




CHIEF PROCUREMENT OFFICE

Ellen H. Daley, General Services

Notice 2023.05 General Services

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

From: Ellen H. Daley 

Date: December 22, 2022

Subject: Public Act 102-721 / HB 2770 Revisions to the Illinois Procurement Code

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

This notice is effective January 1, 2023.

On May 6, 2022, Governor Pritzker signed House Bill 2770 into law revising the Illinois Procurement Code (30 ILCS 500/) (Code). Amendments to Sections 1-13 and 55-25 took effect immediately. All other revisions take effect on January 1, 2023.

As a result of the change in law, several provisions of the standard procurement rules (44 Ill. Adm. Code 1) 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.

- 1) Section 1-10(b): Amendment requires each State agency to publish an applicable Code exempt contract with an annual value of more than \$100,000 to the procurement bulletin BidBuy.
 - ✓ The first sentence of CPO Notice 2019.01 is stricken in its entirety and replaced with
30 ILCS 500/1-10(b) and 1-12(b) require state agencies to post information about certain Procurement Code exempt transactions with an annual value of more than \$100,000 to the procurement bulletin.
 - ✓ The rest of CPO Notice 2019.01 remains in full force and effect.
- 2) Section 1-12(b): Amendment requires each State agency to publish a Code exempt contract applicable under this section with an annual value of more than \$100,000 to the procurement bulletin BidBuy.
 - ✓ Agencies shall follow the amended CPO Notice 2019.01 when publishing these expenditures.
- 3) Section 1-13(b): Amendment only applies to public institutions of higher education and require the publication of Code exempt contracts with an annual value of more than \$100,000.
- 4) Section 1-15.107: Amendment changes the definition of “subcontract” to mean a contract between a subcontractor and another subcontractor where the contract price exceeds the small purchase



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maximum established in Section 20-20; prior to the amendment, the contract price had to exceed \$50,000.

- 5) Section 1-15.108: Amendment changes the definition of “subcontractor” to mean a person or entity having a contract with a total value that exceeds the small purchase maximum established in Section 20-20; prior to the amendment, the contract’s total value had to exceed \$50,000.
- 6) Section 20-20(d) (new): Amendment adds a new subsection (d) which requires that all small purchases with an annual value that exceeds \$50,000 shall be accompanied by Standard Illinois Certifications.
 - ✓ Attached to this notice are the “Standard Illinois Certifications” prescribed by the Chief Procurement Officer for General Services (CPO-GS). State agencies shall use the version of CPO-GS prescribed forms located on the CPO-GS’ website.
- 7) Section 20-60:
 - Section 20-60(c): Amendment changes the number of days that the Procurement Policy Board or the Commission on Equity and Inclusion may object to a proposed contract extension or contract renewal from 30 to 14 calendar days.
 - Section 20-60(f): Amendment provides that when a State agency determines that a vendor made good faith efforts to meet the Business Enterprise for Minorities, Women, and Persons with Disabilities Act (BEP) utilization goals in a contract, the chief procurement officer (CPO) shall not unreasonably withhold concurrence in issuance of a waiver nor impair a State agency’s determination to execute a contract renewal. The CPO shall post the completed waiver form on the CPO’s website within 5 business days after receipt from the State agency.
 - ✓ The Chief Procurement Officer for General Services’ (CPO-GS) lack of concurrence with the State agency’s decision to issue a waiver shall not impair the agency’s determination to execute the renewal.
 - ✓ State agencies shall submit a completed “Good Faith Effort Contract Renewal Waiver and Concurrence” form when seeking the CPO-GS’ concurrence. Agencies shall use the version of CPO-GS prescribed forms located on the CPO-GS’ website.
- 8) Section 20-75: Amendment requires the CPO-GS to resolve a protest by means of written determination within 30 days of receiving all relevant requested information, unless a judicial or administrative proceeding concerning the protest has commenced.
- 9) Section 20-120(a): Amendment changes when information about a subcontractor shall be disclosed in a State contract. Subcontractor information shall be disclosed when the annual value of the subcontract exceeds the small purchase maximum established by Section 20-20; prior to the amendment, the annual value of the subcontract had to be more than \$50,000.
- 10) Section 30-60 (new): Amendment adds a new Section 30-60 requiring the Capital Development Board and the Department of Transportation to each prepare reports on change order requests concerning price that have not been acted upon within 45 days.



