

AN ACT concerning finance.

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

ARTICLE 1.

Section 1-1. Short title. This Article may be cited as the Progressive Design-Build Pilot Program Act. References in this Article to "this Act" mean this Article.

Section 1-5. Legislative policy. It is the intent of the General Assembly that the State construction agency shall establish a Progressive Design-Build Pilot Program to use the progressive design-build delivery method for up to 3 public projects commencing prior to January 1, 2027 if it is shown to be in the State's best interest for that particular project. It shall be the policy of the State construction agency in the procurement of progressive design-build services to publicly announce all requirements for progressive design-build services and to procure these services on the basis of demonstrated competence and qualifications and with due regard for the principles of competitive selection.

The State construction agency shall, prior to issuing requests for qualifications, publish procedures for the solicitation and award of contracts pursuant to this Act.

The State construction agency shall, for each public project or projects permitted under this Act, make a written determination, including a description as to the particular advantages of the progressive design-build procurement method, that it is in the best interests of this State to enter into a progressive design-build contract for the project or projects. In making that determination, the following factors shall be considered:

(1) The probability that the progressive design-build procurement method will be in the best interests of the State by providing a material savings of time or cost over the design-bid-build or other delivery system.

(2) The type and size of the project and its suitability to the progressive design-build procurement method.

(3) The ability of the State construction agency to define and provide comprehensive scope and performance criteria for the project.

No State construction agency may use the progressive design-build procurement method unless the agency determines in writing that the project will comply with the disadvantaged business and equal employment practices of the State as established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

The State construction agency shall within 15 days after

the initial determination provide an advisory copy to the Procurement Policy Board and maintain the full record of determination for 5 years.

Section 1-10. Definitions. As used in this Act:

"Chief procurement office" means the offices to which the chief procurement officers are appointed pursuant to Section 10-20 of the Illinois Procurement Code.

"Delivery system" means the design and construction approach used to develop and construct a project.

"Design-bid-build" means the traditional delivery system used on public projects in this State that incorporates the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act and the principles of competitive selection in the Illinois Procurement Code.

"Design professional" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that offers services under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, or the Illinois Professional Land Surveyor Act of 1989.

"Evaluation criteria" means the requirements for the selection process as defined in this Act and may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience

with similar projects, assignment of personnel to the project, and other appropriate factors. Price may not be used as a factor in the evaluation of progressive design-build.

"Progressive design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project.

"Progressive design-build contract" means a contract for a public project under this Act between the State construction agency and a progressive design-build entity to furnish architecture, engineering, land surveying, and related services as required, and to furnish the labor, materials, equipment, and other construction services for the project. A progressive design-build contract may be conditioned upon subsequent refinements in scope and price and may allow the State construction agency to make modifications in the project scope without invalidating the progressive design-build contract.

"Progressive design-build entity" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under this Act. A progressive design-build entity and associated progressive design-build professionals shall conduct themselves in accordance with the laws of this State and the

related provisions of the Illinois Administrative Code, as referenced by the licensed design professionals Acts of this State.

"Qualification" means a statement of qualifications submitted by a proposer in response to a request for qualifications.

"Request for qualifications" means a document issued by the State construction agency to solicit qualifications from proposers in accordance with the progressive design-build project delivery method.

"Scope and performance criteria" means the requirements for the public project, including, but not limited to, the intended usage, capacity, size, scope, quality and performance standards, and other programmatic criteria that are expressed in performance-oriented requirements that can be reasonably inferred and are suited to allow a progressive design-build entity to develop a proposal.

"State construction agency" means the Capital Development Board.

Section 1-15. Requests for qualifications.

(a) When the State construction agency elects to use the progressive design-build delivery method, it must issue a notice of intent to receive requests for qualifications for the project at least 14 days before issuing the request for qualifications. The State construction agency must publish the

advance notice in the official procurement bulletin of the State or the professional services bulletin of the State construction agency, if any. The agency is encouraged to use publication of the notice in related construction industry service publications. A brief description of the proposed procurement must be included in the notice. The State construction agency must provide a copy of the request for qualifications to any party requesting a copy.

(b) The request for qualifications shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the State construction agency.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for qualifications is submitted.

(4) Prequalification criteria for progressive design-build entities wishing to submit proposals. The State construction agency shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements, but nothing contained herein precludes the use of additional prequalification criteria by the State construction agency.

(5) Material requirements of the contract, including, but not limited to, the proposed terms and conditions,

required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for the solicitation.

