring 2 or more subdivisions of work enumerated in paragraphs (1) through (5) of subsection (a) of Section 30-30 of this Code under a single contract. The provisions of this Section are inoperative for public institutions of higher education on and after January 1, 2026. ~~This Section is repealed on January 1, 2026.~~

(Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20; 102-671, eff. 11-30-21; 102-1119, eff. 1-23-23.)

(30 ILCS 500/30-30)

Sec. 30-30. Design-bid-build construction.

(a) ~~The provisions of this subsection are operative through December 31, 2025.~~

Except as provided in subsection (a-5), for building construction contracts in excess of \$250,000, separate

specifications may be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

Except as provided in subsection (a-5), the specifications may be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof may award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract.

~~For Beginning on the effective date of this amendatory Act~~

~~of the 101st General Assembly and through December 31, 2025,~~
~~for~~ single prime projects: (i) the bid of the successful low bidder shall identify the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work set forth in this Section; (ii) the contract entered into with the successful bidder shall provide that no identified subcontractor may be terminated without the written consent of the Capital Development Board; (iii) the contract shall comply with the disadvantaged business practices of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and the equal employment practices of Section 2-105 of the Illinois Human Rights Act; and (iv) the Capital Development Board shall submit an annual report to the General Assembly and Governor on the bidding, award, and performance of all single prime projects.

Until December 31, 2023, for ~~For~~ building construction projects with a total construction cost valued at \$5,000,000 or less, the Capital Development Board shall not use the single prime procurement delivery method for more than 50% of the total number of projects bid for each fiscal year. Until December 31, 2023, any ~~Any~~ project with a total construction cost valued greater than \$5,000,000 may be bid using single prime at the discretion of the Executive Director of the Capital Development Board.

For contracts entered into on or after January 1, 2024,
the Capital Development Board shall determine whether the

single prime procurement delivery method is to be pursued. Before electing to use single prime on a project, the Capital Development Board must make a written determination that must include a description as to the particular advantages of the single prime procurement method for that project and an evaluation of the items in paragraphs (1) through (4). The chief procurement officer must review the Capital Development Board's determination and consider the adequacy of information in paragraphs (1) through (4) to determine whether the Capital Development Board may proceed with single prime. Approval by the chief procurement officer shall not be unreasonably withheld. The following factors must be considered by the chief procurement officer in any determination:

(1) The benefit that using the single prime procurement method will have on the Capital Development Board's ability to increase participation of minority-owned firms, woman-owned firms, firms owned by persons with a disability, and veteran-owned firms.

(2) The likelihood that single prime will be in the best interest of the State by providing a material savings of time or cost over the multiple prime delivery system. The best interest of the State justification must show the specific benefits of using the single prime method, including documentation of the estimates or scheduling impacts of any of the following: project complexity and trade coordination required, length of project,

availability of skilled workforce, geographic area, project timelines, project budget, ability to secure minority, women, persons with disabilities and veteran participation, or other information.

(3) The type and size of the project and its suitability to the single prime procurement method.

(4) Whether the project will comply with the underrepresented business and equal employment practices of the State, as established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, Section 45-57 of this Code, and Section 2-105 of the Illinois Human Rights Act.

If the chief procurement officer finds that the Capital Development Board's written determination is insufficient, the Capital Development Board shall have the opportunity to cure its determination. Within 15 days of receiving approval from the chief procurement officer, the Capital Development Board shall provide an advisory copy of the written determination to the Procurement Policy Board and the Commission on Equity and Inclusion. The Capital Development Board must maintain the full record of determination for 5 years.

(a-5) Beginning on the effective date of this amendatory Act of the 102nd General Assembly and through December 31, 2025, for single prime projects in which a public institution of higher education is a construction agency awarding building construction contracts in excess of \$250,000, separate

specifications may be prepared for all equipment, labor, and materials in connection with the 5 subdivisions of work enumerated in subsection (a). Any public institution of higher education contract awarded for any part thereof may award 2 or more of the 5 subdivisions of work together or separately to responsible and reliable persons, firms, or corporations engaged in these classes of work if: (i) the public institution of higher education has submitted to the Procurement Policy Board and the Commission on Equity and Inclusion a written notice that includes the reasons for using the single prime method and an explanation of why the use of that method is in the best interest of the State and arranges to have the notice posted on the institution's online procurement webpage and its online procurement bulletin at least 3 business days following submission to the Procurement Policy Board and the Commission on Equity and Inclusion; (ii) the successful low bidder has prequalified with the public institution of higher education; (iii) the bid of the successful low bidder identifies the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work set forth in subsection (a); (iv) the contract entered into with the successful bidder provides that no identified subcontractor may be terminated without the written consent of the public institution of higher education; and (v) the successful low bidder has prequalified with the University of Illinois or with the Capital Development Board.

For building construction projects with a total construction cost valued at \$20,000,000 or less, public institutions of higher education shall not use the single prime delivery method for more than 50% of the total number of projects bid for each fiscal year. Projects with a total construction cost valued at \$20,000,000 or more may be bid using the single prime delivery method at the discretion of the public institution of higher education. With respect to any construction project described in this subsection (a-5), the public institution of higher education shall: (i) specify in writing as a public record that the project shall comply with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and the equal employment practices of Section 2-105 of the Illinois Human Rights Act; and (ii) report annually to the Governor, General Assembly, Procurement Policy Board, and Auditor General on the bidding, award, and performance of all single prime projects. On and after the effective date of this amendatory Act of the 102nd General Assembly, the public institution of higher education may award in each fiscal year single prime contracts with an aggregate total value of no more than \$100,000,000. The Board of Trustees of the University of Illinois may award in each fiscal year single prime contracts with an aggregate total value of not more than \$300,000,000.

(b) For public institutions of higher education, the ~~The~~ provisions of this subsection are operative on and after

January 1, 2026. For building construction contracts in excess of \$250,000, separate specifications shall be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

The specifications must be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof shall award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract.

(Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20; 102-671, eff. 11-30-21; 102-1119, eff. 1-23-23.)

(30 ILCS 500/33-5)

Sec. 33-5. Definitions. In this Article:

"Construction management services" includes:

(1) services provided in the planning and pre-construction phases of a construction project including, but not limited to, consulting with, advising, assisting, and making recommendations to the Board and architect, engineer, or licensed land surveyor on all aspects of planning for project construction; reviewing all plans and specifications as they are being developed and making recommendations with respect to construction feasibility, availability of material and labor, time requirements for procurement and construction, and projected costs; making, reviewing, and refining budget estimates based on the Board's program and other available information; making recommendations to the Board and the architect or engineer regarding the division of work in the plans and specifications to facilitate the bidding and awarding of contracts; soliciting the interest of capable contractors and taking bids on the project; analyzing the bids received; and preparing and maintaining a progress schedule during the design phase of the project and preparation of a proposed construction schedule; and

(2) services provided in the construction phase of the project including, but not limited to, maintaining competent supervisory staff to coordinate and provide general direction of the work and progress of the contractors on the project; directing the work as it is being performed for general conformance with working drawings and specifications; establishing procedures for coordinating among the Board, architect or engineer, contractors, and construction manager with respect to all aspects of the project and implementing those procedures; maintaining job site records and making appropriate progress reports; implementing labor policy in conformance with the requirements of the public owner; reviewing the safety and equal opportunity programs of each contractor for conformance with the public owner's policy and making recommendations; reviewing and processing all applications for payment by involved contractors and material suppliers in accordance with the terms of the contract; making recommendations and processing requests for changes in the work and maintaining records of change orders; scheduling and conducting job meetings to ensure orderly progress of the work; developing and monitoring a project progress schedule, coordinating and expediting the work of all contractors and providing periodic status reports to the owner and the architect or engineer; and establishing and maintaining a cost control system and conducting meetings

to review costs.

"Construction manager" means any individual, sole proprietorship, firm, partnership, corporation, or other legal entity providing construction management services for the Board and prequalified by the State in accordance with 30 ILCS 500/33-10.

"Board" means the Capital Development Board or, to the extent that the services are to be procured by ~~for~~ a public institution of higher education, the public institution of higher education.

(Source: P.A. 102-1119, eff. 1-23-23.)

(30 ILCS 500/45-105)

Sec. 45-105. Bid preference for Illinois businesses.

(a) (Blank). ~~For the purposes of this Section:~~

~~"Illinois business" means a contractor that: (i) is headquartered in Illinois and providing, at the time that an invitation for a bid or notice of contract opportunity is first advertised, construction or construction related professional services for Illinois-based projects; (ii) conducts meaningful day-to-day business operations at a facility in Illinois that is the place of employment for the majority of its regular, full-time workforce; (iii) holds all appropriate State licenses; and (iv) is subject to applicable State taxes. "Illinois business" does not include any subcontractors.~~

~~"Illinois-based project" means an individual project of construction and other construction-related services for a construction agency that will result in the conduct of business within the State or the employment of individuals within the State.~~

(b) It is hereby declared to be the public policy of the State of Illinois to promote the economy of Illinois through the use of Illinois businesses for all State construction contracts.

(c) Construction agencies procuring construction and construction-related professional services shall make reasonable efforts to contract with Illinois businesses.

(d) Beginning in 2022, each construction agency shall submit a report to the Governor and the General Assembly by September 1 of each year that identifies the Illinois businesses procured by the construction agency, the primary location of the construction project, the percentage of the construction agency's utilization of Illinois businesses on the project as a whole, and the actions that the construction agency has undertaken to increase the use of Illinois businesses.

(e) In procuring construction and construction-related professional services for projects with a total value that exceeds the small purchase maximum established by Section 20-20 of this Code ~~with a total construction cost of more than \$100,000~~, construction agencies shall provide a bid preference

to a responsive and responsible bidder that is an Illinois business as defined in this Section. The construction agency shall allocate to the lowest bid by an Illinois business that is responsible and responsive ~~any responsible bidder that is an Illinois business~~ a bid preference of 4% of the contract base bid. This subsection applies only to projects where a business that is not an Illinois business submits a bid.

(f) This Section does not apply to any contract for any project for which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

(g) As used in this Section, "Illinois business" means a contractor that is operating and headquartered in Illinois and providing, at the time that an invitation for a bid or notice of contract opportunity is first advertised, construction or construction-related professional services, and is operating as:

(1) a sole proprietor whose primary residence is in Illinois;

(2) a business incorporated or organized as a domestic corporation under the Business Corporation Act of 1983;

(3) a business organized as a domestic partnership under the Uniform Partnership Act of 1997;

(4) a business organized as a domestic limited partnership under the Uniform Limited Partnership Act of 2001;

(5) a business organized under the Limited Liability Company Act; or

(6) a business organized under the Professional Limited Liability Company Act.

"Illinois business" does not include any subcontractors.

(Source: P.A. 102-721, eff. 1-1-23.)

ARTICLE 15. AWARD TO NOT-FOR-PROFIT AGENCY FOR PERSONS WITH
SIGNIFICANT DISABILITIES

Section 15-5. The Governmental Joint Purchasing Act is amended by changing Section 4.05 as follows:

(30 ILCS 525/4.05)

Sec. 4.05. Other methods of joint purchases.

(a) It may be determined that it is impractical to obtain competition because ~~either~~ (i) there is only one economically-feasible source for the item, ~~or~~ (ii) there is a threat to public health or public safety, ~~or when~~ immediate expenditure is necessary either to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, ~~or to ensure the integrity of State records,~~ or (iii) it is in the best interest of the State to award a contract to a qualified not-for-profit agency for persons with significant disabilities under Section 45-35 of the Illinois Procurement

Code.

(b) When the State of Illinois is a party to the joint purchase agreement, the applicable chief procurement officer shall make a determination regarding whether (i) whether there is only one economically feasible source for the item, ~~or~~ (ii) whether that there exists a threat to public health or public safety or ~~that~~ immediate expenditure is necessary to prevent or minimize serious disruption in critical State services, or (iii) whether the contract is eligible to be awarded to a not-for-profit agency for persons with significant disabilities under Section 45-35 of the Illinois Procurement Code.

(c) When there is only one economically feasible source for the item, the chief procurement officer may authorize a sole economically-feasible source contract. When there exists a threat to public health or public safety or when immediate expenditure is necessary to prevent or minimize serious disruption in critical State services, the chief procurement officer may authorize an emergency procurement without competitive sealed bidding or competitive sealed proposals or prior notice. When an agency requests to award a contract to a not-for-profit agency for persons with significant disabilities under Section 45-35 of the Illinois Procurement Code, the chief procurement officer may authorize the award.

(d) All joint purchases made pursuant to this Section shall follow the same procedures for sole source contracts in

the Illinois Procurement Code when the chief procurement officer determines there is only one economically-feasible source for the item. All joint purchases made pursuant to this Section shall follow the same procedures for emergency purchases in the Illinois Procurement Code when the chief procurement officer determines immediate expenditure is necessary to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records. All joint purchases made under this Section shall follow the same procedures for not-for-profit agencies for persons with significant disabilities under Section 45-35 of the Illinois Procurement Code when the chief procurement officer determines that it is in the best interest of the State.

(e) Each chief procurement officer shall submit to the General Assembly by November 1 of each year a report of procurements made under this Section.

(Source: P.A. 100-43, eff. 8-9-17.)

ARTICLE 20. VETERANS PREFERENCES

Section 20-5. The Illinois Procurement Code is amended by changing Section 45-57 as follows:

(30 ILCS 500/45-57)

Sec. 45-57. Veterans.

(a) Set-aside goal. It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (referred to as SDVOSB) and veteran-owned small businesses (referred to as VOSB) participate in the State's procurement process as both prime contractors and subcontractors. Not less than 3% of the total dollar amount of State contracts, as defined by the Commission on Equity and Inclusion, shall be established as a goal to be awarded to SDVOSB and VOSB. That portion of a contract under which the contractor subcontracts with a SDVOSB or VOSB may be counted toward the goal of this subsection. The Commission on Equity and Inclusion shall adopt rules to implement compliance with this subsection by all State agencies.

(b) Fiscal year reports. By each November 1, each chief procurement officer shall report to the Commission on Equity and Inclusion on all of the following for the immediately preceding fiscal year, and by each March 1 the Commission on Equity and Inclusion shall compile and report that information to the General Assembly:

(1) The total number of VOSB, and the number of SDVOSB, who submitted bids for contracts under this Code.

(2) The total number of VOSB, and the number of SDVOSB, who entered into contracts with the State under

this Code and the total value of those contracts.

(b-5) The Commission on Equity and Inclusion shall submit an annual report to the Governor and the General Assembly that shall include the following:

(1) a year-by-year comparison of the number of certifications the State has issued to veteran-owned small businesses and service-disabled veteran-owned small businesses;

(2) the obstacles, if any, the Commission on Equity and Inclusion faces when certifying veteran-owned businesses and possible rules or changes to rules to address those issues;

(3) a year-by-year comparison of awarded contracts to certified veteran-owned small businesses and service-disabled veteran-owned small businesses; and

(4) any other information that the Commission on Equity and Inclusion deems necessary to assist veteran-owned small businesses and service-disabled veteran-owned small businesses to become certified with the State.

The Commission on Equity and Inclusion shall conduct a minimum of 2 outreach events per year to ensure that veteran-owned small businesses and service-disabled veteran-owned small businesses know about the procurement opportunities and certification requirements with the State. The Commission on Equity and Inclusion may receive

appropriations for outreach.

(c) Yearly review and recommendations. Each year, each chief procurement officer shall review the progress of all State agencies under its jurisdiction in meeting the goal described in subsection (a), with input from statewide veterans' service organizations and from the business community, including businesses owned by qualified veterans, and shall make recommendations to be included in the Commission on Equity and Inclusion's report to the General Assembly regarding continuation, increases, or decreases of the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified veterans and on the continued need to encourage and promote businesses owned by qualified veterans.

(d) Governor's recommendations. To assist the State in reaching the goal described in subsection (a), the Governor shall recommend to the General Assembly changes in programs to assist businesses owned by qualified veterans.

(e) Definitions. As used in this Section:

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or service in active duty as defined under 38 U.S.C. Section 101. Service in the Merchant Marine that constitutes active duty under Section 401 of federal Public Act 95-202 shall also be considered service in the armed forces for purposes of this Section.

"Certification" means a determination made by the Illinois Department of Veterans' Affairs and the Commission on Equity and Inclusion that a business entity is a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business for whatever purpose. A SDVOSB or VOSB owned and controlled by women, minorities, or persons with disabilities, as those terms are defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, may also select and designate whether that business is to be certified as a "women-owned business", "minority-owned business", or "business owned by a person with a disability", as defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

"Control" means the exclusive, ultimate, majority, or sole control of the business, including but not limited to capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operation responsibilities, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or joint partners. Control shall be real, substantial, and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy,

management, and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business, and control shall not include simple majority or absentee ownership.

"Qualified service-disabled veteran" means a veteran who has been found to have 10% or more service-connected disability by the United States Department of Veterans Affairs or the United States Department of Defense.

"Qualified service-disabled veteran-owned small business" or "SDVOSB" means a small business (i) that is at least 51% owned by one or more qualified service-disabled veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified service-disabled veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Commission on Equity and Inclusion.

"Qualified veteran-owned small business" or "VOSB" means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Commission on Equity and Inclusion.

"Service-connected disability" means a disability incurred

in the line of duty in the active military, naval, or air service as described in 38 U.S.C. 101(16).

"Small business" means a business that has annual gross sales of less than \$150,000,000 ~~\$75,000,000~~ as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Commission on Equity and Inclusion for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on SDVOSB or VOSB as suppliers or subcontractors or in employment of veterans or service-disabled veterans.

"State agency" has the meaning provided in Section 1-15.100 of this Code.

"Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

"Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following

conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of hardship; or (d) the veteran was released from active duty because of a service connected disability and was discharged under honorable conditions.

(f) Certification program. The Illinois Department of Veterans' Affairs and the Commission on Equity and Inclusion shall work together to devise a certification procedure to assure that businesses taking advantage of this Section are legitimately classified as qualified service-disabled veteran-owned small businesses or qualified veteran-owned small businesses.

The Commission on Equity and Inclusion shall:

(1) compile and maintain a comprehensive list of certified veteran-owned small businesses and service-disabled veteran-owned small businesses;

(2) assist veteran-owned small businesses and service-disabled veteran-owned small businesses in complying with the procedures for bidding on State contracts;

(3) provide training for State agencies regarding the goal setting process and compliance with veteran-owned small business and service-disabled veteran-owned small business goals; and

(4) implement and maintain an electronic portal on the

Commission on Equity and Inclusion's website for the purpose of completing and submitting veteran-owned small business and service-disabled veteran-owned small business certificates.

The Commission on Equity and Inclusion, in consultation with the Department of Veterans' Affairs, may develop programs and agreements to encourage cities, counties, towns, townships, and other certifying entities to adopt uniform certification procedures and certification recognition programs.

(f-5) A business shall be certified by the Commission on Equity and Inclusion as a service-disabled veteran-owned small business or a veteran-owned small business for purposes of this Section if the Commission on Equity and Inclusion determines that the business has been certified as a service-disabled veteran-owned small business or a veteran-owned small business by the Vets First Verification Program of the United States Department of Veterans Affairs, and the business has provided to the Commission on Equity and Inclusion the following:

(1) documentation showing certification as a service-disabled veteran-owned small business or a veteran-owned small business by the Vets First Verification Program of the United States Department of Veterans Affairs;

(2) proof that the business has its home office in

Illinois; and

(3) proof that the qualified veterans or qualified service-disabled veterans live in the State of Illinois.

The policies of the Commission on Equity and Inclusion regarding recognition of the Vets First Verification Program of the United States Department of Veterans Affairs shall be reviewed annually by the Commission on Equity and Inclusion, and recognition of service-disabled veteran-owned small businesses and veteran-owned small businesses certified by the Vets First Verification Program of the United States Department of Veterans Affairs may be discontinued by the Commission on Equity and Inclusion by rule upon a finding that the certification standards of the Vets First Verification Program of the United States Department of Veterans Affairs do not meet the certification requirements established by the Commission on Equity and Inclusion.

