



NOTICE 2025.01 HIGHER EDUCATION

To: University Procurement Staff
State Purchasing Officers

From: Bridget McHatton *BEM*
Chief Procurement Officer – Higher Education

Date: August 14, 2024

Subject: Public Act 103-0865

CC: Commission on Equity and Inclusion
Procurement Policy Board

As a result of Public Act 103-0865 enacted on August 9, 2024, changes were made to the following sections of the Illinois Procurement Code (30 ILCS 500/); Governmental Joint Purchasing Act (30 ILCS 525/); Architectural, Engineering and Land Surveying Qualifications Based Selection Act (30 ILCS 535/); Progressive Design-Build Pilot Act (current status is pending assignment of Compiled Statute number); Commission on Equity and Inclusion Act (30 ILCS 574/); Business Enterprise for Minorities, Females, and Persons with Disabilities Act (30 ILCS 575/); and State Property Control Act (30 ILCS 605/). The Progressive Design-Build Pilot Act becomes effective immediately. The remaining changes become effective January 1, 2025.

Changes made to the Procurement Code as a result of Public Act 103-0865 may require updates to the Higher Education Standard Procurement Rules (44 ILAC 4). In such instances where the Procurement Code and rules conflict, the Procurement Code shall prevail.

Illinois Procurement Code (30 ILCS 500/)

- Section 1-10(25) – New – Exemptions
 - *Exempts procurement expenditures related to efforts for increasing the recruitment, hiring, and retention of state employees, particularly minority candidates for employment including procurements related to registration fees for job fairs and other outreach and recruitment events; production of recruitment materials; and other services related to recruitment and retention of State employees. Applies only if the State agency has made a good faith determination that is necessary and appropriate for the expenditure to fall within this paragraph. The procurement process under this paragraph shall be conducted in a manner substantially in accordance with the*



requirement of Sections 20-160 and 25-60 and Article 50 of the Illinois Procurement Code. A copy of these contracts shall be made available to the chief procurement officer immediately upon request. Nothing authorizes the replacement or diminishment of State responsibilities in hiring or the positions that effectuate that hiring. Expires on and after June 30, 2029.

- Section 1-13(b-5) – Exemptions
 - *Adds “pharmaceutical” and “including, but not limited to, procurements necessary for compliance and management of federal programs” to the exemption. .*
- Section 10-20(a)(4) – Independent Chief Procurement Officers
 - *Removes “for Fiscal year 2024.”*
- Section 20-20(e) – New – Small Purchases
 - *Cumulative small purchases under \$1,000 made in a previously non-contemplated manner by the same or separate individuals or departments within an agency or university that exceed the small purchase threshold do not constitute stringing and are allowable under [the Code].*
- Section 20-60(a) – Duration of Contracts
 - *Contracts may be entered into that extend beyond the active term of the award, so long as the contract was entered into prior to the award expiration date and does not exceed 10 years.*
 - *Third parties may lease State-owned communications infrastructure, including dark fiber networks, conduit, and excess communication tower capacity...*
- Section 20-180 – New – Electronic Procurement Systems
 - *Nothing in [the] Code prohibits State agencies from accepting bids or proposals for competitive solicitations submitted solely via an electronic procurement system as long as the electronic system integrates with that portfolio’s procurement bulletin and all other provisions of [the] Code are met. A State agency may not adopt a rule that prohibits a State agency from accepting bids or proposals for competitive solicitations submitted solely via an electronic procurement system as long as the electronic procurement system integrates with that portfolio’s procurement bulletin and all other provisions of [the] Code are met.*
- Section 30-17(a) – New – Job Order Contracting
 - *Defines “indefinite quantity contract” as a contract for an indefinite quantity of services for a fixed time or for a job order contract.*