(c) The State construction agency may include any other relevant information that it chooses to supply. The progressive design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its qualifications.

(d) The date that qualifications are due must be at least 21 calendar days after the date of the issuance of the request for qualifications. In the event the cost of the project is estimated to exceed \$10,000,000, then the qualifications due date must be at least 28 calendar days after the date of the issuance of the request for qualifications.

Section 1-20. Development of scope and performance criteria. The State construction agency shall develop a request for qualifications, which shall include preliminary scopes, descriptions of the areas of technical expertise needed, and requirements for experience. The request must be in sufficient detail and contain adequate information to

reasonably apprise the qualified progressive design-build entities of the State construction agency's overall programmatic needs and goals, including criteria, general budget parameters, schedule, and delivery requirements.

Section 1-25. Selection committee.

(a) When the State construction agency elects to use the progressive design-build delivery method, it shall establish a committee to evaluate and select the progressive design-build entity. The committee, under the discretion of the State construction agency, shall consist of at least 5 but no more than 7 members and shall include at least one licensed design professional and 2 members of the public. Public members may not be employed or associated with any firm holding a contract with the State construction agency. Within 30 days of receiving notice, one public member shall be nominated by associations representing the general design or construction industry and one member shall be nominated by associations that represent minority or woman-owned design or construction industry businesses. If either group fails to nominate a suitable candidate within the 30-day period, the State construction agency shall nominate an appropriate public member.

(b) The members of the selection committee must certify for each request for qualifications that no conflict of interest exists between the members and the progressive

design-build entities submitting qualifications.

If a conflict is discovered before qualifications are reviewed, the member must be replaced before any review of qualifications. If a conflict is discovered after qualifications are reviewed, the member with the conflict shall be removed and the committee may continue with only one public member.

If at least 5 members remain, the remaining committee members may complete the selection process.

Section 1-30. Procedures for selection.

(a) The State construction agency must use a 2-phase procedure for the selection of the successful progressive design-build entity. Phase I of the procedure will evaluate and shortlist for interviews the progressive design-build entities based on qualifications, and Phase II will evaluate shortlisted teams based on scoring of specific criteria addressed in their presentations and interviews.

(b) The State construction agency shall include in the request for qualifications the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of progressive design-build entities that the agency has set forth. Each request for qualifications shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State

construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase I evaluation of progressive design-build entities: (1) experience of personnel; (2) successful experience with similar project types; (3) financial capability; (4) timeliness of past performance; (5) experience with similarly sized projects; (6) successful reference checks of the firm; (7) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (8) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The State construction agency may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The State construction agency may not consider any progressive design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the State construction agency, that may give the progressive design-build entity a financial or tangible

advantage over other progressive design-build entities in the preparation, evaluation, or performance of the progressive design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the State construction agency shall create a shortlist of the most highly qualified progressive design-build entities. The State construction agency, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided however, no less than 2 progressive design-build entities nor more than 6 are selected to present to the selection committee in an interview.

The State construction agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation for presentations and interviews. The State construction agency must allow sufficient time, no less than 28 calendar days, for the shortlist entities to prepare their presentations.

(c) The State construction agency shall include in the project advertisement the evaluating factors to be used in the presentations and interviews. Each request for qualifications

shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase II evaluation of progressive design-build entities: (1) experience with successful completion of similar projects; (2) the design team's approach to program analysis and schematic design; (3) record of budget adherence on recently completed projects; (4) demonstration of past innovation in meeting the scope and performance criteria on past design-build projects; (5) completeness of the overall project team; (6) collaborative experience of the team members; and (7) their plan for achieving project goals for participation. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

Upon completion of the evaluation, the State construction agency may award the progressive design-build contract to the highest overall ranked entity. After qualifications have been submitted, a progressive design-build entity shall not replace, remove, or otherwise modify any firm identified as a member of the proposer team unless authorized to do so by the State construction agency.

Section 1-40. Submission of qualifications. Qualifications must be properly identified and sealed. Qualifications may not be reviewed until after the deadline for submission has passed as set forth in the request for qualifications. All progressive design-build entities submitting qualifications shall be disclosed after the deadline for submission, and all progressive design-build entities who are shortlisted for interviews shall also be disclosed at the time of that determination.

Qualifications shall include representative projects to demonstrate past experience of the team members on similar progressive design-build projects. Qualifications shall include a list of all design professionals and other entities as defined in Section 30-30 of the Illinois Procurement Code to which any work may be subcontracted during the performance of the contract. Any entity that will perform any of the 5 subdivisions of work defined in Section 30-30 of the Illinois Procurement Code must meet prequalification standards of the State construction agency.