(g) Penalties.

(1) Administrative penalties. The chief procurement officers appointed pursuant to Section 10-20 shall suspend any person who commits a violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to this Section from bidding on, or participating as a contractor, subcontractor, or supplier in, any State contract or project for a period of not less than 3 years, and, if the person is certified as a service-disabled veteran-owned small business or a

veteran-owned small business, then the Commission on Equity and Inclusion shall revoke the business's certification for a period of not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than 5 years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.

(2) Reports of violations. Each State agency shall report any alleged violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to this Section to the chief procurement officers appointed pursuant to Section 10-20. The chief procurement officers appointed pursuant to Section 10-20 shall subsequently report all such alleged violations to the Attorney General, who shall determine whether to bring a civil action against any person for the violation.

(3) List of suspended persons. The chief procurement officers appointed pursuant to Section 10-20 shall monitor the status of all reported violations of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to this Section and shall maintain and make available to all State agencies a central listing of all persons that committed violations resulting in suspension.

(4) Use of suspended persons. During the period of a person's suspension under paragraph (1) of this subsection, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor.

(5) Duty to check list. Each State agency shall check the central listing provided by the chief procurement officers appointed pursuant to Section 10-20 under paragraph (3) of this subsection to verify that a person being awarded a contract by that State agency, or to be used as a subcontractor or supplier on a contract being awarded by that State agency, is not under suspension pursuant to paragraph (1) of this subsection.

(h) On and after the effective date of this amendatory Act of the 102nd General Assembly, all powers, duties, rights, and responsibilities of the Department of Central Management Services with respect to the requirements of this Section are transferred to the Commission on Equity and Inclusion.

All books, records, papers, documents, property (real and personal), contracts, causes of action, and pending business pertaining to the powers, duties, rights, and responsibilities transferred by this amendatory Act from the Department of Central Management Services to the Commission on Equity and Inclusion, including, but not limited to, material in electronic or magnetic format and necessary computer hardware and software, shall be transferred to the Commission on Equity

and Inclusion.

The powers, duties, rights, and responsibilities transferred from the Department of Central Management Services by this amendatory Act shall be vested in and shall be exercised by the Commission on Equity and Inclusion.

Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Department of Central Management Services in connection with any of the powers, duties, rights, and responsibilities transferred by this amendatory Act, the same shall be made, given, furnished, or served in the same manner to or upon the Commission on Equity and Inclusion.

This amendatory Act of the 102nd General Assembly does not affect any act done, ratified, or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil, or criminal cause by the Department of Central Management Services before this amendatory Act takes effect; such actions or proceedings may be prosecuted and continued by the Commission on Equity and Inclusion.

Any rules of the Department of Central Management Services that relate to its powers, duties, rights, and responsibilities under this Section and are in full force on the effective date of this amendatory Act of the 102nd General Assembly shall become the rules of the Commission on Equity and Inclusion. This amendatory Act does not affect the

legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by the Department of Central Management Services that are pending in the rulemaking process on the effective date of this amendatory Act and pertain to the powers, duties, rights, and responsibilities transferred, shall be deemed to have been filed by the Commission on Equity and Inclusion. As soon as practicable hereafter, the Commission on Equity and Inclusion shall revise and clarify the rules transferred to it under this amendatory Act to reflect the reorganization of powers, duties, rights, and responsibilities affected by this amendatory Act, using the procedures for recodification of rules available under the Illinois Administrative Procedure Act, except that existing title, part, and section numbering for the affected rules may be retained. The Commission on Equity and Inclusion may propose and adopt under the Illinois Administrative Procedure Act such other rules of the Department of Central Management Services that will now be administered by the Commission on Equity and Inclusion.

(Source: P.A. 102-166, eff. 7-26-21; 102-671, eff. 11-30-21.)

ARTICLE 25. SMALL BUSINESS SET-ASIDE REPORTING

Section 25-5. The Illinois Procurement Code is amended by changing Section 45-45 as follows:

(30 ILCS 500/45-45)

Sec. 45-45. Small businesses.

(a) Set-asides. Each chief procurement officer has authority to designate as small business set-asides a fair proportion of construction, supply, and service contracts for award to small businesses in Illinois. Advertisements for bids or offers for those contracts shall specify designation as small business set-asides. In awarding the contracts, only bids or offers from qualified small businesses shall be considered.

(b) Small business. "Small business" means a business that is independently owned and operated and that is not dominant in its field of operation. The chief procurement officer shall establish a detailed definition by rule, using in addition to the foregoing criteria other criteria, including the number of employees and the dollar volume of business. When computing the size status of a potential contractor, annual sales and receipts of the potential contractor and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume that a small business may have under the rules promulgated by the chief procurement officer may vary from industry to industry to the extent necessary to reflect differing characteristics of those industries, subject to the following limitations:

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year

exceed \$13,000,000.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed \$8,000,000.

(3) No manufacturing business is a small business if it employs more than 250 persons.

(4) No construction business is a small business if its annual sales and receipts exceed \$14,000,000.

(c) Fair proportion. For the purpose of subsection (a), for State agencies of the executive branch, a fair proportion of construction contracts shall be no less than 25% nor more than 40% of the annual total contracts for construction.

(d) Withdrawal of designation. A small business set-aside designation may be withdrawn by the purchasing agency when deemed in the best interests of the State. Upon withdrawal, all bids or offers shall be rejected, and the bidders or offerors shall be notified of the reason for rejection. The contract shall then be awarded in accordance with this Code without the designation of small business set-aside. Each chief procurement officer shall make the annual report available on his or her official website. Each chief procurement officer shall also issue a press release in conjunction with the small business annual report that includes an executive summary of the annual report and a link to the annual report on the chief procurement officer's website.

(e) Small business specialist. Each chief procurement officer shall designate one or more individuals to serve as its small business specialist. The small business specialists shall collectively work together to accomplish the following duties:

(1) Compiling and maintaining a comprehensive list of potential small contractors. In this duty, he or she shall cooperate with the Federal Small Business Administration in locating potential sources for various products and services.

(2) Assisting small businesses in complying with the procedures for bidding on State contracts.

(3) Examining requests from State agencies for the purchase of property or services to help determine which invitations to bid are to be designated small business set-asides.

(4) Making recommendations to the chief procurement officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

(5) Assisting in investigations by purchasing agencies to determine the responsibility of bidders or offerors on small business set-asides.

(f) Small business annual report. Each small business specialist designated under subsection (e) shall annually before November 1 report in writing to the General Assembly

concerning the awarding of contracts to small businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The report shall also include the total value of awards made to businesses owned by minorities, women, and persons with disabilities, as defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, in the preceding fiscal year under the designation of small business set-aside.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act.

(Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17; 100-863, eff. 8-14-18.)

Section 25-10. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Section 8f as follows:

(30 ILCS 575/8f)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8f. Annual report. The Council shall file no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Act over the 3 most recent fiscal years. The annual report shall include, but need not be limited to the following:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each State agency and public institution of higher education;

(2) a summary of the number of contracts awarded and the average contract amount by each State agency and public institution of higher education;

(3) an analysis of the level of overall goal achievement concerning purchases from minority-owned businesses, women-owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of businesses owned by minorities, women, and persons with disabilities that are certified under the program as well as the number of those businesses that received State procurement contracts; and

(5) a summary of the number of contracts awarded to businesses with annual gross sales of less than \$1,000,000; of \$1,000,000 or more, but less than \$5,000,000; of \$5,000,000 or more, but less than \$10,000,000; and of \$10,000,000 or more.

The Council shall make the annual report available on its official website. The Council shall also issue a press release in conjunction with the annual report that includes an executive summary of the annual report and a link to the annual report on its official website.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

ARTICLE 35. CMS FACILITY LEASES

Section 35-5. The Department of Central Management Services Law of the Civil Administrative Code of Illinois is amended by changing Section 405-300 as follows:

(20 ILCS 405/405-300) (was 20 ILCS 405/67.02)

Sec. 405-300. Lease or purchase of facilities; training programs.

(a) To lease or purchase office and storage space, buildings, land, and other facilities for all State agencies, authorities, boards, commissions, departments, institutions, and bodies politic and all other administrative units or outgrowths of the executive branch of State government except the Constitutional officers, the State Board of Education and the State colleges and universities and their governing bodies. However, before leasing or purchasing any office or storage space, buildings, land or other facilities in any municipality the Department shall survey the existing State-owned and State-leased property to make a determination of need.

The leases shall be for a term not to exceed 5 years, except that the leases may contain a renewal clause subject to acceptance by the State after that date or an option to purchase. The purchases shall be made through contracts that

(i) may provide for the title to the property to transfer immediately to the State or a trustee or nominee for the benefit of the State, (ii) shall provide for the consideration to be paid in installments to be made at stated intervals during a certain term not to exceed 30 years from the date of the contract, and (iii) may provide for the payment of interest on the unpaid balance at a rate that does not exceed a rate determined by adding 3 percentage points to the annual yield on United States Treasury obligations of comparable maturity as most recently published in the Wall Street Journal at the time such contract is signed. The leases and purchase contracts shall be and shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to pay the rent or purchase installments payable under the terms of the lease or purchase contract. Additionally, the purchase contract shall specify that title to the office and storage space, buildings, land, and other facilities being acquired under the contract shall revert to the Seller in the event of the failure of the General Assembly to appropriate suitable funds. However, this limitation on the term of the leases does not apply to leases to and with the Illinois Building Authority, as provided for in the Building Authority Act. Leases to and with that Authority may be entered into for a term not to exceed 30 years and shall be and shall recite that they are subject to termination and cancellation in any year for which the General

Assembly fails to make an appropriation to pay the rent payable under the terms of the lease. These limitations do not apply if the lease or purchase contract contains a provision limiting the liability for the payment of the rentals or installments thereof solely to funds received from the Federal government.

(b) To lease from an airport authority office, aircraft hangar, and service buildings constructed upon a public airport under the Airport Authorities Act for the use and occupancy of the State Department of Transportation. The lease may be entered into for a term not to exceed 30 years.

(c) To establish training programs for teaching State leasing procedures and practices to new employees of the Department and to keep all employees of the Department informed about current leasing practices and developments in the real estate industry.

(d) To enter into an agreement with a municipality or county to construct, remodel, or convert a structure for the purposes of its serving as a correctional institution or facility pursuant to paragraph (c) of Section 3-2-2 of the Unified Code of Corrections.

(e) To enter into an agreement with a private individual, trust, partnership, or corporation or a municipality or other unit of local government, when authorized to do so by the Department of Corrections, whereby that individual, trust, partnership, or corporation or municipality or other unit of

local government will construct, remodel, or convert a structure for the purposes of its serving as a correctional institution or facility and then lease the structure to the Department for the use of the Department of Corrections. A lease entered into pursuant to the authority granted in this subsection shall be for a term not to exceed 30 years but may grant to the State the option to purchase the structure outright.

The leases shall be and shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to pay the rent payable under the terms of the lease.

(f) On and after September 17, 1983, the powers granted to the Department under this Section shall be exercised exclusively by the Department, and no other State agency may concurrently exercise any such power unless specifically authorized otherwise by a later enacted law. This subsection is not intended to impair any contract existing as of September 17, 1983.

~~However, no lease for more than 10,000 square feet of space shall be executed unless the Director, in consultation with the Executive Director of the Capital Development Board, has certified that leasing is in the best interest of the State, considering programmatic requirements, availability of vacant State-owned space, the cost-benefits of purchasing or constructing new space, and other criteria as he or she shall~~

~~determine. The Director shall not permit multiple leases for less than 10,000 square feet to be executed in order to evade this provision.~~

(g) To develop and implement, in cooperation with the Interagency Energy Conservation Committee, a system for evaluating energy consumption in facilities leased by the Department, and to develop energy consumption standards for use in evaluating prospective lease sites.

(h) (1) After June 1, 1998 (the effective date of Public Act 90-520), the Department shall not enter into an agreement for the installment purchase or lease purchase of buildings, land, or facilities unless:

(A) the using agency certifies to the Department that the agency reasonably expects that the building, land, or facilities being considered for purchase will meet a permanent space need;

(B) the building or facilities will be substantially occupied by State agencies after purchase (or after acceptance in the case of a build to suit);

(C) the building or facilities shall be in new or like new condition and have a remaining economic life exceeding the term of the contract;

(D) no structural or other major building component or system has a remaining economic life of less than 10 years;

(E) the building, land, or facilities:

(i) is free of any identifiable environmental hazard or

(ii) is subject to a management plan, provided by the seller and acceptable to the State, to address the known environmental hazard;

(F) the building, land, or facilities satisfy applicable accessibility and applicable building codes; and

(G) the State's cost to lease purchase or installment purchase the building, land, or facilities is less than the cost to lease space of comparable quality, size, and location over the lease purchase or installment purchase term.

(2) The Department shall establish the methodology for comparing lease costs to the costs of installment or lease purchases. The cost comparison shall take into account all relevant cost factors, including, but not limited to, debt service, operating and maintenance costs, insurance and risk costs, real estate taxes, reserves for replacement and repairs, security costs, and utilities. The methodology shall also provide:

(A) that the comparison will be made using level payment plans; and

(B) that a purchase price must not exceed the fair market value of the buildings, land, or facilities and

that the purchase price must be substantiated by an appraisal or by a competitive selection process.

(3) If the Department intends to enter into an installment purchase or lease purchase agreement for buildings, land, or facilities under circumstances that do not satisfy the conditions specified by this Section, it must issue a notice to the Secretary of the Senate and the Clerk of the House. The notice shall contain (i) specific details of the State's proposed purchase, including the amounts, purposes, and financing terms; (ii) a specific description of how the proposed purchase varies from the procedures set forth in this Section; and (iii) a specific justification, signed by the Director, stating why it is in the State's best interests to proceed with the purchase. The Department may not proceed with such an installment purchase or lease purchase agreement if, within 60 calendar days after delivery of the notice, the General Assembly, by joint resolution, disapproves the transaction. Delivery may take place on a day and at an hour when the Senate and House are not in session so long as the offices of Secretary and Clerk are open to receive the notice. In determining the 60-day period within which the General Assembly must act, the day on which delivery is made to the Senate and House shall not be counted. If delivery of the notice to the 2 houses occurs on different days, the 60-day period shall begin on the day following

the later delivery.

(4) On or before February 15 of each year, the Department shall submit an annual report to the Director of the Governor's Office of Management and Budget and the General Assembly regarding installment purchases or lease purchases of buildings, land, or facilities that were entered into during the preceding calendar year. The report shall include a summary statement of the aggregate amount of the State's obligations under those purchases; specific details pertaining to each purchase, including the amounts, purposes, and financing terms and payment schedule for each purchase; and any other matter that the Department deems advisable. The report shall also contain an analysis of all leases that meet both of the following criteria: (1) the lease contains a purchase option clause; and (2) the third full year of the lease has been completed. That analysis shall include, without limitation, a recommendation of whether it is in the State's best interest to exercise the purchase option or to seek to renew the lease without exercising the clause.

The requirement for reporting shall be satisfied by filing copies of the report with each of the following: (1) the Auditor General; (2) the Chairs of the Appropriations Committees; (3) the General Assembly and the Commission on Government Forecasting and Accountability as required by Section 3.1 of the General

Assembly Organizations Act; and (4) the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

(Source: P.A. 99-143, eff. 7-27-15; 100-1109, eff. 1-1-19; 100-1148, eff. 12-10-18.)

ARTICLE 40. DISABILITY-SERVICE ORGANIZATIONS

Section 40-5. The Illinois Procurement Code is amended by changing Section 45-35 as follows:

(30 ILCS 500/45-35)

Sec. 45-35. Not-for-profit agencies for persons with significant disabilities.

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

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

(2) provides for payment of a wage for contractual services under this Section that is no less than the applicable local or Illinois minimum wage, whichever is higher, for all employees performing work on the contract, including subcontractors performing work on the contract;

~~is certified as a work center by the Wage and Hour Division of the United States Department of Labor or is an accredited vocational program that provides transition services to youth between the ages of 14 1/2 and 22 in accordance with individualized education plans under Section 14 8.03 of the School Code and that provides residential services at a child care institution, as defined under Section 2.06 of the Child Care Act of 1969, or at a group home, as defined under Section 2.16 of the Child Care Act of 1969, and~~

(3) is (A) a disability-serving organization that is accredited by a nationally-recognized accrediting organization or licensed by the Department of Human Services or (B) a Center for Independent Living. ~~certified as a developmental training provider by the Department of Human Services.~~

(b) Participation. To participate, the not-for-profit agency must have indicated an interest in providing the supplies and services, must meet the specifications and needs of the using agency, and must set a fair and reasonable price.

(c) Committee. There is created within the Department of Central Management Services a committee to facilitate the purchase of products and services from not-for-profit agencies that provide employment opportunities to persons with physical disabilities, intellectual or developmental disabilities, mental illnesses, or any combination thereof. This committee

is called the State Use Committee. The State Use Committee shall consist of the Director of the Department of Central Management Services or his or her designee, the Secretary of the Department of Human Services or his or her designee, the Director of Commerce and Economic Opportunity or his or her designee, one public member representing private business who is knowledgeable of the employment needs and concerns of persons with developmental disabilities, one public member representing private business who is knowledgeable of the needs and concerns of rehabilitation facilities, one public member who is knowledgeable of the employment needs and concerns of persons with developmental disabilities, one public member who is knowledgeable of the needs and concerns of rehabilitation facilities, 2 members who have a disability, 2 public members from a statewide association that represents community-based rehabilitation facilities serving or supporting individuals with intellectual or developmental disabilities, and one public member from a disability-focused statewide advocacy group, all appointed by the Governor. The public members shall serve 2 year terms, commencing upon appointment and every 2 years thereafter. A public member may be reappointed, and vacancies shall be filled by appointment for the completion of the term. In the event there is a vacancy on the State Use Committee, the Governor must make an appointment to fill that vacancy within 30 calendar days after the notice of vacancy. The members shall serve without

compensation but shall be reimbursed for expenses at a rate equal to that of State employees on a per diem basis by the Department of Central Management Services. All members shall be entitled to vote on issues before the State Use Committee.

The State Use Committee shall have the following powers and duties:

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

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

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

(4) To prepare a report for the Governor and General Assembly no later than December 31 of each year. The requirement for reporting to the General Assembly shall be satisfied by following the procedures set forth in Section 3.1 of the General Assembly Organization Act.

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

(6) To encourage diversity in supplies and services

provided by qualified not-for-profit agencies for persons with significant disabilities and discourage unnecessary duplication or competition among not-for-profit agencies.

(7) To develop guidelines to be followed by qualifying agencies for participation under the provisions of this Section. Guidelines shall include a list of national accrediting organizations which satisfy the requirements of item (3) of subsection (a) of this Section. The guidelines shall be developed within 6 months after the effective date of this Code and made available on a nondiscriminatory basis to all qualifying agencies. The new guidelines required under this item (7) by Public Act 100-203 shall be developed within 6 months after August 18, 2017 (the effective date of Public Act 100-203) and made available on a non-discriminatory basis to all qualifying not-for-profit agencies.

(8) To review all pricing submitted under the provisions of this Section and may approve a proposed agreement for supplies or services where the price submitted is fair and reasonable. Review of pricing under this paragraph may include, but is not limited to:

(A) Amounts private businesses would pay for similar products or services.

(B) Amounts the federal government would pay contractors for similar products or services.

(C) The amount paid by the State for similar

products or services.

(D) The actual cost of manufacturing the product or performing a service at a community rehabilitation program offering employment services on or off premises to persons with disabilities or mental illnesses, with adequate consideration given to legal and moral imperatives to pay workers with disabilities equitable wages.

(E) The usual, customary, and reasonable costs of manufacturing, marketing, and distribution.

(9) To, not less than every 3 years, adopt a strategic plan for increasing the number of products and services purchased from qualified not-for-profit agencies for persons with disabilities or mental illnesses, including the feasibility of developing mandatory set-aside contracts.

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

(d) (Blank).

