

AN ACT concerning finance.

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

Section 5. The Illinois Procurement Code is amended by changing Sections 1-15.15, 10-20, 20-25, 20-60, 20-120, 35-15, 35-20, 35-25, 35-30, 35-35, 35-40, 40-15, 50-10.5, 50-35, 50-38, and 50-39 and by adding Sections 1-11 and 1-15.108 as follows:

(30 ILCS 500/1-11 new)

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

(30 ILCS 500/1-15.15)

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

Sec. 1-15.15. Chief Procurement Officer. "Chief Procurement Officer" means:

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

Board.

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

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

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

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

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

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

Sec. 1-15.15. Chief Procurement Officer. "Chief Procurement Officer" means any of the 4 persons appointed or approved by a majority of the members of the Executive Ethics Commission ~~for~~:

(1) for procurements for construction and construction-related services committed by law to the

jurisdiction or responsibility of the Capital Development Board, the independent chief procurement officer appointed by a majority of the members of the Executive Ethics Commission.

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

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

(4) (Blank).

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

Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795.)

(30 ILCS 500/1-15.108 new)

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

(30 ILCS 500/10-20)

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

Sec. 10-20. Independent chief procurement officers.

(a) Appointment. Within 60 days after the effective date of this amendatory Act of the 96th General Assembly, the Executive Ethics Commission, with the advice and consent of the Senate shall appoint or approve 4 chief procurement officers, one for each of the following categories:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development

Board;

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

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

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

A chief procurement officer shall be responsible to the Executive Ethics Commission but must be located within the agency that the officer provides with procurement services. The chief procurement officer for higher education shall have an office located within the Board of Higher Education, unless otherwise designated by the Executive Ethics Commission. The chief procurement officer for all other procurement needs of the State shall have an office located within the Department of Central Management Services, unless otherwise designated by the Executive Ethics Commission.

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

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

(c) Qualifications. In addition to any other requirement or qualification required by State law, each chief procurement officer must within 12 months of employment be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council, and must reside in Illinois.

(d) Fiduciary duty. Each chief procurement officer owes a

fiduciary duty to the State.

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

(f) Acting chief procurement officers. Prior to August 31, 2010, the Executive Ethics Commission may, until an initial chief procurement officer is appointed and qualified, designate some person as an acting chief procurement officer to execute the powers and discharge the duties vested by law in that chief procurement officer. An acting chief procurement officer shall serve no later than the appointment of the initial chief procurement officer pursuant to subsection (a) of this Section. Nothing in this subsection shall prohibit the Executive Ethics Commission from appointing an acting chief procurement officer as a chief procurement officer.

(g) Transition schedule. Notwithstanding any other provision of this Act or this amendatory Act of the 96th

General Assembly, the chief procurement officers on the effective date of Public Act 96-793 shall continue to serve as chief procurement officers until August 31, 2010 and shall retain their powers and duties pertaining to procurements, provided the chief procurement officer appointed or approved by the Executive Ethics Commission shall approve any rules promulgated to implement this Code or the provisions of this amendatory Act of the 96th General Assembly. The chief procurement officers appointed or approved by the Executive Ethics Commission shall assume the position of chief procurement officer upon appointment and work in collaboration with the current chief procurement officer and staff. On September 1, 2010, the chief procurement officers appointed by the Executive Ethics Commission shall assume the powers and duties of the chief procurement officers.

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

(30 ILCS 500/20-25)

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

Sec. 20-25. Sole source procurements. In accordance with standards set by rule, contracts may be awarded without use of the specified method of source selection when there is only one economically feasible source for the item. At least 2 weeks before entering into a sole source contract, the purchasing agency shall publish in the Illinois Procurement Bulletin a

notice of intent to do so along with a description of the item to be procured and the intended sole source contractor.

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

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

Sec. 20-25. Sole source procurements.

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

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

(c) Notice of intent to enter into a sole source contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing required in subsection (a). The notice shall include the sole source procurement justification form

prescribed by the Board, a description of the item to be procured, the intended sole source contractor, and the date, time, and location of the public hearing. A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.