Qualifications must meet all material requirements of the request for qualifications, or they may be rejected as nonresponsive. The State construction agency shall have the right to reject any and all qualifications.

The State construction agency shall review the qualifications for compliance with the performance criteria

and evaluation factors.

Qualifications may be withdrawn prior to evaluation for any cause. After evaluation begins by the State construction agency, clear and convincing evidence of error is required for withdrawal.

Section 1-45. Award. The State construction agency may award the contract to the highest overall ranked entity. Notice of award shall be made in writing. Unsuccessful entities shall also be notified in writing. The State construction agency may not request a best and final offer after the receipt of qualifications. The State construction agency may negotiate with the selected progressive design-build entity after award but prior to contract execution for the purpose of securing better terms than originally proposed, provided that the salient features of the request for qualifications are not diminished.

Section 1-50. Labor.

(a) A contract or agreement under this Act shall require the progressive design-build entity, or the construction manager or general contractor of the progressive design-build entity, and all subcontractors of the progressive design-build entity to comply with Section 30-22 of the Illinois Procurement Code as it applies to responsible bidders and to present satisfactory evidence of that compliance to the State

construction agency.

(b) A contract or agreement under this Act shall require the progressive design-build entity or the construction manager or general contractor of the progressive design-build entity to enter into a project labor agreement used by the State construction agency.

(c) This Section does not apply to construction-related professional services. As used in this Section, "professional services" means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

Section 1-55. Transition to design-bid-build. At the completion of design development, the progressive design-build entity must provide a firm fixed price. The State construction agency reserves the right to transition the project to the design-bid-build method if the fixed price exceeds the project budget, the progressive design-build entity's proposed schedule is unreasonable, or if transitioning to the design-bid-build method is in the best interests of the State.

Section 1-60. Reports and evaluation. At the end of every 6-month period following the contract award, and again prior to final contract payout and closure, a selected progressive design-build entity shall detail, in a written report

submitted to the State agency, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act. If the entity's performance in implementing the plan falls short of the performance measures and outcomes set forth in the plans submitted by the entity during the qualifications process, the entity shall, in a detailed written report, inform the General Assembly and the Governor whether and to what degree each progressive design-build contract authorized under this Act promoted the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.

Section 1-65. Federal requirements. In the procurement of progressive design-build contracts, the State construction agency shall comply with federal law and regulations and take all necessary steps to adapt their rules, policies, and procedures to remain eligible for federal aid.

Section 1-70. Capital Development Board consultation. The Capital Development Board shall consult with the applicable chief procurement office to determine which procedures to

adopt and apply to the progressive design-build project delivery method in order to ensure an open, transparent, and efficient process that accomplishes the purposes of this Act.

Section 1-75. Repeal. This Act is repealed on January 1, 2027.

ARTICLE 2.

Section 2-5. The Illinois Procurement Code is amended by changing Sections 1-13, 10-20, 20-20, and 20-60 and by adding Sections 20-180, 30-17, and 50-57 as follows:

(30 ILCS 500/1-13)

Sec. 1-13. Applicability to public institutions of higher education.

(a) This Code shall apply to public institutions of higher education, regardless of the source of the funds with which contracts are paid, except as provided in this Section.

(b) Except as provided in this Section, this Code shall not apply to procurements made by or on behalf of public institutions of higher education for any of the following:

(1) Memberships in professional, academic, research, or athletic organizations on behalf of a public institution of higher education, an employee of a public institution of higher education, or a student at a public

institution of higher education.

(2) Procurement expenditures for events or activities paid for exclusively by revenues generated by the event or activity, gifts or donations for the event or activity, private grants, or any combination thereof.

(3) Procurement expenditures for events or activities for which the use of specific potential contractors is mandated or identified by the sponsor of the event or activity, provided that the sponsor is providing a majority of the funding for the event or activity.

(4) Procurement expenditures necessary to provide athletic, artistic or musical services, performances, events, or productions by or for a public institution of higher education.

(5) Procurement expenditures for periodicals, books, subscriptions, database licenses, and other publications procured for use by a university library or academic department, except for expenditures related to procuring textbooks for student use or materials for resale or rental.

(6) Procurement expenditures for placement of students in externships, practicums, field experiences, and for medical residencies and rotations.