- *Defines “job order contracting” as an indefinite quantity contract pursuant to which a contractor may perform an ongoing series of individual tasks at different facilities, locations, and sites under the jurisdiction of a State construction agency.*
- Section 30-17(b) – New – Job Order Contracting
 - *Construction agencies may procure construction contracts via job order contracting through use of competitive sealed bidding in accordance with Section 30-15 [of the Code].*
- Section 40-15(b)(1) – Real Property and Capital Improvement Leases
 - *Adds “base” and increases threshold from \$100,00 to \$200,000 for property of less than 10,000 square feet.*
- Section 45-105(c) – Bid Preference for Illinois Businesses
 - *Construction agency as defined in Section 1-15.25 of the Illinois Procurement Code.*
 - *Removes construction related professional.*
- Section 45-105(d) – Bid Preference for Illinois Businesses
 - *Moves date from September 1 to December 1.*
- Section 45-105(e) – Bid Preference for Illinois Businesses
 - *Removes construction-related professional.*
- Section 45-105(e-5) – Bid Preference for Illinois Businesses
 - *The chief procurement officer shall require at the time of submission of a bid, and may require at the chief procurement officer’s option at any time during the term of the contract, that the bidder or contractor submit an affidavit and other supporting documents demonstrating that the bidder or contractor is eligible for a 4% bid preference...*
- Section 45-105(e-10) – Bid Preference for Illinois Businesses
 - *If a contractor who is awarded a contract through the use of a preference for Illinois businesses provided false information in order to obtain [45-105] preference, then the contractor is subject to disciplinary procedures...*
- Section 45 -105(g) - Bid Preference for Illinois Businesses
 - *Adds “for at least one year prior” and “subject to applicable State taxes” to the definition of “Illinois Business.”*



- *“Illinois Business” includes a foreign corporation duly authorized to transact business in [the] State that has a bona fide establishment for transacting business in [the] State where it is operating, headquartered, and performing construction or construction-related professional services at least one year before an invitation for a bid or notice of contract opportunity is first advertised.*
- *Removes language referencing operating as.*
- *“Illinois Business” does not include any subcontractors or businesses headquartered outside of the State that have an affiliated entity operating in the State.*
- **Section 50-39 – Procurement Communications Reporting Requirements**
 - *Communications do not include....(iv) communications providing general information about a firm’s products or services or industry best practices provided those products or services are not directly related to an open procurement matter...(viii) communications about proposal deficiencies as provided under Section 35 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.*
- **Section 50-57(a) – New – Curability**
 - *If, during an active procurement, a violation or deficiency of [the] Code, or of the procurement rules, regulations, policies, or practices promulgated by a chief procurement officer under [the] Code occurs, then, at the request of the State purchasing officer and agency head, the chief procurement officer may determine that curing the violation may be in the best interest of the State. The request to cure shall be in writing and include a clear description of the deficiency. The State purchasing officer and agency head shall request a cure only when the integrity, transparency, and efficiency of the procurement can be maintained. In making a determination, the chief procurement officer shall consider the harm to stakeholders and the value to the State in permitting the cure and seriousness of the violation or deficiency. The determination shall be in writing and include the basis for permitting or denying the request. If a cure is permitted, the determination shall include a clear description of the action necessary to cure the violation or deficiency.*
- **Section 50-57(b) – New – Curability**
 - *The chief procurement officer shall post all determinations on his or her official website within 14 days after completion of the procurement. The chief procurement officer shall report to the Governor and General Assembly, by no later than November 1 of each year. Permitting a cure does not absolve any person, as defined in Section 1-15.55 [of the Code], from any penalties in law. Each chief procurement officer may adopt rules to implement and administer this Section.*



Governmental Joint Purchasing Act (30 ILCS 525/)