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

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

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract, other than a contract entered into pursuant to the State University Certificates of Participation Act, 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. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. 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 prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds \$249,999. The Procurement Policy Board may object to the proposed extension or renewal within 30 calendar days and require a hearing before the Board prior to entering into the extension or renewal. If the Procurement Policy Board does not object within 30 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 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 shall file a report with the General Assembly identifying for the previous fiscal year (i) the proposed extensions or renewals that were filed with the Board and whether the Board objected and (ii) the contracts exempt from this subsection.

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

(30 ILCS 500/20-120)

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

Sec. 20-120. Subcontractors.

(a) Any contract granted under this Code shall state whether the services of a subcontractor will or may be used. ~~The To the extent that the information is known,~~ the contract shall include the names and addresses of all known subcontractors with subcontracts with an annual value of more than \$25,000 and the expected amount of money each will receive under the contract. For procurements subject to the authority of the chief procurement officer appointed pursuant to subsection (a)(2) of Section 10-20, the contract shall include

only the names and addresses of all known subcontractors of the primary contractor with subcontracts with an annual value of more than \$25,000. The contractor shall provide the chief procurement officer or State purchasing officer a copy of any subcontract with an annual value of more than \$25,000 so identified within 20 days after the execution of the State contract or after execution of the subcontract, whichever is later. A subcontractor, or contractor on behalf of a subcontractor, may identify information that is deemed proprietary or confidential. If the chief procurement officer determines the information is not relevant to the primary contract, the chief procurement officer may excuse the inclusion of the information. If the chief procurement officer determines the information is proprietary or could harm the business interest of the subcontractor, the chief procurement officer may, in his or her discretion, redact the information. Redacted information shall not become part of the public record.

(b) If at any time during the term of a contract, a contractor adds or changes any subcontractors, he or she shall promptly notify, in writing, the chief procurement officer, State purchasing officer, or their designee of the names and addresses and the expected amount of money each new or replaced subcontractor will receive. The contractor shall provide to the responsible chief procurement officer a copy of the subcontract within 20 days after the execution of the subcontract.

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

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

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

(30 ILCS 500/35-15)

Sec. 35-15. Prequalification.

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

(b) The prequalifications and categorizations shall be submitted to the Procurement Policy Board and published for public comment prior to their submission to the Joint Committee on Administrative Rules for approval.

(c) The chief procurement officer for matters other than construction ~~Director of Central Management Services, the Illinois Power Agency,~~ and the higher education chief procurement officer shall each also assemble and maintain a

comprehensive list of prequalified and categorized businesses and persons.

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

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

(30 ILCS 500/35-20)

Sec. 35-20. Uniformity in procurement.

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

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

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

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

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

(30 ILCS 500/35-25)

Sec. 35-25. Uniformity in contract.

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

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

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

- (1) the detail listed in subsection (c) of Section 35-20;
- (2) the duration of the contract, with a schedule of delivery, when applicable;
- (3) the method for charging and measuring cost (hourly, per day, etc.);
- (4) the rate of remuneration; and
- (5) the maximum price.

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

(30 ILCS 500/35-30)

Sec. 35-30. Awards.

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

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

(c) Prepared forms shall be submitted to the chief procurement officer for matters other than construction ~~Department of Central Management Services, the Illinois Power Agency,~~ or the higher education chief procurement officer, whichever is appropriate, for publication in its Illinois Procurement Bulletin and circulation to the chief procurement officer for matters other than construction ~~Department of Central Management Services~~ or the higher education chief procurement officer's list of prequalified vendors. Notice of the offer or request for proposal shall appear at least 14 days before the response to the offer is due.

(d) All interested respondents shall return their responses to the chief procurement officer for matters other

~~than construction Department of Central Management Services,~~
~~the Illinois Power Agency,~~ or the higher education chief
procurement officer, whichever is appropriate, which shall
open and record them. The chief procurement officer for matters
other than construction Department or higher education chief
procurement officer then shall forward the responses, together
with any information it has available about the qualifications
and other State work of the respondents.

