




Notice 2025.01

General Services

To: Agency Procurement Staff
Central Management Services Bureau of Strategic Sourcing
State Purchasing Officers

From: Ellen H. Daley 

Date: August 12, 2024

Subject: House Bill 5511 Revisions to the Illinois Procurement Code

CC: Procurement Compliance Monitors
Procurement Policy Board
Commission on Equity and Inclusion

This notice is effective immediately.

On August 9, 2024, Governor Pritzker signed House Bill 5511 into law revising the Illinois Procurement Code (30 ILCS 500/) (Code) and Governmental Joint Purchasing Act (30 ILCS 525/) (JPA). The law went into immediate effect.

As a result of the change in law, several provisions of the standard procurement rules (44 Ill. Adm. Code 1) may need to be updated to reflect changes to the Code. In those instances where a rule conflicts with the Code, the Code as amended shall be followed.

The Public Act makes the following changes to the Code:

- 1)** Section 1-10(b)(25) (new): Amendment adds a new subsection which provides a Code exemption for procurements necessary for increasing the recruitment and retention of State employees.

Additionally, it provides that the procuring State agency make a good faith determination that it is necessary and appropriate for the expenditure to be exempt, and it is conducted in a manner substantially in accordance with Section 20-160, Section 25-50, and Article 50 of the Code.

- 2)** Section 1-13(b-5): Amendment only applies public institutions of higher education.
- 3)** Section 20-20(e) (new): Amendment adds a new subsection providing a scenario that is not considered stringing. It provides that cumulative small purchases under \$1,000 made in a previously non-contemplated manner by the same or separate individuals or departments within an agency that exceed the small purchase threshold do not constitute stringing and are allowable.



The Chief Procurement Officer for General Service's rules (44 Ill. Admin. Code Section 1.2005 s) and the Illinois Criminal Code of 2012 (720 ILCS 5/33E-2(i-5) provide definitions of stringing.

- 4) Section 20-60(a): Amendment provides that third parties may lease State-owned communications infrastructure, including dark fiber networks, conduit, and excess communication tower capacity, for any period of time deemed to be in the best interest of the State, but not exceeding 20 years.

Additionally, it provides that 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.

- 5) Section 20-180 (new): Amendment adds a new section which provides that nothing in the Code prohibits State agencies from accepting bids or proposals submitted solely via an electronic procurement (e-procurement) system, and a State agency may not adopt a rule prohibiting a State agency from accepting bids or proposals submitted solely via an e-procurement system, as long as the e-procurement system integrates with the portfolio's bulletin and all other provisions of the Code are met.
- 6) Section 30-17 (new): Amendment adds a new section that defines indefinite quantity contract and job order contracting.

Additionally, it provides that construction agencies may procure construction contracts via job order contracting using competitive sealed bidding in accordance with Section 30-15 of the Code.

- 7) Section 40-15(b)(1): Amendment provides that a request for information is not required to procure a lease of property of less than 10,000 square feet with a base rent of \$200,000. The amendment increases the property's base rent maximum from less than \$100,000 per year to a new maximum of less than \$200,000 per year.
- 8) Section 45-56 (new): Amendment adds a new section which provides that the chief procurement officer, in consultation with the Toll Highway Authority, shall set aside contracts for mid-size businesses in the Toll Highway Authority's procurements of construction, construction-related, and construction support contracts.

9) Section 45-105:

- 45-105(c): Amendment removes application of the preference to construction-related professional services in subsection (c) and throughout the section.
- 45-105 (d): Amendment changes the date for construction agencies to report to the Governor and General Assembly from "by September 1" to "by December."
- 45-105 (e-5) (new): Amendment adds a new subsection which requires, at the time of bid submission, the CPO obtain an affidavit and other supporting documents from a bidder demonstrating that the bidder is an Illinois business. And, if applicable, the



bidder to submit an affidavit and support documents demonstrating the bidder is eligible for a 4% bid preference.

The CPO may, at any time during the term of the contract, require the contractor to submit an affidavit and support documents demonstrating that the bidder is an Illinois business and eligible for the 4% bid preference.