(e) Subcontracts. Subcontracts shall be permitted for agreements authorized under this Section. For the purposes of

this subsection (e), "subcontract" means any acquisition from another source of supplies, not including raw materials, or services required by a qualified not-for-profit agency to provide the supplies or services that are the subject of the contract between the State and the qualified not-for-profit agency.

The State Use Committee shall develop guidelines to be followed by qualified not-for-profit agencies when seeking and establishing subcontracts with other persons or not-for-profit agencies in order to fulfill State contract requirements. These guidelines shall include the following:

(i) The State Use Committee must approve all subcontracts and substantive amendments to subcontracts prior to execution or amendment of the subcontract.

(ii) A qualified not-for-profit agency shall not enter into a subcontract, or any combination of subcontracts, to fulfill an entire requirement, contract, or order without written State Use Committee approval.

(iii) A qualified not-for-profit agency shall make reasonable efforts to utilize subcontracts with other not-for-profit agencies for persons with significant disabilities.

(iv) For any subcontract not currently performed by a qualified not-for-profit agency, the primary qualified not-for-profit agency must provide to the State Use Committee the following: (A) a written explanation as to

why the subcontract is not performed by a qualified not-for-profit agency, and (B) a written plan to transfer the subcontract to a qualified not-for-profit agency, as reasonable.

(Source: P.A. 102-343, eff. 8-13-21; 102-558, eff. 8-20-21.)

ARTICLE 45. REIMAGINING HOTEL FLORENCE ACT

Section 45-1. Short title. This Act may be cited as the Reimagining Hotel Florence Act. References in this Article to "this Act" mean this Article.

Section 45-5. Legislative intent. Originally built in 1881, the Hotel Florence is located within the Pullman Historic District and was placed on the National Register of Historic Places in 1969 and was designated a National Historic Landmark on December 30, 1970. To save it from demolition the Historic Pullman Foundation purchased the hotel in 1975 and maintained ownership until 1991 when the State of Illinois took title of the building. The Hotel Florence is continually closed for renovations and is a semi-closed public space.

The hotel sits next to the Pullman National Historic Landmark District, which was designated as a National Monument in 2015 and recently redesignated as Illinois's first National Park on December 29, 2022 and is operated by the U.S. National Park Service. This redesignation allows for the National Park

Service to enter into cooperative agreements with outside parties for interpretive and educational programs at nonfederal historic properties within the boundaries of the park and to provide assistance for the preservation of nonfederal land within the boundaries of the historical park and at sites in close proximity to it, which may include the Hotel Florence.

The General Assembly has allocated \$21,000,000 in capital infrastructure funds to aid in the redevelopment of the Hotel Florence.

The General Assembly finds that allowing for the Department of Natural Resources to enter into a public-private partnership that will allow the Hotel Florence to become a fully reactivated space in a timely manner that is in the public benefit of the State and the local Pullman community.

Section 45-10. Definitions. In this Act:

"Agreement" means a public-private agreement.

"Contractor" means a person that has been selected to enter or has entered into a public-private agreement with the Department on behalf of the State for the development, financing, construction, management, or operation of the Hotel Florence pursuant to this Act.

"Department" means the Department of Natural Resources.

"Hotel Florence" means real property in City of Chicago located within the Pullman Historic District that is owned by

the Illinois Department of Natural Resources and was acquired in 1991, at the address of 11111 S. Forrestville Avenue, Chicago, Illinois, as well as the adjacent Hotel Florence Annex building located at 537 East 111th Street, Chicago, Illinois 60628 and any associated grounds connected to either property.

"Maintain" or "maintenance" includes ordinary maintenance, repair, rehabilitation, capital maintenance, maintenance replacement, and any other categories of maintenance that may be designated by the Department.

"Offeror" means a person that responds to a request for proposals under this Act.

"Operate" or "operation" means to do one or more of the following: maintain, improve, equip, modify, or otherwise operate.

"Person" means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, or any other legal entity, group, or combination thereof.

"Public-private agreement" means an agreement or contract between the Department on behalf of the State and all schedules, exhibits, and attachments thereto, entered into pursuant to a competitive request for proposals process governed by this Act, for the development, financing, construction, management, or operation of the Hotel Florence under this Act.

"Revenues" means all revenues, including, but not limited to, income, user fees, earnings, interest, lease payments, allocations, moneys from the federal government, the State, and units of local government, including, but not limited to, federal, State, and local appropriations, grants, loans, lines of credit, and credit guarantees; bond proceeds; equity investments; service payments; or other receipts arising out of or in connection with the financing, development, construction, management, or operation of the Hotel Florence.

"State" means the State of Illinois.

Section 45-15. Authority to enter public-private agreement.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State may, pursuant to a competitive request for proposals process governed by the Illinois Procurement Code, rules adopted under that Code, and this Act, enter into a public-private agreement to develop, finance, construct, lease, manage, or operate the Hotel Florence on behalf of the State, pursuant to which the contractors may receive certain revenues, including management or user fees in consideration of the payment of moneys to the State for that right.

(b) The term of a public-private agreement shall be no less than 25 years and no more than 75 years.

(c) The term of a public-private agreement may be

extended, but only if the extension is specifically authorized by the General Assembly by law.

Section 45-20. Procurement; prequalification. The Department may establish a process for prequalification of offerors. If the Department does create such a process, it shall:

(1) provide a public notice of the prequalification at least 30 days prior to the date on which applications are due;

(2) set forth requirements and evaluation criteria in order to become prequalified;

(3) determine which offerors that have submitted prequalification applications, if any, meet the requirements and evaluation criteria; and

(4) allow only those offerors that have been prequalified to respond to the request for proposals.

Section 45-25. Request for proposals process to enter into public-private agreement.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State shall select a contractor through a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act.

(b) The competitive request for proposals process shall,

at a minimum, solicit statements of qualification and proposals from offerors.

(c) The competitive request for proposals process shall, at a minimum, take into account the following criteria:

(1) the offeror's plans for the Hotel Florence project;

(2) the offeror's current and past business practices;

(3) the offeror's poor or inadequate past performance in developing, financing, constructing, managing, or operating historic landmark properties or other public assets;

(4) the offeror's ability to meet and past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act;

(5) the offeror's ability to comply with and past performance in complying with Section 2-105 of the Illinois Human Rights Act; and

(6) the offeror's plans to comply with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

(d) The Department shall not include terms in the request for proposals that provide an advantage, whether directly or indirectly, to any contractor presently providing goods,

services, or equipment to the Department.

(e) The Department shall select one or more offerors as finalists.

(f) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the Hotel Florence project and shall submit the decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of the Department, the Governor shall designate the offeror for the Hotel Florence project.

Section 45-30. Provisions of the public-private agreement.

(a) The public-private agreement shall include all of the following:

(1) the term of the public-private agreement that is consistent with Section 45-40;

(2) the powers, duties, responsibilities, obligations, and functions of the Department and the contractor;

(3) compensation or payments to the Department, if applicable;

(4) compensation or payments to the contractor, if applicable;

(5) a provision specifying that the Department:

(A) has ready access to information regarding the contractor's powers, duties, responsibilities, obligations, and functions under the public-private agreement;

(B) has the right to demand and receive information from the contractor concerning any aspect of the contractor's powers, duties, responsibilities, obligations, and functions under the public-private agreement; and

(C) has the authority to direct or countermand decisions by the contractor at any time;

(6) a provision imposing an affirmative duty on the contractor to provide the Department with any information the contractor reasonably believes the Department would want to know or would need to know to enable the Department to exercise its powers, carry out its duties, responsibilities, and obligations, and perform its functions under this Act or the public-private agreement or as otherwise required by law;

(7) the authority of the Department to enter into contracts with third parties pursuant to Section 45-40;

(8) the authority of the Department to request that the contractor reimburse the Department for third party consultants related to the monitoring the project;

(9) a provision governing the contractor's authority to negotiate and execute subcontracts with third parties;

(10) the authority of the contractor to impose user fees and the amounts of those fees;

(11) a provision governing the deposit and allocation of revenues including user fees;

(12) a provision governing rights to real and personal property of the State, the Department, the contractor, and other third parties;

(13) grounds for termination of the agreement by the Department or the contractor and a restatement of the Department's rights under this Act;

(14) a requirement that the contractor enter into a project labor agreement;

(15) a provision stating that construction contractors shall comply with the requirements of Section 30-22 of the Illinois Procurement Code;

(16) rights and remedies of the Department if the contractor defaults or otherwise fails to comply with the terms of the agreement;

(17) procedures for amendment to the agreement; and

(18) all other terms, conditions, and provisions acceptable to the Department that the Department deems necessary and proper and in the public interest.

Section 45-35. Time limitations. The Department shall issue a request for proposals within 6 months after the effective date of this Act. The Department shall have 6 months

from the date of issuance of the request for proposals to select a contractor.

Section 45-40. Term of agreement; reversion of property to the Department.

(a) The Department may terminate the contractor's authority and duties under the public-private agreement on the date set forth in the public-private agreement.

(b) Upon termination of the public-private agreement, the authority and duties of the contractor under this Act cease, except for those duties and obligations that extend beyond the termination, as set forth in the public-private agreement, and all interests in the Hotel Florence shall revert to the Department.

Section 45-45. Prohibited local action; home rule. A unit of local government, including a home rule unit, may not take any action that would have the effect of impairing the public-private agreement under this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 45-50. Powers liberally construed. The powers conferred by this Act shall be liberally construed in order to accomplish their purposes and shall be in addition and

supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this Act, this Act is controlling as to any public-private agreement entered into under this Act.

Section 45-55. Full and complete authority. This Act contains full and complete authority for agreements and leases with private entities to carry out the activities described in this Act. Except as otherwise required by law, no procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the Department or any other State or local agency or official are required to enter into an agreement or lease.

ARTICLE 50. DURATION OF CONTRACTS

Section 50-5. The Illinois Procurement Code is amended by changing Section 20-60 as follows:

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive, beginning January 1, 2010, of proposed contract renewals; provided, however, in connection with the issuance of certificates of participation

or bonds, the governing board of a public institution of higher education may enter into contracts in excess of 10 years but not to exceed 30 years for the purpose of financing or refinancing real or personal property. Third parties may lease State-owned dark fiber networks for any period of time deemed to be in the best interest of the State, but not exceeding 20 years. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. The length of energy conservation program contracts or energy savings contracts or leases shall be in accordance with the provisions of Section 25-45. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

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

(c) The chief procurement officer shall file a proposed extension or renewal of a contract with the Procurement Policy Board and the Commission on Equity and Inclusion prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds \$249,999. The

Procurement Policy Board or the Commission on Equity and Inclusion may object to the proposed extension or renewal within 14 calendar days and require a hearing before the Board or the Commission on Equity and Inclusion prior to entering into the extension or renewal. If the Procurement Policy Board or the Commission on Equity and Inclusion does not object within 14 calendar days or takes affirmative action to recommend the extension or renewal, the chief procurement officer may enter into the extension or renewal of a contract. This subsection does not apply to any emergency procurement, any procurement under Article 40, or any procurement exempted by Section 1-10(b) of this Code. If any State agency contract is paid for in whole or in part with federal-aid funds, grants, or loans and the provisions of this subsection would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this subsection in order to remain eligible for those federal-aid funds, grants, or loans, and the State agency shall file notice of this exemption with the Procurement Policy Board or the Commission on Equity and Inclusion prior to entering into the proposed extension or renewal. Nothing in this subsection permits a chief procurement officer to enter into an extension or renewal in violation of subsection (a). By August 1 each year, the Procurement Policy Board and the Commission on Equity and Inclusion shall each file a report with the General Assembly identifying for the previous fiscal year (i) the

proposed extensions or renewals that were filed and whether such extensions and renewals were objected to and (ii) the contracts exempt from this subsection.

(d) Notwithstanding the provisions of subsection (a) of this Section, the Department of Innovation and Technology may enter into leases for dark fiber networks for any period of time deemed to be in the best interests of the State but not exceeding 20 years inclusive. The Department of Innovation and Technology may lease dark fiber networks from third parties only for the primary purpose of providing services (i) to the offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer and State agencies, as defined under Section 5-15 of the Civil Administrative Code of Illinois or (ii) for anchor institutions, as defined in Section 7 of the Illinois Century Network Act. Dark fiber network lease contracts shall be subject to all other provisions of this Code and any applicable rules or requirements, including, but not limited to, publication of lease solicitations, use of standard State contracting terms and conditions, and approval of vendor certifications and financial disclosures.

(e) As used in this Section, "dark fiber network" means a network of fiber optic cables laid but currently unused by a third party that the third party is leasing for use as network infrastructure.

(f) No vendor shall be eligible for renewal of a contract

when that vendor has failed to meet the goals agreed to in the vendor's utilization plan, as defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, unless the State agency or public institution of higher education has determined that the vendor made good faith efforts toward meeting the contract goals. If the State agency or public institution of higher education determines that the vendor made good faith efforts, the agency or public institution of higher education may issue a waiver after concurrence by the chief procurement officer, which shall not be unreasonably withheld or impair a State agency determination to execute the renewal. The form and content of the waiver shall be prescribed by each chief procurement officer, but shall not impair a State agency or public institution of higher education determination to execute the renewal. The chief procurement officer shall post the completed form on his or her official website within 5 business days after receipt from the State agency or public institution of higher education. The chief procurement officer shall maintain on his or her official website a database of waivers granted under this Section with respect to contracts under his or her jurisdiction. The database shall be updated periodically and shall be searchable by contractor name and by contracting State agency or public institution of higher education.

(Source: P.A. 101-81, eff. 7-12-19; 101-657, Article 5,

Section 5-5, eff. 7-1-21 (See Section 25 of P.A. 102-29 for effective date of P.A. 101-657, Article 5, Section 5-5); 101-657, Article 40, Section 40-125, eff. 1-1-22; 102-29, eff. 6-25-21; 102-721, eff. 1-1-23.)

ARTICLE 55. PUBLIC EDUCATION PROGRAMMING

Section 55-5. The Illinois Procurement Code is amended by changing Section 1-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

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

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal

assistance moneys. This Code shall not apply to:

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

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care, except as provided in Section 5-30.6 of the Illinois Public Aid Code and this Section.

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

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 10 calendar days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring

agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) (Blank).

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

(10) (Blank).

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

(12) (A) Contracts for legal, financial, and other professional and artistic services entered into by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Finance Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Finance Authority of the terms of the contract.

(B) Contracts for legal and financial services entered into by the Illinois Housing Development Authority in

connection with the issuance of bonds in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Housing Development Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Housing Development Authority of the terms of the contract.

(13) Contracts for services, commodities, and equipment to support the delivery of timely forensic science services in consultation with and subject to the approval of the Chief Procurement Officer as provided in subsection (d) of Section 5-4-3a of the Unified Code of Corrections, except for the requirements of Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of this Code; however, the Chief Procurement Officer may, in writing with justification, waive any certification required under Article 50 of this Code. For any contracts for services which are currently provided by members of a collective bargaining agreement, the applicable terms of the collective bargaining agreement concerning subcontracting shall be followed.

On and after January 1, 2019, this paragraph (13), except for this sentence, is inoperative.

(14) Contracts for participation expenditures required by a domestic or international trade show or exhibition of

an exhibitor, member, or sponsor.

(15) Contracts with a railroad or utility that requires the State to reimburse the railroad or utilities for the relocation of utilities for construction or other public purpose. Contracts included within this paragraph (15) shall include, but not be limited to, those associated with: relocations, crossings, installations, and maintenance. For the purposes of this paragraph (15), "railroad" means any form of non-highway ground transportation that runs on rails or electromagnetic guideways and "utility" means: (1) public utilities as defined in Section 3-105 of the Public Utilities Act, (2) telecommunications carriers as defined in Section 13-202 of the Public Utilities Act, (3) electric cooperatives as defined in Section 3.4 of the Electric Supplier Act, (4) telephone or telecommunications cooperatives as defined in Section 13-212 of the Public Utilities Act, (5) rural water or waste water systems with 10,000 connections or less, (6) a holder as defined in Section 21-201 of the Public Utilities Act, and (7) municipalities owning or operating utility systems consisting of public utilities as that term is defined in Section 11-117-2 of the Illinois Municipal Code.

(16) Procurement expenditures necessary for the Department of Public Health to provide the delivery of timely newborn screening services in accordance with the

Newborn Metabolic Screening Act.

(17) Procurement expenditures necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, and the Department of Public Health to implement the Compassionate Use of Medical Cannabis Program and Opioid Alternative Pilot Program requirements and ensure access to medical cannabis for patients with debilitating medical conditions in accordance with the Compassionate Use of Medical Cannabis Program Act.

(18) This Code does not apply to any procurements necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, the Department of Commerce and Economic Opportunity, and the Department of Public Health to implement the Cannabis Regulation and Tax Act if the applicable agency has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this exemption and if the process is conducted in a manner substantially in accordance with the requirements of Sections 20-160, 25-60, 30-22, 50-5, 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35, 50-36, 50-37, 50-38, and 50-50 of this Code; however, for Section 50-35, compliance applies only to contracts or subcontracts over \$100,000. Notice of each contract entered into under this paragraph (18) that is related to

the procurement of goods and services identified in paragraph (1) through (9) of this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice. Each agency shall provide the Chief Procurement Officer, on a monthly basis, in the form and content prescribed by the Chief Procurement Officer, a report of contracts that are related to the procurement of goods and services identified in this subsection. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to this Code utilized. A copy of any or all of these contracts shall be made available to the Chief Procurement Officer immediately upon request. The Chief Procurement Officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that includes, at a minimum, an annual summary of the monthly information reported to the Chief Procurement Officer. This exemption becomes inoperative 5 years after June 25, 2019 (the effective date of Public Act 101-27).

(19) Acquisition of modifications or adjustments, limited to assistive technology devices and assistive technology services, adaptive equipment, repairs, and replacement parts to provide reasonable accommodations (i)

that enable a qualified applicant with a disability to complete the job application process and be considered for the position such qualified applicant desires, (ii) that modify or adjust the work environment to enable a qualified current employee with a disability to perform the essential functions of the position held by that employee, (iii) to enable a qualified current employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities, and (iv) that allow a customer, client, claimant, or member of the public seeking State services full use and enjoyment of and access to its programs, services, or benefits.

For purposes of this paragraph (19):

"Assistive technology devices" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"Assistive technology services" means any service that directly assists an individual with a disability in selection, acquisition, or use of an assistive technology device.

"Qualified" has the same meaning and use as provided under the federal Americans with Disabilities Act when describing an individual with a disability.

(20) Procurement expenditures necessary for the Illinois Commerce Commission to hire third-party facilitators pursuant to Sections 16-105.17 and 16-108.18 of the Public Utilities Act or an ombudsman pursuant to Section 16-107.5 of the Public Utilities Act, a facilitator pursuant to Section 16-105.17 of the Public Utilities Act, or a grid auditor pursuant to Section 16-105.10 of the Public Utilities Act.

(21) Procurement expenditures for the purchase, renewal, and expansion of software, software licenses, or software maintenance agreements that support the efforts of the Illinois State Police to enforce, regulate, and administer the Firearm Owners Identification Card Act, the Firearm Concealed Carry Act, the Firearms Restraining Order Act, the Firearm Dealer License Certification Act, the Law Enforcement Agencies Data System (LEADS), the Uniform Crime Reporting Act, the Criminal Identification Act, the Uniform Conviction Information Act, and the Gun Trafficking Information Act, or establish or maintain record management systems necessary to conduct human trafficking investigations or gun trafficking or other stolen firearm investigations. This paragraph (21) applies to contracts entered into on or after the effective date of this amendatory Act of the 102nd General Assembly and the renewal of contracts that are in effect on the effective date of this amendatory Act of the 102nd General

Assembly.

(22) Contracts for public education programming, noncommercial sustaining announcements, public service announcements, and public awareness and education messaging with the nonprofit trade associations of the providers of those services that inform the public on immediate and ongoing health and safety risks and hazards.

