




**NOTICE 2023.04
HIGHER EDUCATION**

To: University Procurement Staff
State Purchasing Officers

From: John Donato 
Chief Procurement Officer – Higher Education

Date: March 3, 2023

Subject: Public Act 102-1119

CC: Commission on Equity and Inclusion
Procurement Policy Board

As a result of Public Act 102-1119 enacted on January 23, 2023, changes were made to the following sections of the Illinois Procurement Code (30 ILCS 500/); Design-Build Procurement Act (30 ILCS 537/); Business Enterprise for Minorities, Females, and Persons with Disabilities Act (30 ILCS 537/); Criminal Code of 2012 (720 ILCS 5/); Local Food, Farms and Job Act (30 ILCS 595/); State Property Control Act (30 ILCS 605/); and State Finance Act (30 ILCS 105/).

Illinois Procurement Code (30 ILCS 500/)

- Section 1-13(b)(10)
Exempts procurement expenditures for ongoing software license or maintenance agreement or competitively solicited software purchase when available through only the software creator or its manufacturer and not a reseller.
- Section 1-13(b)(11)
Exempts procurement expenditures incurred outside of the United States for the recruitment of international students.
- Section 1-13(b-5)
Exempts procurement by facility identified in Section 1-13(b-5) of any additional supplies or services deemed necessary for the effective use and functioning of medical supplies or services that are otherwise exempt from the Code.
- Section 1-13(b-10)



Requires notice of intent to renew a contract for University of Illinois investment services to be published to the Bulletin at least 14 days prior to the execution of a renewal and for the University of Illinois to hold a public hearing for interested parties to provide public comment. This is limited to the Code-exempt University of Illinois investment services outlined in Section 1-13(b-10) of the Procurement Code.

- **Section 1-15.93**
Adds public institutions of higher education.
- **Section 15-25(c)**
Removes requirement for an emergency hearing. Notice of the emergency extension must be posted to the Bulletin no later than 7 calendar days after the extension is executed.
- **Section 20-20(a)**
Increases construction small purchase threshold to \$250,000. However, Public Act 102-1115 reduces construction small purchase threshold back to \$100,000.
- **Section 20-30(a)**
Emergency contracts may be extended beyond 90 calendar days with the approval of the Chief Procurement Officer (CPO-HE). The CPO-HE must receive written justification for the extension prior to the execution of the extension. The duration of the extension must be limited to the scope of the emergency.
- **Section 20-30(b)**
Notice of an emergency extension must be published to the Bulletin no later than 7 calendar days after the extension is executed. At a minimum, the notice must include the description of the need for the emergency purchase and the contractor.
- **Section 25-90**
University may purchase those offerings that are included in the Authorized Product List maintained by StateRAMP and that have been verified by StateRAMP as having an authorized security status.
- **Section 30-30(a-5)**
Through December 31, 2025, for single prime projects in which a university 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 enumerated in 30 ILCS 500/30-30(a).

University may award 2 or more of the 5 subdivisions of work together or separately if the following requirements are met.



- *University submits a written notice to the Procurement Policy Board (PPB) and Commission on Equity and Inclusion (CEI) which includes the reasons for using the single prime method and an explanation as to why it is in the best interest of the State. The notice must be posted to the Bulletin and the University's procurement webpage at least 3 business days following submission to the PPB and CEI.*
- *Successful low bidder has prequalified with the university.*
- *Bid of successful low bidder identifies the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work.*
- *Contract entered into with the successful bidder provides that no identified subcontractor may be terminated without the written consent of the university.*
- *Successful low bidder has prequalified with the University of Illinois or Capital Development Board.*

For building construction projects with a total construction cost valued at \$20,000,000 or less, universities must not use the single prime delivery method for more than 50% of the total number of project bids for each fiscal year. Projects with a total construction cost valued at \$20,000,000 or more may use the single prime delivery method at the discretion of the university.