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- 11) Section 35-40(a): Amendment changes when information about a subcontractor shall be disclosed in a contract for professional and artistic services. Subcontractor information shall be disclosed when the annual value of the subcontract exceeds the small purchase maximum established by Section 20-20; prior to the amendment, the annual value of the subcontract had to be more than \$50,000.
- 12) Section 40-25(a): Amendment only applies to leases for real property owned by public institutions of higher education.
- 13) 45-105 (new): Amendment adds a new Section 45-105 creating a 4% bid preference for Illinois business when procuring construction and construction-related professional services for projects with a total construction cost of more than \$100,000.
- 14) Section 50-11(a): Amendment provides debt delinquency cures for bidders, offerors, contractors, subcontractors, and vendors applying for the Illinois Procurement Gateway. A person or affiliate must cure the debt delinquency within 7 calendar days.
 - ✓ CPO Notice 2012.06 is rescinded.
 - ✓ During the responsiveness review for a potential contractor and prior to selection or award of a contract, regardless of procurement method, State agencies shall use the Comptroller's Offset System to determine if any delinquent debt has been placed by a state agency. The inquiry shall be made for the potential prime contractor and each known subcontractor.
 - ✓ Delinquent Debt means a debt of at least \$250 (cumulative with the debtor) and at least 90 days past due.
 - ✓ Contract Award or Contract Selection is any procurement subject to the Illinois Procurement Code with total anticipated payments in excess of \$20,000
 - ✓ If no delinquent debt is discovered, the State agency shall produce a screen print of the result for inclusion in the procurement file.
 - ✓ If delinquent debt is discovered and the agency placing the debt determines that it does not meet the definition of delinquent debt in this notice, then the procuring agency shall place a confirming email or other documentation (from the placing agency showing that the debt does not meet the definition) and a screen print from the Offset System into the procurement file.
 - ✓ If delinquent debt is confirmed, then the State agency shall notify the State Purchasing Officer and potential contractor of options to cure. Notification to the potential contractor about cure options begins the 7-calendar day countdown to satisfy the debt delinquency.
 - ✓ The three cure options are:
 1. Satisfy the entire debt,
 2. Enter a deferred payment plan to pay off the debt subject to the Comptroller's ability to process the payment,
 3. Actively be disputing or seeking a resolution of the debt.



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- ✓ For cure option #2, State agencies shall obtain evidence that the person has entered into a deferred payment plan.
- ✓ For cure option #3, State agencies shall obtain from the person a completed “Debt Delinquency Dispute Resolution” form. Attached to this notice is the Debt Delinquency Dispute Resolution form. State agencies shall use the version of CPO-GS prescribed forms located on the CPO-GS’ website.
- ✓ If the delinquent debt is confirmed on a subcontractor, the award or contract may still be made to the prime potential contractor; however, the subcontractor may not be used as part of the contract until the debt is satisfied.
- ✓ The Chief Procurement Office will check each applicant to the Illinois Procurement Gateway (IPG) vendor portal for debt delinquency. If delinquent debt is discovered or confirmed, the same steps to document and offer a cure will be followed. Procuring State agencies will still need to check a potential contractor or subcontractor for debt delinquency even if the vendor is registered in the IPG.

15) Section 50-35:

- Section 50-35(a): Amendment changes when the financial disclosure of information required by this Section shall accompany bids and offers, Illinois Procurement Gateway submissions, contracts and subcontracts. Financial disclosures shall accompany bids and offers when the annual value exceeds the small purchase threshold established by Section 20-20; prior to the amendment, the annual value had to be more than \$50,000.
- Section 50-35(j)(new): Amendment adds a new subsection (j) that provides that if a bid or offer is received with an annual value of more than \$100,000, and the bidder, offeror, vendor, contractor, or subcontractor has an active contract with the same State agency and has already submitted their financial disclosures and potential conflicts of interest within the last 12 months, then the bidder, offeror, vendor, contractor, or subcontractor may submit a signed affidavit attesting that its original submission of financial disclosures and potential conflicts of interests has not been altered or changed.
 - ✓ State agencies shall require vendors use the “Affidavit of No Change of Financial Disclosures and Potential Conflicts of Interest” form to comply with this section. Attached to this notice is the affidavit. State agencies shall use the version of CPO-GS prescribed forms located on the CPO-GS’ website.

16) Section 50-90 (new): Amendment adds a new Section 50-90 requiring that all contracts with an annual value that exceeds \$50,000 annually shall be accompanied by Standard Illinois Certifications.

- ✓ Regardless of procurement method, State agencies shall include the Standard Illinois Certifications in all contracts meeting this threshold.
- ✓ Attached to this notice are the “Standard Illinois Certifications” prescribed by the Chief Procurement Officer for General Services (CPO-GS). State agencies shall use the version of CPO-GS prescribed forms located on the CPO-GS’ website.



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- 17)** Section 55-25 (new): Amendment adds a new Section 55-25 creating the State Procurement Task Force which is charged to survey State procurement and make recommendations in seven areas. The task force shall submit reports of its findings and recommendations to the Governor and General Assembly.

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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