Notwithstanding any other provision of law, for contracts with an annual value of more than \$100,000 entered into on or after October 1, 2017 under an exemption provided in any paragraph of this subsection (b), except paragraph (1), (2), or (5), each State agency shall post to the appropriate procurement bulletin the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. The chief procurement officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the chief procurement officer.

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

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois

Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

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

(f) (Blank).

(g) (Blank).

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

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

(j) This Code does not apply to the process used by the Capital Development Board to retain an artist or work or works

of art as required in Section 14 of the Capital Development Board Act.

(k) This Code does not apply to the process to procure contracts, or contracts entered into, by the State Board of Elections or the State Electoral Board for hearing officers appointed pursuant to the Election Code.

(l) This Code does not apply to the processes used by the Illinois Student Assistance Commission to procure supplies and services paid for from the private funds of the Illinois Prepaid Tuition Fund. As used in this subsection (l), "private funds" means funds derived from deposits paid into the Illinois Prepaid Tuition Trust Fund and the earnings thereon.

(m) This Code shall apply regardless of the source of funds with which contracts are paid, including federal assistance moneys. Except as specifically provided in this Code, this Code shall not apply to procurement expenditures necessary for the Department of Public Health to conduct the Healthy Illinois Survey in accordance with Section 2310-431 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois.

(Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff. 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22; 102-1116, eff. 1-10-23.)

ARTICLE 60. CONTRACTOR DIVERSITY REPORTING

Section 60-5. The Business Corporation Act of 1983 is amended by adding Section 14.40 as follows:

(805 ILCS 5/14.40 new)

Sec. 14.40. State contractors reporting.

(a) Except as provided in subsection (b), by June 1, 2024, and each June 1 thereafter, a corporation that has contracts with this State shall provide to the Commission on Equity and Inclusion a list of its professional services suppliers by category, including, but not limited to, legal services, accounting services, media placement, technology services, asset management, and consulting services. The list shall include the percentage of owners and employees in each category that are women or minority persons. The list required under this subsection (a) shall provide the required information for each of the classes of minority persons identified in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(b) Corporations that submit annual supplier diversity reports to the Illinois Commerce Commission in accordance with Section 8h of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act are exempt from the requirements of this Section.

(c) This Section is repealed on July 1, 2028.

ARTICLE 65. REQUESTS FOR WAIVER OF ASPIRATIONAL GOALS

Section 5. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Sections 2 and 7 as follows:

(30 ILCS 575/2)

(Section scheduled to be repealed on June 30, 2024)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:

(a) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).

(b) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).

(c) Black or African American (a person having

origins in any of the black racial groups of Africa).

(d) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).

(e) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).

(2) "Woman" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as a person with a disability under subdivision (2.1) of this subsection (A).

(2.1) "Person with a disability" means a person with a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,

blindness,

burn injury,

cancer,

cerebral palsy,

Crohn's disease,

cystic fibrosis,

deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
an intellectual disability,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and
epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
ulcerative colitis,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the
person's major life activities.

Another disability or combination of disabilities may
also be considered as a severe disability for the purposes
of item (a) of this subdivision (2.1) if it is determined
by an evaluation of rehabilitation potential to cause a
comparable degree of substantial functional limitation

similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority-owned business" means a business which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Women-owned business" means a business which is at least 51% owned by one or more women, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more women; and the management and daily business operations of which are controlled by one or more of the women who own it.

(4.1) "Business owned by a person with a disability" means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Women, and Persons with Disabilities

created under Section 5 of this Act.

(4.3) "Commission" means, unless the context clearly indicates otherwise, the Commission on Equity and Inclusion created under the Commission on Equity and Inclusion Act.

(4.4) "Certified vendor" means a minority-owned business, women-owned business, or business owned by a person with a disability that is certified by the Business Enterprise Program.

(4.5) "Subcontractor" means a person or entity that enters into a contractual agreement with a prime vendor to provide, on behalf of the prime vendor, goods, services, real property, or remuneration or other monetary consideration that is the subject of the primary State contract. "Subcontractor" includes a sublessee under a State contract.

(4.6) "Prime vendor" means any person or entity having a contract that is subject to this Act with a State agency or public institution of higher education.

(5) "State contracts" means all contracts entered into by the State, any agency or department thereof, or any public institution of higher education, including community college districts, regardless of the source of the funds with which the contracts are paid, which are not subject to federal reimbursement. "State contracts" does not include contracts awarded by a retirement system,

pension fund, or investment board subject to Section 1-109.1 of the Illinois Pension Code. This definition shall control over any existing definition under this Act or applicable administrative rule.

"State construction contracts" means all State contracts entered into by a State agency or public institution of higher education for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "Public institutions of higher education" means the University of Illinois, Southern Illinois University,

Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the public community colleges of the State, and any other public universities, colleges, and community colleges now or hereafter established or authorized by the General Assembly.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, or person with a disability for whatever purpose. A business owned and controlled by women shall be certified as a "woman-owned business". A business owned and controlled by women who are also minorities shall be certified as both a "women-owned business" and a "minority-owned business".

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or

joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business" means a business that has annual gross sales of less than \$150,000,000 as evidenced by the federal income tax return of the business. A certified vendor ~~firm~~ with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the vendor ~~firm~~ can demonstrate that the contract would have significant impact on businesses owned by minorities, women, or persons with disabilities as suppliers or subcontractors or in employment of minorities, women, or persons with disabilities. Firms with gross sales in excess of this cap that are granted certification by the Council shall be granted certification for the life of the contract, including available renewals.

(11) "Utilization plan" means an attachment that is made to a form and additional documentations included in all bids or proposals and that demonstrates the bidder's

or offeror's efforts to meet the contract-specific Business Enterprise Program goal. The utilization plan shall indicate whether the prime vendor intends to meet the Business Enterprise Program goal through its own performance, if it is a certified vendor, or through the use of subcontractors that are certified vendors ~~a vendor's proposed utilization of vendors certified by the Business Enterprise Program to meet the targeted goal.~~ The utilization plan shall demonstrate that the Vendor has either: (1) met the entire contract goal or (2) requested a full or partial waiver of the contract goal. If the prime vendor intends to use a subcontractor that is a certified vendor to fulfill the contract goal, a participation agreement executed between the prime vendor and the certified subcontractor must be included with the utilization plan ~~and made good faith efforts towards meeting the goal.~~

(12) "Business Enterprise Program" means the Business Enterprise Program of the Commission on Equity and Inclusion.

(13) "Good faith effort" means actions undertaken by a vendor to achieve a contract specific Business Enterprise Program goal that, by scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

(B) When a business is owned at least 51% by any

combination of minority persons, women, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business.

(Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-1119, eff. 1-23-23.)

(30 ILCS 575/7) (from Ch. 127, par. 132.607)

(Section scheduled to be repealed on June 30, 2024)

Sec. 7. Exemptions; waivers; publication of data.

(1) Individual contract exemptions. The Council, at the written request of the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of \$250,000 or more complying with Section 45 of the State Finance Act, may permit an individual contract or contract package, (related contracts being bid or awarded simultaneously for the same project or improvements) be made wholly or partially exempt from State contracting goals for businesses owned by minorities, women, and persons with disabilities prior to the advertisement for bids or solicitation of proposals whenever there has been a determination, reduced to writing and based on the best

information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question. Any such exemptions shall be given by the Council to the Bureau on Apprenticeship Programs and Clean Energy Jobs.

(a) Written request for contract exemption. A written request for an individual contract exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by businesses owned by minorities, women, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) a list of eligible businesses owned by minorities, women, and persons with disabilities that the contractor has used in the current and prior fiscal years.

(b) Determination. The Council's determination concerning an individual contract exemption must consider, at a minimum, the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities;

(ii) the total number of exemptions granted to the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of \$250,000 or more complying with Section 45 of the State Finance Act that have been granted by the Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years.

(2) Class exemptions.

(a) Creation. The Council, at the written request of the affected agency or public institution of higher education, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned by minorities, women, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the

time of the determination, that there is an insufficient number of qualified businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class. Any such exemption shall be given by the Council to the Bureau on Apprenticeship Programs and Clean Energy Jobs.

(a-1) Written request for class exemption. A written request for a class exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by eligible businesses owned by minorities, women, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) the number of class exemptions the affected agency or public institution of higher education requested in the current and prior fiscal years.

(a-2) Determination. The Council's determination concerning class exemptions must consider, at a minimum,

the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, and persons with disabilities;

(ii) the total number of class exemptions granted to the requesting agency or public institution of higher education that have been granted by the Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities the current and prior fiscal years.

(b) Limitation. Any such class exemption shall not be permitted for a period of more than one year at a time.

(3) Waivers. Where a particular contract requires a vendor ~~contractor~~ to meet a goal established pursuant to this Act, the vendor ~~contractor~~ shall have the right to request a waiver from such requirements prior to the contract award. The Business Enterprise Program shall evaluate a vendor's request for a waiver based on the vendor's documented good faith efforts to meet the contract-specific Business Enterprise Program goal. The Council shall grant the waiver when the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by

businesses owned by minorities, women, and persons with disabilities. Any such waiver shall also be transmitted in writing to the Bureau on Apprenticeship Programs and Clean Energy Jobs.

(a) Request for waiver. A vendor's ~~contractor's~~ request for a waiver under this subsection (3) must include, but is not limited to, the following, ~~if available~~:

(i) a list of eligible businesses owned by minorities, women, and persons with disabilities that pertain to the the class of contracts in the requested waiver that were contacted by the vendor ~~scope of work of the contract~~. Eligible businesses are only eligible if the business is certified for the products or work advertised in the solicitation or bid;

(ii) (blank);

(iia) a clear demonstration that the vendor ~~contractor~~ selected portions of the work to be performed by certified vendors to facilitate meeting the contract specific goal, and that certified vendors that have the capability to perform the work of the contract were ~~eligible businesses owned by minorities, women, and persons with disabilities,~~ solicited through all reasonable and available means ~~eligible businesses, and negotiated in good faith with interested eligible businesses;~~

(iib) documentation demonstrating that certified vendors ~~businesses owned by minorities, women, and persons with disabilities~~ are not rejected as being unqualified without sound reasons based on a thorough investigation of their capabilities. The certified vendor's standing within its industry, membership in specific groups, organizations, or associations, and political or social affiliations are not legitimate causes for rejecting or not contacting or negotiating with a certified vendor;

(iic) proof that the prime vendor solicited eligible certified vendors with: (1) sufficient time to respond; (2) adequate information about the scope, specifications, and requirements of the solicitation or bid, including plans, drawings, and addenda, to allow eligible businesses an opportunity to respond to the solicitation or bid; and (3) sufficient follow up with certified vendors;

(iic) a clear demonstration that the prime vendor communicated with certified vendors;

(iie) evidence that the prime vendor negotiated with certified vendors to enter into subcontracts to provide a commercially useful function of the contract for a reasonable cost;

(iii) documentation demonstrating that the difference in cost between the contract proposals

~~being offered by certified vendors is contract proposals being offered by businesses owned by minorities, women, and persons with disabilities are excessive or unreasonable; and~~

(iv) a list of certified vendors ~~businesses~~ owned by minorities, women, and persons with disabilities that the contractor has used in the current and prior fiscal years; ~~and~~

(v) documentation demonstrating that the vendor made efforts to utilize certified vendors despite the ability or desire of a vendor to perform the work with its own operations by selecting portions of the work to be performed by certified vendors, which may, when appropriate, include breaking out portions of the work to be performed into economically feasible units to facilitate certified vendor participation; and

(vi) documentation that the vendor used the services of: (1) the State; (2) organizations or contractors' groups representing or composed of minorities, women, or persons with disabilities; (3) local, State, or federal assistance offices representing or assisting minorities, women, or persons with disabilities; and (4) other organizations that provide assistance in the recruitment and engagement of certified vendors.

If any of the information required under this

subdivision (a) is not available to the vendor, despite the vendor's good faith efforts to obtain the information, the vendor's request for a waiver must contain a written explanation of why that information is not included.

(b) Determination. The Council's determination concerning waivers must include following:

(i) the justification for the requested waiver, including whether the requesting vendor ~~contractor~~ made a good faith effort to identify and solicit certified vendors based on the criteria set forth in this Section ~~eligible businesses owned by minorities, women, and persons with disabilities;~~

(ii) the total number of waivers the vendor ~~contractor~~ has been granted by the Council in the current and prior fiscal years;

(iii) (blank); and

(iv) the vendor's ~~contractor's~~ use of businesses owned by minorities, women, and persons with disabilities in the current and prior fiscal years.

(3.5) (Blank).

(4) Conflict with other laws. In the event that any State contract, which otherwise would be subject to the provisions of this Act, is or becomes subject to federal laws or regulations which conflict with the provisions of this Act or actions of the State taken pursuant hereto, the provisions of the federal laws or regulations shall apply and the contract

shall be interpreted and enforced accordingly.

(5) Each chief procurement officer, as defined in the Illinois Procurement Code, shall maintain on his or her official Internet website a database of the following: (i) waivers granted under this Section with respect to contracts under his or her jurisdiction; (ii) a State agency or public institution of higher education's written request for an exemption of an individual contract or an entire class of contracts; and (iii) the Council's written determination granting or denying a request for an exemption of an individual contract or an entire class of contracts. The database, which shall be updated periodically as necessary, shall be searchable by contractor name and by contracting State agency.

(6) Each chief procurement officer, as defined by the Illinois Procurement Code, shall maintain on its website a list of all vendors ~~firms~~ that have been prohibited from bidding, offering, or entering into a contract with the State of Illinois as a result of violations of this Act.

Each public notice required by law of the award of a State contract shall include for each bid or offer submitted for that contract the following: (i) the bidder's or offeror's name, (ii) the bid amount, (iii) the name or names of the certified vendors ~~firms~~ identified in the bidder's or offeror's submitted utilization plan, and (iv) the ~~bid's amount~~ and percentage of the contract awarded to each

certified vendor that is a business ~~businesses~~ owned by minorities, women, and persons with disabilities identified in the utilization plan.

(Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20; 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-662, eff. 9-15-21.)

ARTICLE 75. PUBLIC INSTITUTIONS OF HIGHER EDUCATION

Section 75-5. The Illinois Procurement Code is amended by changing Section 1-13 as follows:

(30 ILCS 500/1-13)

Sec. 1-13. Applicability to public institutions of higher education.

(a) This Code shall apply to public institutions of higher education, regardless of the source of the funds with which contracts are paid, except as provided in this Section.

(b) Except as provided in this Section, this Code shall not apply to procurements made by or on behalf of public institutions of higher education for any of the following:

(1) Memberships in professional, academic, research, or athletic organizations on behalf of a public institution of higher education, an employee of a public institution of higher education, or a student at a public institution of higher education.

(2) Procurement expenditures for events or activities paid for exclusively by revenues generated by the event or activity, gifts or donations for the event or activity, private grants, or any combination thereof.

(3) Procurement expenditures for events or activities for which the use of specific potential contractors is mandated or identified by the sponsor of the event or activity, provided that the sponsor is providing a majority of the funding for the event or activity.

(4) Procurement expenditures necessary to provide athletic, artistic or musical services, performances, events, or productions by or for a public institution of higher education.

(5) Procurement expenditures for periodicals, books, subscriptions, database licenses, and other publications procured for use by a university library or academic department, except for expenditures related to procuring textbooks for student use or materials for resale or rental.

(6) Procurement expenditures for placement of students in externships, practicums, field experiences, and for medical residencies and rotations.

(7) Contracts for programming and broadcast license rights for university-operated radio and television stations.

(8) Procurement expenditures necessary to perform

sponsored research and other sponsored activities under grants and contracts funded by the sponsor or by sources other than State appropriations.

(9) Contracts with a foreign entity for research or educational activities, provided that the foreign entity either does not maintain an office in the United States or is the sole source of the service or product.

(10) Procurement expenditures for any ongoing software license or maintenance agreement or competitively solicited software purchase, when the software, license, or maintenance agreement is available through only the software creator or its manufacturer and not a reseller.

(11) Procurement expenditures incurred outside of the United States for the recruitment of international students.

(12) Procurement expenditures for contracts entered into under the Public University Energy Conservation Act.

(13) Procurement expenditures for advertising purchased directly from a media station or the owner of the station for distribution of advertising.

Notice of each contract with an annual value of more than \$100,000 entered into by a public institution of higher education that is related to the procurement of goods and services identified in items (1) through (13) ~~(11)~~ of this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief

Procurement Officer shall prescribe the form and content of the notice. Each public institution of higher education shall provide the Chief Procurement Officer, on a monthly basis, in the form and content prescribed by the Chief Procurement Officer, a report of contracts that are related to the procurement of goods and services identified in this subsection. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. A copy of any or all of these contracts shall be made available to the Chief Procurement Officer immediately upon request. The Chief Procurement Officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the Chief Procurement Officer.

(b-5) Except as provided in this subsection, the provisions of this Code shall not apply to contracts for medical supplies or to contracts for medical services necessary for the delivery of care and treatment at medical, dental, or veterinary teaching facilities used by Southern Illinois University or the University of Illinois or at any university-operated health care center or dispensary that provides care, treatment, and medications for students, faculty, and staff. Furthermore, the provisions of this Code do not apply to the procurement by such a facility of any

additional supplies or services that the operator of the facility deems necessary for the effective use and functioning of the medical supplies or services that are otherwise exempt from this Code under this subsection (b-5). However, other supplies and services needed for these teaching facilities shall be subject to the jurisdiction of the Chief Procurement Officer for Public Institutions of Higher Education who may establish expedited procurement procedures and may waive or modify certification, contract, hearing, process and registration requirements required by the Code. All procurements made under this subsection shall be documented and may require publication in the Illinois Procurement Bulletin.

(b-10) Procurements made by or on behalf of the University of Illinois for investment services may be entered into or renewed without being subject to the requirements of this Code. Notice of intent to renew a contract shall be published in the Illinois Public Higher Education Procurement Bulletin at least 14 days prior to the execution of a renewal, and the University of Illinois shall hold a public hearing for interested parties to provide public comment. Any contract extended, renewed, or entered pursuant to this exception shall be published in the Illinois Public Higher Education Procurement Bulletin within 5 days of contract execution.

(c) Procurements made by or on behalf of public institutions of higher education for the fulfillment of a

grant shall be made in accordance with the requirements of this Code to the extent practical.

Upon the written request of a public institution of higher education, the Chief Procurement Officer may waive contract, registration, certification, and hearing requirements of this Code if, based on the item to be procured or the terms of a grant, compliance is impractical. The public institution of higher education shall provide the Chief Procurement Officer with specific reasons for the waiver, including the necessity of contracting with a particular potential contractor, and shall certify that an effort was made in good faith to comply with the provisions of this Code. The Chief Procurement Officer shall provide written justification for any waivers. By November 1 of each year, the Chief Procurement Officer shall file a report with the General Assembly identifying each contract approved with waivers and providing the justification given for any waivers for each of those contracts. Notice of each waiver made under this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice.

(d) Notwithstanding this Section, a waiver of the registration requirements of Section 20-160 does not permit a business entity and any affiliated entities or affiliated persons to make campaign contributions if otherwise prohibited by Section 50-37. The total amount of contracts awarded in

accordance with this Section shall be included in determining the aggregate amount of contracts or pending bids of a business entity and any affiliated entities or affiliated persons.

(e) Notwithstanding subsection (e) of Section 50-10.5 of this Code, the Chief Procurement Officer, with the approval of the Executive Ethics Commission, may permit a public institution of higher education to accept a bid or enter into a contract with a business that assisted the public institution of higher education in determining whether there is a need for a contract or assisted in reviewing, drafting, or preparing documents related to a bid or contract, provided that the bid or contract is essential to research administered by the public institution of higher education and it is in the best interest of the public institution of higher education to accept the bid or contract. For purposes of this subsection, "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder of a business. The Executive Ethics Commission may promulgate rules and regulations for the implementation and administration of the provisions of this subsection (e).

(f) As used in this Section:

"Grant" means non-appropriated funding provided by a federal or private entity to support a project or program

administered by a public institution of higher education and any non-appropriated funding provided to a sub-recipient of the grant.