- 45-105 (e-10) (new): Amendment adds a new subsection which provides that a contractor who is awarded a contract through the use of a preference for Illinois businesses is subject to discipline under Section 50-65 if the contractor provided false information in order to obtain that preference.
 - 45-105 (g): Amendment changes the definition of Illinois business.
 - Amendment provides that a contractor must be operating and headquartered in Illinois, and subject to applicable State taxes, for at least one year prior to publication of the invitation for bid.
 - Amendment provides that a foreign corporation is an Illinois business if authorized to transact business in Illinois, has an establishment for transacting business in Illinois, and is operating, headquartered, and providing construction or construction-related professional services at least one year prior to publication of the invitation for bid.
 - Amendment removes the requirement that the Illinois business be operating under several Illinois statutes related to business organization and operation.
 - Amendment provides that an Illinois business does not include a business headquartered outside of Illinois that has an affiliated entity operating in Illinois.
- 10)** Section 50-10.5(e): Amendment provides that a person or business is not prohibited by subsection (e) from submitting an unsolicited proposal under Section 19 of the Public-Private Partnerships for Transportation Act.
- 11)** Section 50-39(a): Amendments change the type of communication that is excluded from reporting.
- Amendment of (iv) provides that communication of a firm's products or services are excluded provided the products or services are not directly related to an open procurement matter.
- Additionally, it removes the requirement that such communication be unsolicited.
- Amendment adds a new subsection (viii) and exclusion from communication reporting for communication about proposal deficiencies as provided under Section 35 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act (30 ILCS 535).



- 12)** Section 50-57 (new): Amendment adds a new section which provides that the CPO may cure a violation or deficiency in a procurement when she determines it is in the best interest of the State.

The amendment requires that both the State Purchasing Officer (SPO) and head of the agency shall request the cure, the SPO shall provide a written description of the violation or deficiency, and the CPO shall provide a written determination permitting or denying the request and post the determination on her website 14 days after completion of the procurement.

The Public Act makes the following statutory changes outside of the Procurement Code:

- 1)** 30 ILCS 525/2(a-15) (new): Amendment adds a new subsection which provides that the chief procurement officer may authorize any State governmental unit to purchase or lease supplies under a contract procured by a State agency. The CPO shall consult with the State agency before making the contract available.

The Unified Procurement Program (UPP) will facilitate the process for any governmental unit seeking to purchase or lease supplies under this subsection.

- 2)** 30 ILCS 525/4: Amendment provides that purchases, orders, or contracts shall be awarded to the lowest responsible bidder or highest-ranked offeror, as ranked by a cooperative purchasing program like UPP. If the cooperative purchasing program has not ranked the bidders or offerors, then the governmental unit making the purchase shall rank the bidders or offerors by determining that the selected contract best meets the governmental unit's needs.

When a supply or service is available on contracts from multiple contractors, the amendment provides that a governmental unit may determine a contract best meets their needs and select to use the contract.

- 3)** Article 1 of House Bill 5511 creates the Progressive Design-Build Program Act. The Act provides that the Capital Development Board shall establish the Progressive Design-Build Pilot Program to use the progressive design-build delivery method for up to 3 public projects if use for that project is in the State's best interest.
- 4)** 20 ILCS 801/1-20(b): Amendment changes the maximum length of time that the Department of Natural Resources may lease certain land or property under its jurisdiction from 5 to 10 years.
- 5)** 20 ILCS 801/1-20(c) (new): Amendment adds a new subsection which provides that the Department of Natural Resources shall competitively bid any project authorized pursuant to this subsection pursuant to Section 20-15, 20-10(c) and 20-10(f) of the Procurement Code.

The amendment adds other requirements.



- 6)** 20 ILCS 805/805-280 (new): Amendment adds a new section which provides that the Department of Natural Resources shall competitively bid any project authorized pursuant to this subsection pursuant to Section 20-15, 20-10(c) and 20-10(f) of the Procurement Code.
The amendment adds other requirements.
- 7)** 5 ILCS 140/7(tt) (new): Amendment adds a new subsection which provides that proposals or bids submitted by engineering consultants in response to requests for proposals or other competitive bidding requests by the Toll Highway Authority or the Department of Transportation are exempt from disclosure under the Freedom of Information Act.
- 8)** 30 ILCS 535/35: Amendment to the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act provides that 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.
- 9)** 20 ILCS 3407/45-5: Amendment provides that the procurements to develop, finance, construct, lease, manage, divest ownership in, and operate the Hotel Florence and the Pullman Factory on behalf of the State shall be pursuant to the Reimagining Hotel Florence Act.

If there are any questions regarding this notice, please ask your State Purchasing Officer or contact the Chief Procurement Office at (217) 558-2231.

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