Universities must specify in writing as a public record that the project complies with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and equal employment practices of Section 2-105 of the Illinois Human Rights Act. Universities must report annually to the Governor, General Assembly, PPB, and Auditor General on the bidding, award, and performance of all single prime projects.

During each fiscal year, university may award 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.

- **Section 33-5**
Adds public institutions of higher education.
- **Section 50-35(d)**
Recommendations made to the Executive Ethics Commission concerning conflicts identified in the course of a procurement for a public institution of higher education are,



for procurements having a cumulative value under \$5,000, valid and enforceable, for one calendar year after the initial recommendation was made, for all subsequent conflicts for that vendor with regard to the same university.

- Section 55-25(c)
Makes changes to the structure of the Procurement Task Force. One member of the House of Representatives, appointed by the Speaker of the House of Representatives and one member of the Senate, appointed by the President of the Senate to the Task Force will serve as co-chairs of the Task Force. Removes the Chairperson of the CEI from serving as the Chair of the State Procurement Task Force. Removes the Department of Central Management Services and adds the PPB to provide administrative and other support to the Task Force. Changes the date of when the Task Force must file a report on its findings and recommendations to the Governor and General Assembly to February 1, 2023.

Design-Build Procurement Act (30 ILCS 537/)

- Section 5
Replaces “Capital Development Board” with “State construction agency.”
- Section 10
Adds public institution of higher education.
- Section 90
Changes repealed date to January 1, 2026.

BEP Act (30 ILCS 575/)

- Section 2(a)(10)
Changes definition of “business” from “a business that has annual gross sales of less than \$75,000,000” to “a business that has annual gross sales of less than \$150,000,000.” Firms exceeding this cap that are granted certification by the Council must be granted certification for the life of the contract, including renewals.
- Section 4(e)
Allows for bidder/offeror whose bid/offer is accepted and whose bid included a completed utilization plan but who failed to meet the goals to be notified of the deficiency and given a period of 10 calendar days to cure. Includes examples of deficiencies that may be cured. Cure is not allowed if the bidder/offeror submits a blank utilization plan, a utilization plan that shows lack of reasonable effort to complete the form on time, or a utilization plan that states the contract will be self-performed, by a non-certified vendor, without showing good faith efforts or a request for a waiver. Cure activity must address deficiencies identified by



the university and must require clear documentation, including that of good faith efforts, to address deficiencies. Increase in cost to a contract for the addition of a subcontractor to cure a deficiency must not affect the bid price and must not be used in the request for an exemption and no subcontractor with a Business Enterprise Program certification can be terminated from the contract without the written consent of the university. The university must make the determination whether the cure is adequate. Vendors certified with the Business Enterprise Program at the time and date of submittals are due and who do not submit a utilization plan or have utilization plan deficiencies shall have 10 business days to submit a utilization plan or to correct the deficiencies.

Criminal Code of 2012 (720 ILCS 5/)

- Section 33E-9
Changes thresholds at which the Criminal Code applies to change orders. These thresholds were previously “an increase or decrease in either the cost of a public contract by a total of \$10,000 or more or the time of completion by a total of 30 days or more” and are now “a total of \$25,000 or more or the time of completion by a total of 180 days or more.”

Local Food, Farms and Jobs Act (30 ILCS 595/)

- Section 10(b)
Removes Local, Food, Farms, and Jobs Council. Adds the State.
- Section 10(e)
On January 1, 2024 and each January 1 thereafter, State agencies and State-owned facilities that purchase food or food products must publish in the Bulletin, in the form and format prescribed by the Chief Procurement Officer, notice of their purchases of local farm or food products in the previous fiscal year.

State Property Control Act (30 ILCS 605/)

- Section 6.02
Increases the nominal value to \$2,500.

State Finance Act (30 ILCS 105/)

- Section 12-2
Requires the Travel Regulation Council and Higher Education Travel Control Board to adopt amendments to existing rules to ensure reimbursement rates for universities are set at the maximum rates established by the federal government. Rate increases/decreases under federal regulation are effective on the effective date of the change in the federal rate.