"Public institution of higher education" means Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Southern Illinois University, University of Illinois, Western Illinois University, and, for purposes of this Code only, the Illinois Mathematics and Science Academy.

(g) (Blank).

(h) The General Assembly finds and declares that:

(1) Public Act 98-1076, which took effect on January 1, 2015, changed the repeal date set for this Section from December 31, 2014 to December 31, 2016.

(2) The Statute on Statutes sets forth general rules on the repeal of statutes and the construction of multiple amendments, but Section 1 of that Act also states that these rules will not be observed when the result would be "inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute".

(3) This amendatory Act of the 100th General Assembly manifests the intention of the General Assembly to remove the repeal of this Section.

(4) This Section was originally enacted to protect, promote, and preserve the general welfare. Any

construction of this Section that results in the repeal of this Section on December 31, 2014 would be inconsistent with the manifest intent of the General Assembly and repugnant to the context of this Code.

It is hereby declared to have been the intent of the General Assembly that this Section not be subject to repeal on December 31, 2014.

This Section shall be deemed to have been in continuous effect since December 20, 2011 (the effective date of Public Act 97-643), and it shall continue to be in effect henceforward until it is otherwise lawfully repealed. All previously enacted amendments to this Section taking effect on or after December 31, 2014, are hereby validated.

All actions taken in reliance on or pursuant to this Section by any public institution of higher education, person, or entity are hereby validated.

In order to ensure the continuing effectiveness of this Section, it is set forth in full and re-enacted by this amendatory Act of the 100th General Assembly. This re-enactment is intended as a continuation of this Section. It is not intended to supersede any amendment to this Section that is enacted by the 100th General Assembly.

In this amendatory Act of the 100th General Assembly, the base text of the reenacted Section is set forth as amended by Public Act 98-1076. Striking and underscoring is used only to show changes being made to the base text.

This Section applies to all procurements made on or before the effective date of this amendatory Act of the 100th General Assembly.

(Source: P.A. 101-640, eff. 6-12-20; 102-16, eff. 6-17-21; 102-721, eff. 5-6-22; 102-1119, eff. 1-23-23.)

ARTICLE 80. STATE FAIRGROUNDS

Section 80-5. The State Fair Act is amended by adding Section 7.1 as follows:

(20 ILCS 210/7.1 new)

Sec. 7.1. Procurement for artistic or musical services, performances, events, or productions on the State Fairgrounds.

(a) Procurement expenditures necessary to provide artistic or musical services, performances, events, or productions under this Act at the State Fairgrounds in Springfield and DuQuoin are exempt from the requirements of the Illinois Procurement Code. The expenditures may include, but are not limited to, entertainment, advertising, concessions, space rentals, sponsorships, and other services necessary to provide such events.

(b) Notice of each contract with an annual value of more than \$100,000 entered into by the Department that is related to the procurement of goods and services identified in this Section shall be published in the Illinois Procurement

Bulletin within 30 calendar days after contract execution. The Department shall provide the chief procurement officer, on a monthly basis, a report of contracts that are related to the procurement of supplies and services identified in this Section. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and reference to the exception in this Section. A copy of any or all of these contracts shall be made available to the chief procurement officer immediately upon request.

(c) This Section is repealed on July 1, 2028.

ARTICLE 85. TRANSPORTATION SUSTAINABILITY PROCUREMENT PROGRAM

Section 85-5. The Transportation Sustainability Procurement Program Act is amended by changing Section 10 as follows:

(30 ILCS 530/10)

Sec. 10. Contracts for the procurement of freight, small package delivery, and other cargo shipping and transportation services.

(a) The State's Chief Procurement Officers shall, in consultation with the Illinois Environmental Protection Agency, develop a sustainability program for the State's procurement of shipping and transportation services for

freight, small package delivery, and other forms of cargo.

(b) State contracts for the procurement of freight, small package delivery, and other cargo shipping and transportation services shall require providers to report, using generally accepted reporting protocols adopted by the Agency for that purpose:

(1) the amount of energy the service provider consumed to provide those services to the State and the amount of associated greenhouse gas emissions, including energy use and greenhouse gases emitted as a result of the provider's use of electricity in its facilities;

(2) the energy use and greenhouse gas emissions by the service provider's subcontractors in the performance of those services.

(c) The State's solicitation for the procurement of freight, small package delivery, and other cargo shipping and transportation services shall be subject to the Illinois Procurement Code or the Governmental Joint Purchasing Act and shall:

(1) specify how the bidder will report its energy use and associated greenhouse gas emissions under the contract; and

(2) call for bidders to disclose in their responses to the solicitation:

(A) measures they use to reduce vehicle engine idling;

(B) their use of multi-modal transportation, such as rail, trucks, or air transport, and how the use of those types of transportation is anticipated to reduce costs for the State;

(C) the extent of their use of (i) cleaner, less expensive fuels as an alternative to petroleum or (ii) more efficient vehicle propulsion systems;

(D) the level of transparency of the provider's reporting under subsection (b), and what independent verification and assurance measures exist for this reporting;

(E) their use of speed governors on heavy trucks;

(F) their use of recyclable packaging;

(G) measures of their network efficiency, including the in-vehicle use of telematics or other related technologies that provide for improved vehicle and network optimization and efficiencies;

(H) their energy intensity per unit of output delivered;

(I) how they will advance the environmental goals of the State; and

(J) opportunities to effectively neutralize the greenhouse gas emissions reported under subsection (b).

(d) In selecting providers for such services, the State, as part of a best value analysis of the responses to the

State's solicitation:

(1) shall give appropriate weight to the disclosures in subdivision (c) (2) of this Section;

(2) shall give appropriate weight to the price and quality of the services being offered; and

(3) may accept from the service provider an optional offer at a reasonable cost of carbon neutral shipping in which the provider calculates the direct and indirect greenhouse gas emissions of the provider that are specified under subsection (b) above, and obtains independently verified carbon credits to offset those emissions and then retires the carbon credits.

(e) The Chief Procurement Officer identified under item (5) of Section 1-15.15 of the Illinois Procurement Code shall adopt rules to encourage all State agencies to use the least costly level of service or mode of transport (while distinguishing between express or air versus ground delivery) that can achieve on-time delivery for the product being transported and delivered.

(Source: P.A. 98-348, eff. 8-14-13.)

ARTICLE 90. PUBLIC-PRIVATE PARTNERSHIP FOR TRANSPORTATION ACT

Section 90-5. The Public-Private Partnerships for Transportation Act is amended by changing Sections 5, 10, 15, 20, 30, 35, 40, 45, 50, 55, 65, 70, 80, and 85 and by adding

Section 19 as follows:

(630 ILCS 5/5)

Sec. 5. Public policy and legislative intent.

(a) It is the public policy of the State of Illinois to promote the design, development, construction, financing, and operation of transportation facilities that serve the needs of the public.

(b) Existing methods of procurement and financing of transportation facilities by responsible public entities ~~transportation agencies~~ impose limitations on the methods by which transportation facilities may be developed and operated within the State.

(c) Authorizing responsible public entities ~~transportation agencies~~ to enter into public-private partnerships, whereby private entities may develop, operate, and finance transportation facilities, has the potential to promote the development of transportation facilities in the State as well as investment in the State.

(d) It is the intent of this Act to promote public-private partnerships for transportation by authorizing responsible public entities ~~transportation agencies~~ to enter into public-private agreements related to the design, development, construction, operation, and financing of transportation facilities.

(e) It is the intent of this Act to encourage the practice

of congestion pricing in connection with toll highways, pursuant to which higher toll rates are charged during times or in locations of most congestion.

(f) It is the intent of this Act to use Illinois design professionals, construction companies, and workers to the greatest extent possible by offering them the right to compete for this work.

(Source: P.A. 97-502, eff. 8-23-11.)

(630 ILCS 5/10)

Sec. 10. Definitions. As used in this Act:

"Approved proposal" means the proposal that is approved by the responsible public entity ~~transportation agency~~ pursuant to subsection (j) of Section 20 of this Act.

"Approved proposer" means the private entity whose proposal is the approved proposal.

"Authority" means the Illinois State Toll Highway Authority.

"Contractor" means a private entity that has entered into a public-private agreement with the responsible public entity ~~transportation agency~~ to provide services to or on behalf of the responsible public entity ~~transportation agency~~.

"Department" means the Illinois Department of Transportation.

"Design-build agreement" means the agreement between the selected private entity and the responsible public entity

~~transportation agency~~ under which the selected private entity agrees to furnish design, construction, and related services for a transportation facility under this Act.

"Develop" or "development" means to do one or more of the following: plan, design, develop, lease, acquire, install, construct, reconstruct, rehabilitate, extend, or expand.

"Maintain" or "maintenance" includes ordinary maintenance, repair, rehabilitation, capital maintenance, maintenance replacement, and any other categories of maintenance that may be designated by the responsible public entity ~~transportation agency~~.

~~"Metropolitan planning organization" means a metropolitan planning organization designated under 23 U.S.C. Section 134 whose metropolitan planning area boundaries are partially or completely within the State.~~

"Operate" or "operation" means to do one or more of the following: maintain, improve, equip, modify, or otherwise operate.

"Private entity" means any combination of one or more individuals, corporations, general partnerships, limited liability companies, limited partnerships, joint ventures, business trusts, nonprofit entities, or other business entities that are parties to a proposal for a transportation project or an agreement related to a transportation project. A public agency may provide services to a contractor as a subcontractor or subconsultant without affecting the private

status of the private entity and the ability to enter into a public-private agreement. A transportation agency is not a private entity.

"Proposal" means all materials and documents prepared by or on behalf of a private entity relating to the proposed development, financing, or operation of a transportation facility as a transportation project.

"Proposer" means a private entity that has submitted an unsolicited proposal for a public-private agreement to a responsible public entity under this Act or a proposal or statement of qualifications for a public-private agreement in response to a request for proposals or a request for qualifications issued by a responsible public entity ~~transportation agency~~ under this Act.

"Public-private agreement" means the public-private agreement between the contractor and the responsible public entity ~~transportation agency~~ relating to one or more of the development, financing, or operation of a transportation project that is entered into under this Act.

"Request for information" means all materials and documents prepared by or on behalf of the responsible public entity ~~transportation agency~~ to solicit information from private entities with respect to transportation projects.

"Request for proposals" means all materials and documents prepared by or on behalf of the responsible public entity ~~transportation agency~~ to solicit proposals from private

entities to enter into a public-private agreement.

"Request for qualifications" means all materials and documents prepared by or on behalf of the responsible public entity ~~transportation agency~~ to solicit statements of qualification from private entities to enter into a public-private agreement.

"Responsible public entity" means the Department of Transportation, the Illinois State Toll Highway Authority.

"Revenues" means all revenues, including any combination of: income; earnings and interest; user fees; lease payments; allocations; federal, State, and local appropriations, grants, loans, lines of credit, and credit guarantees; bond proceeds; equity investments; service payments; or other receipts; arising out of or in connection with a transportation project, including the development, financing, and operation of a transportation project. The term includes money received as grants, loans, lines of credit, credit guarantees, or otherwise in aid of a transportation project from the federal government, the State, a unit of local government, or any agency or instrumentality of the federal government, the State, or a unit of local government.

"Shortlist" means the process by which a responsible public entity ~~transportation agency~~ will review, evaluate, and rank statements of qualifications submitted in response to a request for qualifications and then identify the proposers who are eligible to submit a detailed proposal in response to a

request for proposals. The identified proposers constitute the shortlist for the transportation project to which the request for proposals relates.

"Transportation agency" means (i) the Department or (ii) the Authority.

"Transportation facility" means any new or existing road, highway, toll highway, bridge, tunnel, intermodal facility, intercity or high-speed passenger rail, or other transportation facility or infrastructure, excluding airports, under the jurisdiction of a responsible public entity ~~the Department or the Authority~~, except those facilities for the Illiana Expressway. The term "transportation facility" may refer to one or more transportation facilities that are proposed to be developed or operated as part of a single transportation project.

"Transportation project" or "project" means any or the combination of the design, development, construction, financing, or operation with respect to all or a portion of any transportation facility under the jurisdiction of the responsible public entity ~~transportation agency~~, except those facilities for the Illiana Expressway, undertaken pursuant to this Act.

"Unit of local government" has the meaning ascribed to that term in Article VII, Section 1 of the Constitution of the State of Illinois and also means any unit designated as a municipal corporation.

"Unsolicited proposal" means a written proposal that is submitted to a responsible public entity on the initiative of the private sector entity or entities for the purpose of developing a partnership, and that is not in response to a formal or informal request issued by a responsible public entity.

"User fees" or "tolls" means the rates, tolls, fees, or other charges imposed by the contractor for use of all or a portion of a transportation project under a public-private agreement.

(Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

(630 ILCS 5/15)

Sec. 15. Formation of public-private agreements; project planning.

(a) Each responsible public entity ~~transportation agency~~ may exercise the powers granted by this Act to do some or all to design, develop, construct, finance, and operate any part of one or more transportation projects through public-private agreements with one or more private entities, except for transportation projects for the Illiana Expressway as defined in the Public Private Agreements for the Illiana Expressway Act. The net proceeds, if any, arising out of a transportation project or public-private agreement undertaken by the Department pursuant to this Act shall be deposited into the Public-Private Partnerships for Transportation Fund. The net

proceeds arising out of a transportation project or public-private agreement undertaken by the Authority pursuant to this Act shall be deposited into the Illinois State Toll Highway Authority Fund and shall be used only as authorized by Section 23 of the Toll Highway Act.

(b) ~~The Authority shall not enter into a public private agreement involving a lease or other transfer of any toll highway, or portions thereof, under the Authority's jurisdiction which were open to vehicular traffic on the effective date of this Act. The Authority shall not enter into a public private agreement for the purpose of making roadway improvements, including but not limited to reconstruction, adding lanes, and adding ramps, to any toll highway, or portions thereof, under the Authority's jurisdiction which were open to vehicular traffic on the effective date of this Act. The Authority shall not use any revenue generated by any toll highway, or portions thereof, under the Authority's jurisdiction which were open to vehicular traffic on the effective date of this Act to enter into or provide funding for a public private agreement. The Authority shall not use any asset, or the proceeds from the sale or lease of any such asset, which was owned by the Authority on the effective date of this Act to enter into or provide funding for a public private agreement.~~ The Authority may enter into a public-private partnership to design, develop, construct, finance, and operate new toll highways authorized by the

Governor and the General Assembly pursuant to Section 14.1 of the Toll Highway Act, non-highway transportation projects on the toll highway system such as commuter rail or high-speed rail lines, and intelligent transportation infrastructure that will enhance the safety, efficiency, and environmental quality of the toll highway system. The Authority may operate or provide operational services such as toll collection on highways which are developed or financed, or both, through a public-private agreement entered into by another public entity, under an agreement with the public entity or contractor responsible for the transportation project.

(c) A contractor has:

(1) all powers allowed by law generally to a private entity having the same form of organization as the contractor; and

(2) the power to develop, finance, and operate the transportation facility and to impose user fees in connection with the use of the transportation facility, subject to the terms of the public-private agreement.

No tolls or user fees may be imposed by the contractor except as set forth in a public-private agreement.

~~(d) Each year, at least 30 days prior to the beginning of the transportation agency's fiscal year, and at other times the transportation agency deems necessary, the Department and the Authority shall submit for review to the General Assembly a description of potential projects that the transportation~~

~~agency is considering undertaking under this Act. Any submission from the Authority shall indicate which of its potential projects, if any, will involve the proposer operating the transportation facility for a period of one year or more.~~ Prior to commencing the procurement process under an unsolicited proposal or the issuance of any request for qualifications or request for proposals with respect to any potential project undertaken by a responsible public entity ~~the Department or the Authority~~ pursuant to Section 19 or 20 of this Act, the commencement of a procurement process for that particular potential project shall be authorized by joint resolution of the General Assembly.

(e) (Blank). ~~Each year, at least 30 days prior to the beginning of the transportation agency's fiscal year, the transportation agency shall submit a description of potential projects that the transportation agency is considering undertaking under this Act to each county, municipality, and metropolitan planning organization, with respect to each project located within its boundaries.~~

(f) Any project undertaken under this Act shall be subject to all applicable planning requirements otherwise required by law, including land use planning, regional planning, transportation planning, and environmental compliance requirements.

(g) (Blank). ~~Any new transportation facility developed as a project under this Act must be consistent with the regional~~

~~plan then in existence of any metropolitan planning organization in whose boundaries the project is located.~~

(h) The responsible public entity ~~transportation agency~~ shall hold one or more public hearings following ~~within 30 days of each of~~ its submittals to the General Assembly under subsection (d) of this Section. These public hearings shall address any potential project ~~projects~~ that the responsible public entity ~~transportation agency~~ submitted to the General Assembly for review under subsection (d). The responsible public entity ~~transportation agency~~ shall publish a notice of the hearing or hearings at least 7 days before a hearing takes place, and shall include the following in the notice: (i) the date, time, and place of the hearing and the address of the responsible public entity ~~transportation agency~~; (ii) a brief description of the potential projects that the responsible public entity ~~transportation agency~~ is considering undertaking; and (iii) a statement that the public may comment on the potential projects.

(Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

(630 ILCS 5/19 new)

Sec. 19. Unsolicited proposals.

(a) A responsible public entity may receive unsolicited proposals for a project and may thereafter enter into a public-private agreement with a private entity, or a consortium of private entities, for the design, construction,

upgrading, operating, ownership, or financing of facilities.

(b) A responsible public entity may consider, evaluate, and accept an unsolicited proposal for a public-private partnership project from a private entity if the proposal:

(1) is independently developed and drafted by the proposer without responsible public entity supervision;

(2) shows that the proposed project could benefit the transportation system;

(3) includes a financing plan to allow the project to move forward pursuant to the applicable responsible public entity's budget and finance requirements; and

(4) includes sufficient detail and information for the responsible public entity to evaluate the proposal in an objective and timely manner and permit a determination that the project would be worthwhile.

(c) The unsolicited proposal shall include the following:

(1) an executive summary covering the major elements of the proposal;

(2) qualifications concerning the experience, expertise, technical competence, and qualifications of the private entity and of each member of its management team and of other key employees, consultants, and subcontractors, including the name, address, and professional designation;

(3) a project description, including, when applicable:

(A) the limits, scope, and location of the

proposed project;

(B) right-of-way requirements;

(C) connections with other facilities and improvements to those facilities necessary if the project is developed;

(D) a conceptual project design; and

(E) a statement of the project's relationship to and impact upon relevant existing plans of the responsible public entity;

(4) a facilities project schedule, including when applicable, estimates of:

(A) dates of contract award;

(B) start of construction;

(C) completion of construction;

(D) start of operations; and

(E) major maintenance or reconstruction activities during the life of the proposed project agreement;

(5) an operating plan describing the operation of the completed facility if operation of a facility is part of the proposal, describing the management structure and approach, the proposed period of operations, enforcement, emergency response, and other relevant information;

(6) a finance plan describing the proposed financing of the project, identifying the source of funds to, where applicable, design, construct, maintain, and manage the project during the term of the proposed contract; and

(7) the legal basis for the project and licenses and certifications; the private entity must demonstrate that it has all licenses and certificates necessary to complete the project.

(d) Within 120 days after receiving an unsolicited proposal, the responsible public entity shall complete a preliminary evaluation of the unsolicited proposal and shall either:

(1) if the preliminary evaluation is unfavorable, return the proposal without further action;

(2) if the preliminary evaluation is favorable, notify the proposer that the responsible public entity will further evaluate the proposal; or

(3) request amendments, clarification, or modification of the unsolicited proposal.

(e) The procurement process for unsolicited proposals shall be as follows:

(1) If the responsible public entity chooses to further evaluate an unsolicited proposal with the intent to enter into a public-private agreement for the proposed project, then the responsible public entity shall publish notice in the Illinois Procurement Bulletin or in a newspaper of general circulation covering the location of the project at least once a week for 2 weeks stating that the responsible public entity has received a proposal and will accept other proposals for the same project. The time

frame within which the responsible public entity may accept other proposals shall be determined by the responsible public entity on a project-by-project basis based upon the complexity of the transportation project and the public benefit to be gained by allowing a longer or shorter period of time within which other proposals may be received; however, the time frame for allowing other proposals must be at least 21 days, but no more than 120 days, after the initial date of publication.