(e) After evaluation, ranking, and selection, the
responsible chief procurement officer, State purchasing
officer, or his or her designee shall notify the chief
procurement officer for matters other than construction
~~Department of Central Management Services, the Illinois Power~~
~~Agency,~~ or the higher education chief procurement officer,
whichever is appropriate, of the successful respondent and
shall forward a copy of the signed contract for the chief
procurement officer for matters other than construction
~~Department's, Agency's,~~ or higher education chief procurement
officer's file. The chief procurement officer for matters other
than construction Department, Agency, or higher education
chief procurement officer shall publish the names of the
responsible procurement decision-maker, the agency letting the
contract, the successful respondent, a contract reference, and
value of the let contract in the next appropriate volume of the
Illinois Procurement Bulletin.

(f) For all professional and artistic contracts with

annualized value that exceeds \$25,000, evaluation and ranking by price are required. Any chief procurement officer or State purchasing officer, but not their designees, may select an offeror other than the lowest bidder by price. In any case, when the contract exceeds the \$25,000 threshold and the lowest bidder is not selected, the chief procurement officer or the State purchasing officer shall forward together with the contract notice of who the low bidder was and a written decision as to why another was selected to the chief procurement officer for matters other than construction Department of Central Management Services, the Illinois Power Agency, or the higher education chief procurement officer, whichever is appropriate. The chief procurement officer for matters other than construction Department, Agency, or higher education chief procurement officer shall publish as provided in subsection (e) of Section 35-30, but shall include notice of the chief procurement officer's or State purchasing officer's written decision.

(g) The chief procurement officer for matters other than construction Department of Central Management Services, the Illinois Power Agency, and higher education chief procurement officer may each refine, but not contradict, this Section by promulgating rules for submission to the Procurement Policy Board and then to the Joint Committee on Administrative Rules. Any refinement shall be based on the principles and procedures of the federal Architect-Engineer Selection Law, Public Law

92-582 Brooks Act, and the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act; except that pricing shall be an integral part of the selection process.

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

(30 ILCS 500/35-35)

Sec. 35-35. Exceptions.

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

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

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

(30 ILCS 500/35-40)

Sec. 35-40. Subcontractors.

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

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

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

(30 ILCS 500/40-15)

Sec. 40-15. Method of source selection.

(a) Request for information. Except as provided in subsections (b) and (c), all State contracts for leases of real property or capital improvements shall be awarded by a request for information process in accordance with Section 40-20.

(b) Other methods. A request for information process need not be used in procuring any of the following leases:

(1) Property of less than 10,000 square feet with rent

of less than \$100,000 per year.

(2) (Blank) ~~Rent of less than \$100,000 per year.~~

(3) Duration of less than one year that cannot be renewed.

(4) Specialized space available at only one location.

(5) Renewal or extension of a lease; provided that: (i) the chief procurement officer determines in writing that the renewal or extension is in the best interest of the State; (ii) the chief procurement officer submits his or her written determination and the renewal or extension to the Board; (iii) the Board does not object in writing to the renewal or extension within 30 days after its submission; and (iv) the chief procurement officer publishes the renewal or extension in the appropriate volume of the Procurement Bulletin.

(c) Leases with governmental units. Leases with other governmental units may be negotiated without using the request for information process when deemed by the chief procurement officer to be in the best interest of the State.

(Source: P.A. 95-647, eff. 10-11-07.)

(30 ILCS 500/50-10.5)

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

Sec. 50-10.5. Prohibited bidders and contractors.

(a) Unless otherwise provided, no business shall bid or enter into a contract with the State of Illinois or any State

agency if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

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

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

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

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

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

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

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

Sec. 50-10.5. Prohibited bidders and contractors.

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

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

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

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

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

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

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

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

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

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

For purposes of this subsection (e), "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.