- Section 2(a-15) – Authority
 - *Each chief procurement officer appointed pursuant to Section 10-20 of the Illinois Procurement Code may authorize any governmental unit of [the] State to purchase or lease supplies under a contract which has been procured under the jurisdiction of the Illinois Procurement Code by a governmental unit subject to the jurisdiction of the chief procurement officer. Prior to making the contract available to the governmental unit of [the] the State, the chief procurement officer shall consult with the governmental unit that is part to the contract and is subject to the jurisdiction of the chief procurement officer. A governmental unit of [the] State that uses a contract pursuant to this subsection shall report each year to the authorizing chief procurement officer the contractor used, supplies purchased, and total value of purchases for each contract. The authorizing chief procurement officer shall submit to the General Assembly by November 1 of each year a report of procurements made under this subsection.*
- Section 4 – Bids, Offers, and Small Purchases
 - *All purchases, orders or contracts shall be awarded to the lowest bidder or highest-ranked offeror, as ranked by the cooperative purchasing program, or, if not ranked by the cooperative purchasing program then by the purchasing governmental unit, when the purchasing governmental unit determines that the selected contract best meets the governmental unit's needs...*
 - *A governmental unit may purchase a supply or service that is available on contracts from multiple contractors if the governmental unit determines that the selected contract best meets the governmental unit's needs.*

Architectural, Engineering, and Land Surveying Qualifications Based Selection Act (30 ILCS 535/)

- Section 35 – Selection Procedure
 - *As part of the State agency's commitment to fostering greater diversity in contracting, the State agency may communicate with firms who were not selected in order to provide further information about the firm's proposal deficiencies.*



Progressive Design-Build Pilot Program Act

- *Requires the State to use the progressive design-build delivery method for up to three public projects before January 1, 2027. This authorizes the Capital Development Board to use progressive design build method for up to three public projects prior to January 1, 2027. Defines “State construction agency” as “the Capital Development Board.”*

Commission on Equity and Inclusion Act (30 ILCS 574/)

- Section 40-10(5) – Powers and Duties
 - *Establishes that the Commission on Equity and Inclusion shall supervise the effectiveness of supplier diversity training for the State procurement workforce, in addition to overseeing the implementation process.*

Business Enterprise for Minorities, Women, and Persons with Disabilities Act (30 ILCS 575/)

- Section 2(a)(14) – Definition
 - *“Goal” means the participation levels of certified vendors on State contracts.*
- Section 3.5(a) – New – Contract Goals
 - *Business Enterprise Program may establish uniform standards for calculating specific Business Enterprise Program goals for all State contracts and State construction contracts subject to the [Business Enterprise for Minorities, Women, and Persons with Disability] Act. In establishing those standards, the Business Enterprise Program may consider normal industry practice, the scope of the work to be performed under the contract, the availability of vendors that are able to perform the scope of the work to be performed under a contract, the availability of certified vendors that are able to perform the work to be performed under a contract, and the State’s progress to date toward meeting the aspirational goals...*
- Section 3.5(b) – New- Contract Goals
 - *Each State agency that is subject to the [Business Enterprise for Minorities, Women, and Persons with Disability] Act and each public institution of higher education that is subject to this Act, may in accordance with the provisions of this Act, set goals concerning participation in State contracts, including State construction contracts, to which public institutions of higher education is party. Goals involving State contracts above the small purchase threshold, as defined in Section 20-20 of the Illinois*



Procurement Code, may be submitted to the Business Enterprise Program for approval, denial, or modification.

- Section 3.5(c) – New – Contract Goals
 - *As used in this section, “State contract” and “State construction contract” do not include grants from State agencies to grantees for capital improvements of operational expenses.*
- Section 5(5)(c) – Business Enterprise Council
 - *Changes “public” to “State.”*
- Section 8(1)(b)(ii) – Renewals
 - *Changes “job or project requirements” to “scope of work.”*
- Section 8(3) - Renewals
 - *Adds “certified.”*

State Property Control Act (30 ILCS 605/)

- Section 7a - Disposition of Transferable Property
 - *If an agency finds that it is unable to use the surplus furniture, the agency may proceed with the new furniture purchase. The agency shall file annually, not later than January 31 of the next year, a report with the administrator specifying the types of the new furniture purchased... Applies to items with a purchase price of \$1,500 or more.*