(2) A copy of the notice must be mailed to each local government directly affected by the transportation project.

(3) The responsible public entity shall provide reasonably sufficient information, including the identity of its contact person, to enable other private entities to make proposals.

(4) If, after no less than 120 days, no counterproposal is received, or if the counterproposals are evaluated and found to be equal to or inferior to the original unsolicited proposal, the responsible public entity may proceed to negotiate a contract with the original proposer.

(5) If, after no less than 120 days, one or more counterproposals meeting unsolicited proposal standards are received, and if, in the opinion of the responsible public entity, the counterproposals are evaluated and

found to be superior to the original unsolicited proposal, the responsible public entity shall proceed to determine the successful participant through a final procurement phase known as "Best and Final Offer" (BAFO). The BAFO is a process whereby a responsible public entity shall invite the original private sector party and the proponent submitting the superior counterproposal to engage in a BAFO phase. The invitation to participate in the BAFO phase will provide to each participating proposer:

(A) the general concepts that were considered superior to the original proposal, while keeping proprietary information contained in the proposals confidential to the extent possible; and

(B) the preestablished evaluation criteria or the "basis of award" to be used to determine the successful proponent.

(6) Offers received in response to the BAFO invitation will be reviewed by the responsible public entity and scored in accordance with a preestablished criteria, or alternatively, in accordance with the basis of award provision identified through the BAFO process. The successful proponent will be the proponent offering "best value" to the responsible public entity.

(7) In all cases, the basis of award will be the best value to the responsible public entity, as determined by the responsible public entity.

(f) After a comprehensive evaluation and acceptance of an unsolicited proposal and any alternatives, the responsible public entity may commence negotiations with a proposer, considering:

(1) the proposal has received a favorable comprehensive evaluation;

(2) the proposal is not duplicative of existing infrastructure project;

(3) the alternative proposal does not closely resemble a pending competitive proposal for a public-private private partnership or other procurement;

(4) the proposal demonstrates a unique method, approach, or concept;

(5) facts and circumstances that preclude or warrant additional competition;

(6) the availability of any funds, debts, or assets that the State will contribute to the project;

(7) facts and circumstances demonstrating that the project will likely have a significant adverse impact on on State bond ratings; and

(8) indemnifications included in the proposal.

(630 ILCS 5/20)

Sec. 20. Competitive procurement ~~Procurement~~ process.

(a) A responsible public entity may solicit proposals for a transportation project from private entities. The

~~responsible public entity transportation agency seeking to enter into a public-private partnership with a private entity for the development, finance, and operation of a transportation facility as a transportation project~~ shall determine and set forth the criteria for the selection process. The responsible public entity ~~transportation agency~~ shall use (i) a competitive sealed bidding process, (ii) a competitive sealed proposal process, or (iii) a design-build procurement process in accordance with Section 25 of this Act. Before using one of these processes the responsible public entity ~~transportation agency~~ may use a request for information to obtain information relating to possible public-private partnerships.

(b) If a transportation project will require the performance of design work, the responsible public entity ~~transportation agency~~ shall use the shortlist selection process set forth in subsection (g) of this Section to evaluate and shortlist private entities based on qualifications, including but not limited to design qualifications.

A request for qualifications, request for proposals, or public-private agreement awarded to a contractor for a transportation project shall require that any subsequent need for architectural, engineering, or land surveying services which arises after the submittal of the request for qualifications or request for proposals or the awarding of the

public-private agreement shall be procured by the contractor using a qualifications-based selection process consisting of:

- (1) the publication of notice of availability of services;
- (2) a statement of desired qualifications;
- (3) an evaluation based on the desired qualifications;
- (4) the development of a shortlist ranking the firms in order of qualifications; and
- (5) negotiations with the ranked firms for a fair and reasonable fee.

Compliance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act shall be deemed prima facie compliance with this subsection (b). Every transportation project contract shall include provisions setting forth the requirements of this subsection (b).

(c) (Blank). ~~Prior to commencing a procurement for a transportation project under this Act, the transportation agency shall notify any other applicable public agency, including the Authority, in all cases involving toll facilities where the Department would commence the procurement, of its interest in undertaking the procurement and shall provide the other public agency or agencies with an opportunity to offer to develop and implement the transportation project. The transportation agency shall supply the other public agency or agencies with no less than the same level and type of information concerning the project that the~~

~~transportation agency would supply to private entities in the procurement, unless that information is not then available, in which case the transportation agency shall supply the other public agency or agencies with the maximum amount of relevant information about the project as is then reasonably available. The transportation agency shall make available to the other public agencies the same subsidies, benefits, concessions, and other consideration that it intends to make available to the private entities in the procurement.~~

~~The public agencies shall have a maximum period of 60 days to review the information about the proposed transportation project and to respond to the transportation agency in writing to accept or reject the opportunity to develop and implement the transportation project. If a public agency rejects the opportunity during the 60-day period, then the public agency may not participate in the procurement for the proposed transportation project by submitting a proposal of its own. If a public agency fails to accept or reject this opportunity in writing within the 60-day period, it shall be deemed to have rejected the opportunity.~~

~~If a public agency accepts the opportunity within the 60-day period, then the public agency shall have up to 120 days (or a longer period, if extended by the transportation agency), to (i) submit to the transportation agency a reasonable plan for development of the transportation project; (ii) if applicable, make an offer of reasonable consideration~~

~~for the opportunity to undertake the transportation project; and (iii) negotiate a mutually acceptable intergovernmental agreement with the transportation agency that facilitates the development of the transportation project and requires that the transportation agency follow its procurement procedures under the Illinois Procurement Code and applicable rules rather than this Act. In considering whether a public agency's plan for developing and implementing the project is reasonable, the transportation agency shall consider the public agency's history of developing and implementing similar projects, the public agency's current capacity to develop and implement the proposed project, the user charges, if any, contemplated by the public agency's plan and how these user charges compare with user charges that would be imposed by a private entity developing and implementing the same project, the project delivery schedule proposed by the public agency, and other reasonable factors that are necessary, including consideration of risks and whether subsidy costs may be reduced, to determine whether development and implementation of the project by the public agency is in the best interest of the people of this State.~~

(d) (Blank). ~~If the transportation agency rejects or fails to negotiate mutually acceptable terms regarding a public agency's plan for developing and implementing the transportation project during the 120-day period described in subsection (c), then the public agency may not participate in~~

~~the procurement for the proposed transportation project by submitting a proposal of its own. Following a rejection or failure to reach agreement regarding a public agency's plan, if the transportation agency later proceeds with a procurement in which it materially changes (i) the nature or scope of the project; (ii) any subsidies, benefits, concessions, or other significant project related considerations made available to the bidders; or (iii) any other terms of the project, as compared to when the transportation agency supplied information about the project to public agencies under subsection (c), then the transportation agency shall give public agencies another opportunity in accordance with subsection (c) to provide proposals for developing and implementing the project.~~

(e) (Blank). ~~Nothing in this Section 20 requires a transportation agency to go through a procurement process prior to developing and implementing a project through a public agency as described in subsection (c).~~

(f) All procurement processes shall incorporate requirements and set forth goals for participation by disadvantaged business enterprises as allowed under State and federal law.

(g) The responsible public entity ~~transportation agency~~ shall establish a process to shortlist potential private entities. The responsible public entity ~~transportation agency~~ shall: (i) provide a public notice of the shortlisting process

for such period as deemed appropriate by the agency; (ii) set forth requirements and evaluation criteria in a request for qualifications; (iii) develop a shortlist by determining which private entities that have submitted statements of qualification, if any, meet the minimum requirements and best satisfy the evaluation criteria set forth in the request for qualifications; and (iv) allow only those entities, or groups of entities such as unincorporated joint ventures, that have been shortlisted to submit proposals or bids. Throughout the procurement period and as necessary following the award of a contract, the responsible public entity ~~transportation agency~~ shall make publicly available on its website information regarding firms that are prequalified by the responsible public entity ~~transportation agency~~ pursuant to Section 20 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act to provide architectural, engineering, and land surveying services. The responsible public entities ~~transportation agencies~~ shall require private entities to use firms prequalified under this Act to provide architectural, engineering, and land surveying services. Firms identified to provide architectural, engineering, and land surveying services in a statement of qualifications shall be prequalified under the Act to provide the identified services prior to the responsible public entity's ~~transportation agency's~~ award of the contract.

(h) Competitive sealed bidding requirements:

(1) All contracts shall be awarded by competitive sealed bidding except as otherwise provided in subsection (i) of this Section, Section 19 of this Act, and Section 25 of this Act.

(2) An invitation for bids shall be issued and shall include a description of the public-private partnership with a private entity for the development, finance, and operation of a transportation facility as a transportation project, and the material contractual terms and conditions applicable to the procurement.

(3) Public notice of the invitation for bids shall be published in the State of Illinois Procurement Bulletin at least 21 days before the date set in the invitation for the opening of bids.

(4) Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(5) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Act. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection,

testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(6) Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by the responsible public entity ~~transportation agency~~.

(7) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when the responsible public entity ~~transportation agency~~ determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the State of Illinois Procurement

Bulletin. The written explanation must include:

(A) a description of the responsible public entity's ~~agency's~~ needs;

(B) a determination that the anticipated cost will be fair and reasonable;

(C) a listing of all responsible and responsive bidders; and

(D) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

(8) When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Competitive sealed proposal requirements:

(1) When the responsible public entity ~~transportation agency~~ determines in writing that the use of competitive sealed bidding or design-build procurement is either not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposals.

(2) Proposals shall be solicited through a request for proposals.

(3) Public notice of the request for proposals shall be published in the State of Illinois Procurement Bulletin

at least 21 days before the date set in the invitation for the opening of proposals.

(4) Proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the request for proposals, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after contract award.

(5) The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: (i) covering items except price; and (ii) covering price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals.

(6) As provided in the request for proposals and under any applicable rules, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no

disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.

(7) Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(j) The responsible public entity ~~In the case of a proposal or proposals to the Department or the Authority, the transportation agency~~ shall determine, based on its review and evaluation of the proposal or proposals received ~~in response to the request for proposals,~~ which one or more proposals, if any, best serve the public purpose of this Act and ~~satisfy the criteria set forth in the request for proposals and, with respect to such proposal or proposals,~~ shall:

(1) submit the proposal or proposals to the Commission on Government Forecasting and Accountability, which, within 20 days of submission by the responsible public entity ~~transportation agency,~~ shall complete a review of the proposal or proposals and report on the value of the proposal or proposals to the State;

(2) hold one or more public hearings on the proposal or proposals, publish notice of the hearing or hearings at

least 7 days before the hearing, and include the following in the notice: (i) the date, time, and place of the hearing and the address of the responsible public entity ~~transportation agency~~, (ii) the subject matter of the hearing, (iii) a description of the agreement to be awarded, (iv) the determination made by the responsible public entity ~~transportation agency~~ that such proposal or proposals best serve the public purpose of this Act ~~and satisfy the criteria set forth in the request for proposals~~, and (v) that the public may be heard on the proposal or proposals during the public hearing; and

(3) determine whether or not to recommend to the Governor that the Governor approve the proposal or proposals.

The Governor may approve one or more proposals recommended by the Department or the Authority based upon the review, evaluation, and recommendation of the responsible public entity ~~transportation agency~~, the review and report of the Commission on Government Forecasting and Accountability, the public hearing, and the best interests of the State.

(k) In addition to any other rights under this Act, in connection with any procurement under this Act, the following rights are reserved to each responsible public entity ~~transportation agency~~:

(1) to withdraw a request for information, a request for qualifications, or a request for proposals at any

time, and to publish a new request for information, request for qualifications, or request for proposals;

(2) to not approve a proposal for any reason;

(3) to not award a public-private agreement for any reason;

(4) to request clarifications to any statement of information, qualifications, or proposal received, to seek one or more revised proposals or one or more best and final offers, or to conduct negotiations with one or more private entities that have submitted proposals;

(5) to modify, during the pendency of a procurement, the terms, provisions, and conditions of a request for information, request for qualifications, or request for proposals or the technical specifications or form of a public-private agreement;

(6) to interview proposers; and

(7) any other rights available to the responsible public entity ~~transportation agency~~ under applicable law and regulations.

(1) If a proposal is approved, the responsible public entity ~~transportation agency~~ shall execute the public-private agreement, publish notice of the execution of the public-private agreement on its website and in a newspaper or newspapers of general circulation within the county or counties in which the transportation project is to be located, and publish the entire agreement on its website. Any action to

contest the validity of a public-private agreement entered into under this Act must be brought no later than 60 days after the date of publication of the notice of execution of the public-private agreement.

(m) For any transportation project with an estimated construction cost of over \$50,000,000, the responsible public entity ~~transportation agency~~ may also require the approved proposer to pay the costs for an independent audit of any and all traffic and cost estimates associated with the approved proposal, as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the approved proposal, failure by the approved proposer to reimburse the transportation agency for services provided, and potential risk and liability in the event the approved proposer defaults on the public-private agreement or on bonds issued for the project). If required by the responsible public entity ~~transportation agency~~, this independent audit must be conducted by an independent consultant selected by the transportation agency, and all information from the review must be fully disclosed.

(n) The responsible public entity ~~transportation agency~~ may also apply for, execute, or endorse applications submitted by private entities to obtain federal credit assistance for qualifying projects developed or operated pursuant to this Act.

(Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

(630 ILCS 5/30)

Sec. 30. Interim agreements.

(a) Prior to or in connection with the negotiation of the public-private agreement, the responsible public entity ~~transportation agency~~ may enter into an interim agreement with the approved proposer. Such interim agreement may:

(1) permit the approved proposer to commence activities relating to a proposed project as the responsible public entity ~~transportation agency~~ and the approved proposer shall agree to and for which the approved proposer may be compensated, including, but not limited to, project planning, advance right-of-way acquisition, design and engineering, environmental analysis and mitigation, survey, conducting transportation and revenue studies, and ascertaining the availability of financing for the proposed facility or facilities;

(2) establish the process and timing of the exclusive negotiation of a public-private agreement with an approved proposer;

(3) require that in the event the responsible public entity ~~transportation agency~~ determines not to proceed with a project after the approved proposer and the responsible public entity ~~transportation agency~~ have executed an interim agreement, and thereby terminates the

interim agreement or declines to proceed with negotiation of a public-private agreement with an approved proposer, the responsible public entity ~~transportation agency~~ shall pay to the approved proposer certain fees and costs incurred by the approved proposer;

(4) establish the ownership in the State or in the Authority of the concepts and designs in the event of termination of the interim agreement;

(5) establish procedures for the selection of professional design firms and subcontractors, which shall include procedures consistent with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act for the selection of design professional firms and may include, in the discretion of the responsible public entity ~~transportation agency~~, procedures consistent with the low bid procurement procedures outlined in the Illinois Procurement Code for the selection of construction companies; and

(6) contain any other provisions related to any aspect of the transportation project that the parties may deem appropriate.

(b) A responsible public entity ~~transportation agency~~ may enter into an interim agreement with multiple approved proposers if the responsible public entity ~~transportation agency~~ determines in writing that it is in the public interest to do so.

(c) The approved proposer shall select firms that are prequalified by the responsible public entity ~~transportation agency~~ pursuant to Section 20 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act to provide architectural, engineering, and land surveying services to undertake activities related to the transportation project.

(Source: P.A. 97-502, eff. 8-23-11.)

(630 ILCS 5/35)

Sec. 35. Public-private agreements.

(a) Unless undertaking actions otherwise permitted in an interim agreement entered into under Section 30 of this Act, before developing, financing, or operating the transportation project, the approved proposer shall enter into a public-private agreement with the transportation agency. Subject to the requirements of this Act, a public-private agreement may provide that the approved proposer, acting on behalf of the responsible public entity ~~transportation agency~~, is partially or entirely responsible for any combination of developing, financing, or operating the transportation project under terms set forth in the public-private agreement.

(b) The public-private agreement may, as determined appropriate by the responsible public entity ~~transportation agency~~ for the particular transportation project, provide for some or all of the following:

(1) Development, financing, and operation of the transportation project under terms set forth in the public-private agreement, in any form as deemed appropriate by the responsible public entity ~~transportation agency~~, including, but not limited to, a long-term concession and lease, a design-bid-build agreement, a design-build agreement, a design-build-maintain agreement, a design-build-finance agreement, a design-build-operate-maintain agreement and a design-build-finance-operate-maintain agreement.

(2) Delivery of performance and payment bonds or other performance security determined suitable by the responsible public entity ~~transportation agency~~, including letters of credit, United States bonds and notes, parent guaranties, and cash collateral, in connection with the development, financing, or operation of the transportation project, in the forms and amounts set forth in the public-private agreement or otherwise determined as satisfactory by the responsible public entity ~~transportation agency~~ to protect the responsible public entity ~~transportation agency~~ and payment bond beneficiaries who have a direct contractual relationship with the contractor or a subcontractor of the contractor to supply labor or material. The payment or performance bond or alternative form of performance security is not required for the portion of a public-private agreement

that includes only design, planning, or financing services, the performance of preliminary studies, or the acquisition of real property.

(3) Review of plans for any development or operation, or both, of the transportation project by the responsible public entity ~~transportation agency~~.

(4) Inspection of any construction of or improvements to the transportation project by the responsible public entity ~~transportation agency~~ or another entity designated by the responsible public entity ~~transportation agency~~ or under the public-private agreement to ensure that the construction or improvements conform to the standards set forth in the public-private agreement or are otherwise acceptable to the responsible public entity ~~transportation agency~~.

(5) Maintenance of:

(A) one or more policies of public liability insurance (copies of which shall be filed with the responsible public entity ~~transportation agency~~ accompanied by proofs of coverage); or

(B) self-insurance;

each in form and amount as set forth in the public-private agreement or otherwise satisfactory to the responsible public entity ~~transportation agency~~ as reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation

of the transportation project.

(6) Where operations are included within the contractor's obligations under the public-private agreement, monitoring of the maintenance practices of the contractor by the responsible public entity ~~transportation agency~~ or another entity designated by the responsible public entity ~~transportation agency~~ or under the public-private agreement and the taking of the actions the responsible public entity ~~transportation agency~~ finds appropriate to ensure that the transportation project is properly maintained.

(7) Reimbursement to be paid to the responsible public entity ~~transportation agency~~ as set forth in the public-private agreement for services provided by the responsible public entity ~~transportation agency~~.

(8) Filing of appropriate financial statements and reports as set forth in the public-private agreement or as otherwise in a form acceptable to the responsible public entity ~~transportation agency~~ on a periodic basis.

(9) Compensation or payments to the contractor. Compensation or payments may include any or a combination of the following:

(A) a base fee and additional fee for project savings as the design-builder of a construction project;

(B) a development fee, payable on a lump-sum

basis, progress payment basis, time and materials basis, or another basis deemed appropriate by the responsible public entity ~~transportation agency~~;

(C) an operations fee, payable on a lump-sum basis, time and material basis, periodic basis, or another basis deemed appropriate by the responsible public entity ~~transportation agency~~;

(D) some or all of the revenues, if any, arising out of operation of the transportation project;

(E) a maximum rate of return on investment or return on equity or a combination of the two;

(F) in-kind services, materials, property, equipment, or other items;

(G) compensation in the event of any termination;

(H) availability payments or similar arrangements whereby payments are made to the contractor pursuant to the terms set forth in the public-private agreement or related agreements; or

(I) other compensation set forth in the public-private agreement or otherwise deemed appropriate by the responsible public entity ~~transportation agency~~.