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

(30 ILCS 500/50-35)

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

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

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

(b) Disclosure by the responsive bidders or offerors shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the bidding entity or its parent entity, whichever is less, unless the contractor or bidder (i) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure, or (ii) is a privately held entity that is exempt from Federal 10k reporting but has more than 400 shareholders, in which case it may submit the information that Federal 10k reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding

any ownership share that is in excess of 5% in place of the prescribed disclosure. The form of disclosure shall be prescribed by the applicable chief procurement officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

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

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

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

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

(5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government

authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years.

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

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

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

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

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

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

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

(e) These thresholds and disclosure do not relieve the chief procurement officer, the State purchasing officer, or their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The chief procurement officer, the State purchasing officer, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential

conflict of interest and act to protect the best interest of the State of Illinois.

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

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

(h) In addition, all disclosures shall note any other current or pending contracts, proposals, leases, or other ongoing procurement relationships the bidding, proposing, or offering entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal,

lease, or other relationship.

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

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

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

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

(b) Disclosure shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the disclosing entity or its parent entity, whichever is less, unless the contractor, bidder, or subcontractor (i) is a publicly traded entity subject to Federal 10K reporting, in which case it may

submit its 10K disclosure in place of the prescribed disclosure, or (ii) is a privately held entity that is exempt from Federal 10k reporting but has more than 400 shareholders, in which case it may submit the information that Federal 10k reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure. The form of disclosure shall be prescribed by the applicable chief procurement officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

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

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

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

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

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

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

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

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

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

(10) Relationship to anyone; spouse, father, mother,

son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

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

(b-2) The disclosure required under this Section must also include, for each of the persons identified in subsection (b) or (b-1), each of the following that occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is

successful.

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

(d) When a potential for a conflict of interest is identified, discovered, or reasonably suspected, the chief procurement officer or State procurement officer shall send the contract to the Procurement Policy Board. The Board shall recommend, in writing, whether to allow or void the contract, bid, offer, or subcontract weighing the best interest of the State of Illinois. All recommendations shall be submitted to the chief procurement officer. The chief procurement officer must hold a public hearing if the Procurement Policy Board makes a recommendation to (i) void a contract or (ii) void a bid or offer and the chief procurement officer selected or intends to award the contract to the bidder or offeror. A chief procurement officer is prohibited from awarding a contract before a hearing if the Board recommendation does not support a bid or offer. The recommendation and proceedings of any hearing, if applicable, shall become part of the contract, bid, or proposal file and shall be available to the public.

(e) These thresholds and disclosure do not relieve the chief procurement officer, the State purchasing officer, or

their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The chief procurement officer, the State purchasing officer, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

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

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

whether and when to reinstate.

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

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

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

(30 ILCS 500/50-38)

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

Sec. 50-38. Lobbying restrictions.

(a) A person or business that is let or awarded a contract is not entitled to receive any payment, compensation, or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging, or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder.

(b) Any bidder or offeror on a State contract that hires a

person required to register under the Lobbyist Registration Act to assist in obtaining a contract shall (i) disclose all costs, fees, compensation, reimbursements, and other remunerations paid or to be paid to the lobbyist related to the contract, (ii) not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration, and (iii) sign a verification certifying that none of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration were billed to the State. This information, along with all supporting documents, shall be filed with the agency awarding the contract and with the Secretary of State. The chief procurement officer shall post this information, together with the contract award notice, in the online Procurement Bulletin.

(c) Ban on contingency fee. No person or entity shall retain a person or entity required to register under the Lobbyist Registration Act to attempt to influence the outcome of a procurement decision made under this Code for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection is guilty of a business offense and shall be fined not more than \$10,000. (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795).)

(30 ILCS 500/50-39)

(This Section may contain text from a Public Act with a

delayed effective date)

Sec. 50-39. Procurement communications reporting requirement.

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

(b) The report required by subsection (a) shall be submitted monthly and include at least the following: (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the

identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information.

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

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

(e) The reporting requirements shall also be conveyed through ethics training under the State Employees and Officials Ethics Act. An employee who knowingly and intentionally violates this Section shall be subject to suspension or discharge. The Executive Ethics Commission shall promulgate

rules, including emergency rules, to implement this Section.

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

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

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

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