(10) Compensation or payments to the responsible public entity ~~transportation agency~~, if any. Compensation or payments may include any or a combination of the following:

(A) a concession or lease payment or other fee, which may be payable upfront or on a periodic basis or on another basis deemed appropriate by the responsible public entity ~~transportation agency~~;

(B) sharing of revenues, if any, from the operation of the transportation project;

(C) sharing of project savings from the construction of the transportation project;

(D) payment for any services, materials, equipment, personnel, or other items provided by the responsible public entity ~~transportation agency~~ to the contractor under the public-private agreement or in connection with the transportation project; or

(E) other compensation set forth in the public-private agreement or otherwise deemed appropriate by the responsible public entity ~~transportation agency~~.

(11) The date and terms of termination of the contractor's authority and duties under the public-private agreement and the circumstances under which the contractor's authority and duties may be terminated prior to that date.

(12) Reversion of the transportation project to the responsible public entity ~~transportation agency~~ at the termination or expiration of the public-private agreement.

(13) Rights and remedies of the responsible public

entity ~~transportation agency~~ in the event that the contractor defaults or otherwise fails to comply with the terms of the public-private agreement.

(14) Procedures for the selection of professional design firms and subcontractors, which shall include procedures consistent with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act for the selection of professional design firms and may include, in the discretion of the responsible public entity ~~transportation agency~~, procedures consistent with the low bid procurement procedures outlined in the Illinois Procurement Code for the selection of construction companies.

(15) Other terms, conditions, and provisions that the responsible public entity ~~transportation agency~~ believes are in the public interest.

(c) The responsible public entity ~~transportation agency~~ may fix and revise the amounts of user fees that a contractor may charge and collect for the use of any part of a transportation project in accordance with the public-private agreement. In fixing the amounts, the responsible public entity ~~transportation agency~~ may establish maximum amounts for the user fees and may provide that the maximums and any increases or decreases of those maximums shall be based upon the indices, methodologies, or other factors the responsible public entity ~~transportation agency~~ considers appropriate.

(d) A public-private agreement may:

(1) authorize the imposition of tolls in any manner determined appropriate by the responsible public entity ~~transportation agency~~ for the transportation project;

(2) authorize the contractor to adjust the user fees for the use of the transportation project, so long as the amounts charged and collected by the contractor do not exceed the maximum amounts established by the responsible public entity ~~transportation agency~~ under the public-private agreement;

(3) provide that any adjustment by the contractor permitted under paragraph (2) of this subsection (d) may be based on the indices, methodologies, or other factors described in the public-private agreement or approved by the responsible public entity ~~transportation agency~~;

(4) authorize the contractor to charge and collect user fees through methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, global positioning system-based, photo-based, or video-based toll collection enforcement, provided that to the maximum extent feasible the contractor will (i) utilize open road tolling methods that allow payment of tolls at highway speeds and (ii) comply with United States Department of Transportation requirements and best practices with respect to tolling methods; and

(5) authorize the collection of user fees by a third party.

(e) In the public-private agreement, the responsible public entity ~~transportation agency~~ may agree to make grants or loans for the development or operation, or both, of the transportation project from time to time from amounts received from the federal government or any agency or instrumentality of the federal government or from any State or local agency.

(f) Upon the termination or expiration of the public-private agreement, including a termination for default, the responsible public entity ~~transportation agency~~ shall have the right to take over the transportation project and to succeed to all of the right, title, and interest in the transportation project. Upon termination or expiration of the public-private agreement relating to a transportation project undertaken by the Department, all real property acquired as a part of the transportation project shall be held in the name of the State of Illinois. Upon termination or expiration of the public-private agreement relating to a transportation project undertaken by the Authority, all real property acquired as a part of the transportation project shall be held in the name of the Authority.

(g) If a responsible public entity ~~transportation agency~~ elects to take over a transportation project as provided in subsection (f) of this Section, the responsible public entity ~~transportation agency~~ may do the following:

(1) develop, finance, or operate the project, including through a public-private agreement entered into in accordance with this Act; or

(2) impose, collect, retain, and use user fees, if any, for the project.

(h) If a responsible public entity ~~transportation agency~~ elects to take over a transportation project as provided in subsection (f) of this Section, the responsible public entity ~~transportation agency~~ may use the revenues, if any, for any lawful purpose, including to:

(1) make payments to individuals or entities in connection with any financing of the transportation project, including through a public-private agreement entered into in accordance with this Act;

(2) permit a contractor to receive some or all of the revenues under a public-private agreement entered into under this Act;

(3) pay development costs of the project;

(4) pay current operation costs of the project or facilities;

(5) pay the contractor for any compensation or payment owing upon termination; and

(6) pay for the development, financing, or operation of any other project or projects the responsible public entity ~~transportation agency~~ deems appropriate.

(i) The full faith and credit of the State or any political

subdivision of the State or the responsible public entity ~~transportation agency~~ is not pledged to secure any financing of the contractor by the election to take over the transportation project. Assumption of development or operation, or both, of the transportation project does not obligate the State or any political subdivision of the State or the responsible public entity ~~transportation agency~~ to pay any obligation of the contractor.

(j) The responsible public entity ~~transportation agency~~ may enter into a public-private agreement with multiple approved proposers if the responsible public entity ~~transportation agency~~ determines in writing that it is in the public interest to do so.

(k) A public-private agreement shall not include any provision under which the responsible public entity ~~transportation agency~~ agrees to restrict or to provide compensation to the private entity for the construction or operation of a competing transportation facility during the term of the public-private agreement.

(l) With respect to a public-private agreement entered into by the Department, the Department shall certify in its State budget request to the Governor each year the amount required by the Department during the next State fiscal year to enable the Department to make any payment obligated to be made by the Department pursuant to that public-private agreement, and the Governor shall include that amount in the

State budget submitted to the General Assembly.

(Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

(630 ILCS 5/40)

Sec. 40. Development and operations standards for transportation projects.

(a) The plans and specifications, if any, for each project developed under this Act must comply with:

(1) the responsible public entity's ~~transportation agency's~~ standards for other projects of a similar nature or as otherwise provided in the public-private agreement;

(2) the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, the Illinois Architecture Practice Act of 1989, the requirements of Section 30-22 of the Illinois Procurement Code as they apply to responsible bidders, and the Illinois Professional Land Surveyor Act of 1989; and

(3) any other applicable State or federal standards.

(b) Each highway project constructed or operated under this Act is considered to be part of:

(1) the State highway system for purposes of identification, maintenance standards, and enforcement of traffic laws if the highway project is under the jurisdiction of the Department; or

(2) the toll highway system for purposes of identification, maintenance standards, and enforcement of

traffic laws if the highway project is under the jurisdiction of the Authority.

(c) Any unit of local government or State agency may enter into agreements with the contractor for maintenance or other services under this Act.

(d) Any electronic toll collection system used on a toll highway, bridge, or tunnel as part of a transportation project must be compatible with the electronic toll collection system used by the Authority. The Authority is authorized to construct, operate, and maintain any electronic toll collection system used on a toll highway, bridge, or tunnel as part of a transportation project pursuant to an agreement with the responsible public entity ~~transportation agency~~ or the contractor responsible for the transportation project. All private entities and public agencies shall have an equal opportunity to contract with the Authority to provide construction, operation, and maintenance services. In addition, during the procurement of a public-private agreement, these construction, operation, and maintenance services shall be available under identical terms to each private entity participating in the procurement. To the extent that a public-private agreement or an agreement with a public agency under subsection (c) of Section 20 of this Act authorizes tolling, the responsible public entities ~~transportation agencies~~ and any contractor under a public-private partnership or a public agency under an

agreement pursuant to subsection (c) of Section 20 of this Act shall comply with subsection (a-5) of Section 10 of the Toll Highway Act as it relates to toll enforcement.

(Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

(630 ILCS 5/45)

Sec. 45. Financial arrangements.

(a) The responsible public entity ~~transportation agency~~ may do any combination of applying for, executing, or endorsing applications submitted by private entities to obtain federal, State, or local credit assistance for transportation projects developed, financed, or operated under this Act, including loans, lines of credit, and guarantees.

(b) The responsible public entity ~~transportation agency~~ may take any action to obtain federal, State, or local assistance for a transportation project that serves the public purpose of this Act and may enter into any contracts required to receive the federal assistance. The responsible public entity ~~transportation agency~~ may determine that it serves the public purpose of this Act for all or any portion of the costs of a transportation project to be paid, directly or indirectly, from the proceeds of a grant or loan, line of credit, or loan guarantee made by a local, State, or federal government or any agency or instrumentality of a local, State, or federal government. Such assistance may include, but not be limited to, federal credit assistance pursuant to the

Transportation Infrastructure Finance and Innovation Act (TIFIA).

(c) The responsible public entity ~~transportation agency~~ may agree to make grants or loans for the development, financing, or operation of a transportation project from time to time, from amounts received from the federal, State, or local government or any agency or instrumentality of the federal, State, or local government.

(d) Any financing of a transportation project may be in the amounts and upon the terms and conditions that are determined by the parties to the public-private agreement.

(e) For the purpose of financing a transportation project, the contractor and the responsible public entity ~~transportation agency~~ may do the following:

(1) propose to use any and all revenues that may be available to them;

(2) enter into grant agreements;

(3) access any other funds available to the responsible public entity ~~transportation agency~~; and

(4) accept grants from the responsible public entity ~~transportation agency~~ or other public or private agency or entity.

(f) For the purpose of financing a transportation project, public funds, including public or private pension funds, may be used and mixed and aggregated with funds provided by or on behalf of the contractor or other private entities.

(g) For the purpose of financing a transportation project, each responsible public entity ~~transportation agency~~ is authorized to do any combination of applying for, executing, or endorsing applications for an allocation of tax-exempt bond financing authorization provided by Section 142(m) of the United States Internal Revenue Code, as well as financing available under any other federal law or program.

(h) Any bonds, debt, or other securities or other financing issued by or on behalf of a contractor for the purposes of a project undertaken under this Act shall not be deemed to constitute a debt of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State.

(Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

(630 ILCS 5/50)

Sec. 50. Acquisition of property.

(a) The responsible public entity ~~transportation agency~~ may exercise any power of condemnation or eminent domain, including quick-take powers, that it has under law, including, in the case of the Department, all powers for acquisition of property rights granted it in the Illinois Highway Code, for the purpose of acquiring any lands or estates or interests in land for a transportation project to the extent provided in the public-private agreement or otherwise to the extent that the responsible public entity ~~transportation agency~~ finds that

the action serves the public purpose of this Act and deems it appropriate in the exercise of its powers under this Act.

(b) The responsible public entity ~~transportation agency~~ and a contractor may enter into the leases, licenses, easements, and other grants of property interests that the responsible public entity ~~transportation agency~~ determines necessary to carry out this Act.

(Source: P.A. 97-502, eff. 8-23-11.)

(630 ILCS 5/55)

Sec. 55. Labor.

(a) A public-private agreement related to a transportation project pertaining to the building, altering, repairing, maintaining, improving, or demolishing a transportation facility shall require the contractor and all subcontractors to comply with the requirements of Section 30-22 of the Illinois Procurement Code as they apply to responsible bidders and to present satisfactory evidence of that compliance to the responsible public entity ~~transportation agency~~, unless the transportation project is federally funded and the application of those requirements would jeopardize the receipt or use of federal funds in support of the transportation project.

(b) A public-private agreement related to a transportation project pertaining to a new transportation facility shall require the contractor to enter into a project labor agreement utilized by the Department.

(Source: P.A. 97-502, eff. 8-23-11.)

(630 ILCS 5/65)

Sec. 65. Term of agreement; reversion of property to responsible public entity ~~transportation agency~~.

(a) The term of a public-private agreement, including all extensions, may not exceed 99 years.

(b) The responsible public entity ~~transportation agency~~ shall terminate the contractor's authority and duties under the public-private agreement on the date set forth in the public-private agreement.

(c) Upon termination of the public-private agreement, the authority and duties of the contractor under this Act cease, except for those duties and obligations that extend beyond the termination, as set forth in the public-private agreement, and all interests in the transportation facility shall revert to the responsible public entity ~~transportation agency~~.

(Source: P.A. 97-502, eff. 8-23-11.)

(630 ILCS 5/70)

Sec. 70. Additional powers of responsible public entities ~~transportation agencies~~ with respect to transportation projects.

(a) Each responsible public entity ~~transportation agency~~ may exercise any powers provided under this Act in participation or cooperation with any governmental entity and

enter into any contracts to facilitate that participation or cooperation without compliance with any other statute. Each responsible public entity ~~transportation agency~~ shall cooperate with each other and with other governmental entities in carrying out transportation projects under this Act.

(b) Each responsible public entity ~~transportation agency~~ may make and enter into all contracts and agreements necessary or incidental to the performance of the responsible public entity's ~~transportation agency's~~ duties and the execution of the responsible public entity's ~~transportation agency's~~ powers under this Act. Except as otherwise required by law, these contracts or agreements are not subject to any approvals other than the approval of the responsible public entity ~~transportation agency~~ and may be for any term of years and contain any terms that are considered reasonable by the responsible public entity ~~transportation agency~~.

(c) Each responsible public entity ~~transportation agency~~ may pay the costs incurred under a public-private agreement entered into under this Act from any funds available to the responsible public entity ~~transportation agency~~ under this Act or any other statute.

(d) A responsible public entity ~~transportation agency~~ or other State agency may not take any action that would impair a public-private agreement entered into under this Act.

(e) Each responsible public entity ~~transportation agency~~ may enter into an agreement between and among the contractor,

the responsible public entity ~~transportation agency~~, and the Illinois State Police concerning the provision of law enforcement assistance with respect to a transportation project that is the subject of a public-private agreement under this Act.

(f) Each responsible public entity ~~transportation agency~~ is authorized to enter into arrangements with the Illinois State Police related to costs incurred in providing law enforcement assistance under this Act.

(Source: P.A. 102-538, eff. 8-20-21.)

(630 ILCS 5/80)

Sec. 80. Powers liberally construed. The powers conferred by this Act shall be liberally construed in order to accomplish their purposes and shall be in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this Act, this Act is controlling as to any public-private agreement entered into under this Act. To implement the powers conferred by this Act, the responsible public entity ~~transportation agency~~ may establish rules and procedures for the procurement of a public-private agreement under this Act. Nothing contained in this Act is intended to supersede applicable federal law or to foreclose the use or potential use of federal funds. In the event any provision of this Act is inconsistent with applicable federal law or would have the effect of foreclosing

the use or potential use of federal funds, the applicable federal law or funding condition shall prevail, but only to the extent of such inconsistency.

(Source: P.A. 97-502, eff. 8-23-11.)

(630 ILCS 5/85)

Sec. 85. Full and complete authority. This Act contains full and complete authority for agreements and leases with private entities to carry out the activities described in this Act. Except as otherwise required by law, no procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the responsible public entity ~~transportation agency~~ or any other State or local agency or official are required to enter into an agreement or lease.

(Source: P.A. 97-502, eff. 8-23-11.)

ARTICLE 95. LICENSING OF SOFTWARE APPLICATIONS

Section 95-5. The Illinois Procurement Code is amended by adding Section 20-57 as follows:

(30 ILCS 500/20-57 new)

Sec. 20-57. Software licensing contracts. A contract entered into by a public agency for the licensing of software applications designed to run on generally available desktop or server hardware may not limit the public agency's ability to

install or run the software on any of the public agency's hardware.

ARTICLE 97. PUBLIC CONSTRUCTION BONDS

Section 97-5. The Public Construction Bond Act is amended by changing Section 1 as follows:

(30 ILCS 550/1) (from Ch. 29, par. 15)

Sec. 1. Except as otherwise provided by this Act, until January 1, 2029, all officials, boards, commissions, or agents of this State, or of any political subdivision thereof, in making contracts for public work of any kind costing over \$150,000 ~~\$50,000~~ to be performed for the State, or of any political subdivision thereof, shall require every contractor for the work to furnish, supply and deliver a bond to the State, or to the political subdivision thereof entering into the contract, as the case may be, with good and sufficient sureties. The surety on the bond shall be a company that is licensed by the Department of Insurance authorizing it to execute surety bonds and the company shall have a financial strength rating of at least A- as rated by A.M. Best Company, Inc., Moody's Investors Service, Standard & Poor's Corporation, or a similar rating agency. The amount of the bond shall be fixed by the officials, boards, commissions, commissioners or agents, and the bond, among other conditions,

shall be conditioned for the completion of the contract, for the payment of material, apparatus, fixtures, and machinery used in the work and for all labor performed in the work, whether by subcontractor or otherwise.

Until January 1, 2029, when making contracts for public works to be constructed, the Department of Transportation and the Illinois State Toll Highway Authority shall require every contractor for those works to furnish, supply, and deliver a bond to the Department or the Authority, as the case may be, with good and sufficient sureties only if the public works contract will cost more than \$500,000. The Department of Transportation and the Illinois State Toll Highway Authority shall publicly display the following information by website or annual report and shall provide that information to interested parties upon request:

(1) a list of each of its defaulted public works contracts, including the value of the award, the adjusted contract value, and the amount remaining unpaid by the Department or Authority, as applicable;

(2) the number and the aggregate amount of payment claims made under the Mechanics Lien Act along with the number of contracts in which payment claims are made under the Mechanics Lien Act;

(3) for each of its public improvement contracts, regardless of the contract value, the aggregate annual revenue of the contractor derived from contracts with the

State;

(4) for each of its public works contracts, regardless of contract value, the identity of the surety providing the contract bond, payment and performance bond, or both; and

(5) for each of its public works contracts, regardless of the bond threshold, a list of bidders for each public works contract, and the amount bid by each bidder.

Until January 1, 2029, local governmental units may require a bond, by ordinance or resolution, for public works contracts valued at \$150,000 or less.

On and after January 1, 2029, all officials, boards, commissions, or agents of this State, or of any political subdivision thereof, in making contracts for public work of any kind costing over \$50,000 to be performed for the State, or of any political subdivision thereof, shall require every contractor for the work to furnish, supply and deliver a bond to the State, or to the political subdivision thereof entering into the contract, as the case may be, with good and sufficient sureties. The surety on the bond shall be a company that is licensed by the Department of Insurance authorizing it to execute surety bonds and the company shall have a financial strength rating of at least A- as rated by A.M. Best Company, Inc., Moody's Investors Service, Standard & Poor's Corporation, or a similar rating agency. The amount of the bond shall be fixed by the officials, boards, commissions,

commissioners or agents, and the bond, among other conditions, shall be conditioned for the completion of the contract, for the payment of material, apparatus, fixtures, and machinery used in the work and for all labor performed in the work, whether by subcontractor or otherwise.

If the contract is for emergency repairs as provided in the Illinois Procurement Code, proof of payment for all labor, materials, apparatus, fixtures, and machinery may be furnished in lieu of the bond required by this Section.

Each such bond is deemed to contain the following provisions whether such provisions are inserted in such bond or not:

"The principal and sureties on this bond agree that all the undertakings, covenants, terms, conditions and agreements of the contract or contracts entered into between the principal and the State or any political subdivision thereof will be performed and fulfilled and to pay all persons, firms and corporations having contracts with the principal or with subcontractors, all just claims due them under the provisions of such contracts for labor performed or materials furnished in the performance of the contract on account of which this bond is given, when such claims are not satisfied out of the contract price of the contract on account of which this bond is given, after final settlement between the officer, board, commission or agent of the State or of any political subdivision thereof and the principal has been made."

Each bond securing contracts between the Capital Development Board or any board of a public institution of higher education and a contractor shall contain the following provisions, whether the provisions are inserted in the bond or not:

"Upon the default of the principal with respect to undertakings, covenants, terms, conditions, and agreements, the termination of the contractor's right to proceed with the work, and written notice of that default and termination by the State or any political subdivision to the surety ("Notice"), the surety shall promptly remedy the default by taking one of the following actions:

(1) The surety shall complete the work pursuant to a written takeover agreement, using a completing contractor jointly selected by the surety and the State or any political subdivision; or

(2) The surety shall pay a sum of money to the obligee, up to the penal sum of the bond, that represents the reasonable cost to complete the work that exceeds the unpaid balance of the contract sum.

The surety shall respond to the Notice within 15 working days of receipt indicating the course of action that it intends to take or advising that it requires more time to investigate the default and select a course of action. If the surety requires more than 15 working days to investigate the default and select a course of action or if the surety elects

to complete the work with a completing contractor that is not prepared to commence performance within 15 working days after receipt of Notice, and if the State or any political subdivision determines it is in the best interest of the State to maintain the progress of the work, the State or any political subdivision may continue to work until the completing contractor is prepared to commence performance. Unless otherwise agreed to by the procuring agency, in no case may the surety take longer than 30 working days to advise the State or political subdivision on the course of action it intends to take. The surety shall be liable for reasonable costs incurred by the State or any political subdivision to maintain the progress to the extent the costs exceed the unpaid balance of the contract sum, subject to the penal sum of the bond."

The surety bond required by this Section may be acquired from the company, agent or broker of the contractor's choice. The bond and sureties shall be subject to the right of reasonable approval or disapproval, including suspension, by the State or political subdivision thereof concerned. Except as otherwise provided in this Section, in the case of State construction contracts, a contractor shall not be required to post a cash bond or letter of credit in addition to or as a substitute for the surety bond required by this Section.

Prior to the completion of 50% of the contract for public works, a local governmental unit may not withhold retainage

from any payment to a contractor who furnishes the bond or bond substitute required by this Act in an amount in excess of 10% of any payment made prior to the date of completion of 50% of the contract for public works. When a contract for public works is 50% complete, the local governmental unit shall reduce the retainage so that no more than 5% is held. After the contract is 50% complete, no more than 5% of the amount of any subsequent payments made under the contract for public works may be withheld as retainage.

Prior to the completion of 50% of the contract for public works, the contractor and their respective subcontractors shall not withhold from their subcontractors retainage in excess of 10% of any payment made prior to the date of completion of 50% of the contract for public works. When the contract for public works is 50% complete, the contractor and its subcontractors shall reduce the retainage so that no more than 5% is withheld from their respective subcontractors. After the contract is 50% complete, the contractor and its subcontractors shall not withhold more than 5% of the amount of any subsequent payments made under the contract to their respective subcontractors.

When other than motor fuel tax funds, federal-aid funds, or other funds received from the State are used, a political subdivision may allow the contractor to provide a non-diminishing irrevocable bank letter of credit, in lieu of the bond required by this Section, on contracts under \$100,000

to comply with the requirements of this Section. Any such bank letter of credit shall contain all provisions required for bonds by this Section.

In order to reduce barriers to entry for diverse and small businesses, the Department of Transportation may implement a 5-year pilot program to allow a contractor to provide a non-diminishing irrevocable bank letter of credit in lieu of the bond required by this Section on contracts under \$500,000. Projects selected by the Department of Transportation for this pilot program must be classified by the Department as low-risk scope of work contracts. The Department shall adopt rules to define the criteria for pilot project selection and implementation of the pilot program.

In ~~For the purposes of~~ this Section: ~~, the terms~~
~~"material"~~

"Local governmental unit" has the meaning ascribed to it in Section 2 of the Local Government Prompt Payment Act.

"Material", "labor", "apparatus", "fixtures", and "machinery" include those rented items that are on the construction site and those rented tools that are used or consumed on the construction site in the performance of the contract on account of which the bond is given.

(Source: P.A. 101-65, eff. 1-1-20; 102-968, eff. 1-1-23.)

ARTICLE 98 VENDOR CONTRIBUTION LIMITS AND REGISTRATION
REQUIREMENTS

Section 98-5. The Illinois Procurement Code is amended by changing Sections 20-160 and 50-37 as follows:

(30 ILCS 500/20-160)

Sec. 20-160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated person" have the meanings ascribed to those terms in Section 50-37.

(b) Every bid and offer submitted to and every contract executed by the State on or after January 1, 2009 (the effective date of Public Act 95-971) and every submission to a vendor portal shall contain (1) a certification by the bidder, offeror, vendor, or contractor that either (i) the bidder, offeror, vendor, or contractor is not required to register as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder, offeror, vendor, or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50-60 for the bidder's, offeror's, vendor's, or contractor's failure to comply with this Section.

(c) Each business entity (i) whose aggregate pending bids

and proposals on State contracts ~~annually~~ total more than \$50,000, (ii) whose aggregate pending bids and proposals on State contracts combined with the business entity's aggregate ~~annual~~ total value of State contracts exceed \$50,000, or (iii) whose contracts with State agencies, in the aggregate, ~~annually~~ total more than \$50,000 shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier. A business entity required to register under this subsection due to item (iii) has a continuing duty to ensure that the registration is accurate in accordance with subsection (e).

(d) Any business entity, not required under subsection (c) to register, whose aggregate pending bids and proposals on State contracts ~~annually~~ total more than \$50,000, or whose aggregate pending bids and proposals on State contracts combined with the business entity's aggregate ~~annual~~ total value of State contracts exceed \$50,000, shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code prior to submitting to a State agency the

bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(e) A business entity whose contracts with State agencies, in the aggregate, ~~annually~~ total more than \$50,000 must maintain its registration under this Section and has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. A business entity, required to register under this subsection, has a continuing duty to report any changes on a quarterly basis to the State Board of Elections within 14 calendar days following the last day of January, April, July, and October of each year. Any update pursuant to this paragraph that is received beyond that date is presumed late and the civil penalty authorized by subsection (e) of Section 9-35 of the Election Code may be assessed.

Also, if a business entity required to register under this

subsection has a pending bid or offer, any change in information shall be reported to the State Board of Elections within 7 calendar days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including, but not limited to, changes of affiliated entities or affiliated persons.

(g) For any bid or offer for a contract with a State agency by a business entity required to register under this Section, the chief procurement officer shall verify that the business entity is required to register under this Section and is in compliance with the registration requirements on the date the bid or offer is due. A chief procurement officer shall not accept a bid or offer if the business entity is not in compliance with the registration requirements as of the date bids or offers are due. Upon discovery of noncompliance with this Section, if the bidder or offeror made a good faith effort to comply with registration efforts prior to the date the bid or offer is due, a chief procurement officer may provide the bidder or offeror 5 business days to achieve compliance. A chief procurement officer may extend the time to prove compliance by as long as necessary in the event that there is a failure within the State Board of Elections' registration

system.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9-35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, offer, or other procurement relationship voidable by the chief procurement officer if he or she deems it to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract.

(Source: P.A. 100-43, eff. 8-9-17; 101-81, eff. 7-12-19.)

(30 ILCS 500/50-37)

Sec. 50-37. Prohibition of political contributions.

(a) As used in this Section:

The terms "contract", "State contract", and "contract with a State agency" each mean any contract, as defined in this Code, between a business entity and a State agency let or awarded pursuant to this Code. The terms "contract", "State contract", and "contract with a State agency" do not include cost reimbursement contracts; purchase of care agreements as defined in Section 1-15.68 of this Code; contracts for projects eligible for full or

partial federal-aid funding reimbursements authorized by the Federal Highway Administration; grants, including but are not limited to grants for job training or transportation; and grants, loans, or tax credit agreements for economic development purposes.

"Contribution" means a contribution as defined in Section 9-1.4 of the Election Code.

"Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the principal office of the State Board of Elections.

"State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the Illinois Constitution or State statute, of the executive branch of State government and does include colleges, universities, public employee retirement systems, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Illinois Board of Higher Education.

"Officeholder" means the Governor, Lieutenant

Governor, Attorney General, Secretary of State, Comptroller, or Treasurer. The Governor shall be considered the officeholder responsible for awarding all contracts by all officers and employees of, and potential contractors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

"Sponsoring entity" means a sponsoring entity as defined in Section 9-3 of the Election Code.

"Affiliated person" means (i) any person with any ownership interest or distributive share of the bidding or contracting business entity in excess of 7.5%, (ii) executive employees of the bidding or contracting business entity, and (iii) the spouse of any such persons. "Affiliated person" does not include a person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Affiliated entity" means (i) any corporate parent and each operating subsidiary of the bidding or contracting business entity, (ii) each operating subsidiary of the corporate parent of the bidding or contracting business entity, (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal

Revenue Code of 1986 (or any successor provision of federal tax law) established by the bidding or contracting business entity, any affiliated entity of that business entity, or any affiliated person of that business entity, or (iv) any political committee for which the bidding or contracting business entity, or any 501(c) organization described in item (iii) related to that business entity, is the sponsoring entity. "Affiliated entity" does not include an entity prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company or partnership, or otherwise.

"Executive employee" means (i) the President, Chairman, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity; and (ii) 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. A regular salary that is paid irrespective of the award or payment of a contract with a State agency shall not constitute "compensation" under

item (ii) of this definition. "Executive employee" does not include any person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

(b) Any business entity whose contracts with State agencies, in the aggregate, ~~annually~~ total more than \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committees established to promote the candidacy of (i) the officeholder responsible for awarding the contracts or (ii) any other declared candidate for that office. This prohibition shall be effective for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer.

(c) Any business entity whose aggregate pending bids and offers on State contracts total more than \$50,000, or whose aggregate pending bids and offers on State contracts combined with the business entity's aggregate ~~annual~~ total value of State contracts exceed \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committee established to promote the candidacy of the officeholder responsible for awarding the contract on which the business entity has submitted a bid or offer during the period

beginning on the date the invitation for bids, request for proposals, or any other procurement opportunity is issued and ending on the day after the date the contract is awarded.

(c-5) For the purposes of the prohibitions under subsections (b) and (c) of this Section, (i) any contribution made to a political committee established to promote the candidacy of the Governor or a declared candidate for the office of Governor shall also be considered as having been made to a political committee established to promote the candidacy of the Lieutenant Governor, in the case of the Governor, or the declared candidate for Lieutenant Governor having filed a joint petition, or write-in declaration of intent, with the declared candidate for Governor, as applicable, and (ii) any contribution made to a political committee established to promote the candidacy of the Lieutenant Governor or a declared candidate for the office of Lieutenant Governor shall also be considered as having been made to a political committee established to promote the candidacy of the Governor, in the case of the Lieutenant Governor, or the declared candidate for Governor having filed a joint petition, or write-in declaration of intent, with the declared candidate for Lieutenant Governor, as applicable.

(d) All contracts between State agencies and a business entity that violate subsection (b) or (c) shall be voidable under Section 50-60. If a business entity violates subsection (b) 3 or more times within a 36-month period, then all

contracts between State agencies and that business entity shall be void, and that business entity shall not bid or respond to any invitation to bid or request for proposals from any State agency or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. A notice of each violation and the penalty imposed shall be published in both the Procurement Bulletin and the Illinois Register.

(e) Any political committee that has received a contribution in violation of subsection (b) or (c) shall pay an amount equal to the value of the contribution to the State no more than 30 calendar days after notice of the violation concerning the contribution appears in the Illinois Register. Payments received by the State pursuant to this subsection shall be deposited into the general revenue fund.

(Source: P.A. 97-411, eff. 8-16-11; 98-1076, eff. 1-1-15.)

ARTICLE 100. LAND MAINTENANCE ACTIVITY PROJECTS

Section 100-5. The Illinois Solid Waste Management Act is amended by changing Section 3 as follows:

(415 ILCS 20/3) (from Ch. 111 1/2, par. 7053)

Sec. 3. State agency materials recycling program.

(a) All State agencies and local governments shall consider whether compost products can be used in the land

maintenance activity project when soliciting and reviewing bids for land maintenance activity projects. If compost products can be used in the project, the State agency or local government must use compost products unless the compost products: ~~responsible for the maintenance of public lands in the State shall, to the maximum extent feasible, use compost materials in all land maintenance activities which are to be paid with public funds.~~

(1) are not available within a reasonable period of time;

(2) do not comply with existing purchasing standards;

or

(3) do not comply with federal or State health and safety standards.

Beginning January 1, 2024, the Department of Transportation shall report each year to the General Assembly:

(i) the volume of compost used in State highway construction projects;

(ii) the status of compost and compost-based products used in State highway construction projects; and

(iii) recommendations to maximize the use of compost as a recycled material in State highway construction projects.

State agencies and local governments are encouraged to give priority to purchasing compost products from companies that produce compost products locally, are certified by a

nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs.

(a-5) All State agencies responsible for the maintenance of public lands in the State shall review its procurement specifications and policies to determine (1) if incorporating compost materials will help reduce stormwater run-off and increase infiltration of moisture in land maintenance activities and (2) the current recycled content usage and potential for additional recycled content usage by the Agency in land maintenance activities and report to the General Assembly by December 15, 2015.

(b) The Department of Central Management Services, in coordination with the Agency, shall implement waste reduction programs, including source separation and collection, for office wastepaper, corrugated containers, newsprint and mixed paper, in all State buildings as appropriate and feasible. Such waste reduction programs shall be designed to achieve waste reductions of at least 25% of all such waste by December 31, 1995, and at least 50% of all such waste by December 31, 2000. Any source separation and collection program shall include, at a minimum, procedures for collecting and storing recyclable materials, bins or containers for storing materials, and contractual or other arrangements with buyers of recyclable materials. If market conditions so warrant, the Department of Central Management Services, in coordination

with the Agency, may modify programs developed pursuant to this Section.

The Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) shall conduct waste categorization studies of all State facilities for calendar years 1991, 1995 and 2000. Such studies shall be designed to assist the Department of Central Management Services to achieve the waste reduction goals established in this subsection.

(c) Each State agency shall, upon consultation with the Agency, periodically review its procurement procedures and specifications related to the purchase of products or supplies. Such procedures and specifications shall be modified as necessary to require the procuring agency to seek out products and supplies that contain recycled materials, and to ensure that purchased products or supplies are reusable, durable or made from recycled materials whenever economically and practically feasible. In choosing among products or supplies that contain recycled material, consideration shall be given to products and supplies with the highest recycled material content that is consistent with the effective and efficient use of the product or supply.

(d) Wherever economically and practically feasible, the Department of Central Management Services shall procure recycled paper and paper products as follows:

- (1) Beginning July 1, 1989, at least 10% of the total

dollar value of paper and paper products purchased by the Department of Central Management Services shall be recycled paper and paper products.

(2) Beginning July 1, 1992, at least 25% of the total dollar value of paper and paper products purchased by the Department of Central Management Services shall be recycled paper and paper products.

(3) Beginning July 1, 1996, at least 40% of the total dollar value of paper and paper products purchased by the Department of Central Management Services shall be recycled paper and paper products.

(4) Beginning July 1, 2000, at least 50% of the total dollar value of paper and paper products purchased by the Department of Central Management Services shall be recycled paper and paper products.

(e) Paper and paper products purchased from private vendors pursuant to printing contracts are not considered paper products for the purposes of subsection (d). However, the Department of Central Management Services shall report to the General Assembly on an annual basis the total dollar value of printing contracts awarded to private sector vendors that included the use of recycled paper.

(f) (1) Wherever economically and practically feasible, the recycled paper and paper products referred to in subsection (d) shall contain postconsumer or recovered paper materials as specified by paper category in this

subsection:

(i) Recycled high grade printing and writing paper shall contain at least 50% recovered paper material. Such recovered paper material, until July 1, 1994, shall consist of at least 20% deinked stock or postconsumer material; and beginning July 1, 1994, shall consist of at least 25% deinked stock or postconsumer material; and beginning July 1, 1996, shall consist of at least 30% deinked stock or postconsumer material; and beginning July 1, 1998, shall consist of at least 40% deinked stock or postconsumer material; and beginning July 1, 2000, shall consist of at least 50% deinked stock or postconsumer material.

(ii) Recycled tissue products, until July 1, 1994, shall contain at least 25% postconsumer material; and beginning July 1, 1994, shall contain at least 30% postconsumer material; and beginning July 1, 1996, shall contain at least 35% postconsumer material; and beginning July 1, 1998, shall contain at least 40% postconsumer material; and beginning July 1, 2000, shall contain at least 45% postconsumer material.

(iii) Recycled newsprint, until July 1, 1994, shall contain at least 40% postconsumer material; and beginning July 1, 1994, shall contain at least 50% postconsumer material; and beginning July 1, 1996,

shall contain at least 60% postconsumer material; and beginning July 1, 1998, shall contain at least 70% postconsumer material; and beginning July 1, 2000, shall contain at least 80% postconsumer material.

(iv) Recycled unbleached packaging, until July 1, 1994, shall contain at least 35% postconsumer material; and beginning July 1, 1994, shall contain at least 40% postconsumer material; and beginning July 1, 1996, shall contain at least 45% postconsumer material; and beginning July 1, 1998, shall contain at least 50% postconsumer material; and beginning July 1, 2000, shall contain at least 55% postconsumer material.

(v) Recycled paperboard, until July 1, 1994, shall contain at least 80% postconsumer material; and beginning July 1, 1994, shall contain at least 85% postconsumer material; and beginning July 1, 1996, shall contain at least 90% postconsumer material; and beginning July 1, 1998, shall contain at least 95% postconsumer material.

(2) For the purposes of this Section, "postconsumer material" includes:

(i) paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has passed through its end usage as a consumer item, including used corrugated boxes, old

newspapers, mixed waste paper, tabulating cards, and used cordage; and

(ii) all paper, paperboard, and fibrous wastes that are diverted or separated from the municipal solid waste stream.

(3) For the purposes of this Section, "recovered paper material" includes:

(i) postconsumer material;

(ii) dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets), including envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations, or from bag, box and carton manufacturing, and butt rolls, mill wrappers, and rejected unused stock; and

(iii) finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

(g) The Department of Central Management Services may adopt regulations to carry out the provisions and purposes of this Section.

(h) Every State agency shall, in its procurement

documents, specify that, whenever economically and practically feasible, a product to be procured must consist, wholly or in part, of recycled materials, or be recyclable or reusable in whole or in part. When applicable, if state guidelines are not already prescribed, State agencies shall follow USEPA guidelines for federal procurement.

(i) All State agencies shall cooperate with the Department of Central Management Services in carrying out this Section. The Department of Central Management Services may enter into cooperative purchasing agreements with other governmental units in order to obtain volume discounts, or for other reasons in accordance with the Governmental Joint Purchasing Act, or in accordance with the Intergovernmental Cooperation Act if governmental units of other states or the federal government are involved.

(j) The Department of Central Management Services shall submit an annual report to the General Assembly concerning its implementation of the State's collection and recycled paper procurement programs. This report shall include a description of the actions that the Department of Central Management Services has taken in the previous fiscal year to implement this Section. This report shall be submitted on or before November 1 of each year.

(k) The Department of Central Management Services, in cooperation with all other appropriate departments and agencies of the State, shall institute whenever economically

and practically feasible the use of re-refined motor oil in all State-owned motor vehicles and the use of remanufactured and retread tires whenever such use is practical, beginning no later than July 1, 1992.

(l) (Blank).

(m) The Department of Central Management Services, in coordination with the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity), has implemented an aluminum can recycling program in all State buildings within 270 days of the effective date of this amendatory Act of 1997. The program provides for (1) the collection and storage of used aluminum cans in bins or other appropriate containers made reasonably available to occupants and visitors of State buildings and (2) the sale of used aluminum cans to buyers of recyclable materials.

Proceeds from the sale of used aluminum cans shall be deposited into I-CYCLE accounts maintained in the Facilities Management Revolving Fund and, subject to appropriation, shall be used by the Department of Central Management Services and any other State agency to offset the costs of implementing the aluminum can recycling program under this Section.

All State agencies having an aluminum can recycling program in place shall continue with their current plan. If a State agency has an existing recycling program in place, proceeds from the aluminum can recycling program may be retained and distributed pursuant to that program, otherwise

Public Act 103-0570

HB2878 Re-Enrolled

LRB103 30786 RJT 57276 b

all revenue resulting from these programs shall be forwarded to Central Management Services, I-CYCLE for placement into the appropriate account within the Facilities Management Revolving Fund, minus any operating costs associated with the program.

(Source: P.A. 101-636, eff. 6-10-20; 102-444, eff. 8-20-21.)

ARTICLE 999. EFFECTIVE DATE

Section 999-99. Effective date. This Act takes effect January 1, 2024.