(7) Contracts for programming and broadcast license rights for university-operated radio and television stations.

(8) Procurement expenditures necessary to perform sponsored research and other sponsored activities under grants and contracts funded by the sponsor or by sources other than State appropriations.

(9) Contracts with a foreign entity for research or educational activities, provided that the foreign entity either does not maintain an office in the United States or is the sole source of the service or product.

(10) Procurement expenditures for any ongoing software license or maintenance agreement or competitively solicited software purchase, when the software, license, or maintenance agreement is available through only the software creator or its manufacturer and not a reseller.

(11) Procurement expenditures incurred outside of the United States for the recruitment of international students.

(12) Procurement expenditures for contracts entered into under the Public University Energy Conservation Act.

(13) Procurement expenditures for advertising purchased directly from a media station or the owner of the station for distribution of advertising.

Notice of each contract with an annual value of more than \$100,000 entered into by a public institution of higher education that is related to the procurement of goods and services identified in items (1) through (13) of this subsection shall be published in the Procurement Bulletin

within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice. Each public institution of higher education shall provide the Chief Procurement Officer, on a monthly basis, in the form and content prescribed by the Chief Procurement Officer, a report of contracts that are related to the procurement of goods and services identified in this subsection. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. A copy of any or all of these contracts shall be made available to the Chief Procurement Officer immediately upon request. The Chief Procurement Officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the Chief Procurement Officer.

(b-5) Except as provided in this subsection, the provisions of this Code shall not apply to contracts for medical supplies or to contracts for medical services necessary for the delivery of care and treatment at medical, dental, pharmaceutical, or veterinary teaching facilities used by Southern Illinois University or the University of Illinois or at any university-operated health care center or dispensary that provides care, treatment, and medications for students, faculty, and staff. Furthermore, the provisions of this Code

do not apply to the procurement by such a facility of any additional supplies or services that the operator of the facility deems necessary for the effective use and functioning of the medical supplies or services that are otherwise exempt from this Code under this subsection (b-5), including, but not limited to, procurements necessary for compliance and management of federal programs. However, other supplies and services needed for these teaching facilities shall be subject to the jurisdiction of the Chief Procurement Officer for Public Institutions of Higher Education who may establish expedited procurement procedures and may waive or modify certification, contract, hearing, process and registration requirements required by this ~~the~~ Code. All procurements made under this subsection shall be documented and may require publication in the Illinois Procurement Bulletin.

(b-10) Procurements made by or on behalf of the University of Illinois for investment services may be entered into or renewed without being subject to the requirements of this Code. Notice of intent to renew a contract shall be published in the Illinois Public Higher Education Procurement Bulletin at least 14 days prior to the execution of a renewal, and the University of Illinois shall hold a public hearing for interested parties to provide public comment. Any contract extended, renewed, or entered pursuant to this exception shall be published in the Illinois Public Higher Education Procurement Bulletin within 5 days of contract execution.

(c) Procurements made by or on behalf of public institutions of higher education for the fulfillment of a grant shall be made in accordance with the requirements of this Code to the extent practical.

Upon the written request of a public institution of higher education, the Chief Procurement Officer may waive contract, registration, certification, and hearing requirements of this Code if, based on the item to be procured or the terms of a grant, compliance is impractical. The public institution of higher education shall provide the Chief Procurement Officer with specific reasons for the waiver, including the necessity of contracting with a particular potential contractor, and shall certify that an effort was made in good faith to comply with the provisions of this Code. The Chief Procurement Officer shall provide written justification for any waivers. By November 1 of each year, the Chief Procurement Officer shall file a report with the General Assembly identifying each contract approved with waivers and providing the justification given for any waivers for each of those contracts. Notice of each waiver made under this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice.

(d) Notwithstanding this Section, a waiver of the registration requirements of Section 20-160 does not permit a business entity and any affiliated entities or affiliated

persons to make campaign contributions if otherwise prohibited by Section 50-37. The total amount of contracts awarded in accordance with this Section shall be included in determining the aggregate amount of contracts or pending bids of a business entity and any affiliated entities or affiliated persons.

(e) Notwithstanding subsection (e) of Section 50-10.5 of this Code, the Chief Procurement Officer, with the approval of the Executive Ethics Commission, may permit a public institution of higher education to accept a bid or enter into a contract with a business that assisted the public institution of higher education in determining whether there is a need for a contract or assisted in reviewing, drafting, or preparing documents related to a bid or contract, provided that the bid or contract is essential to research administered by the public institution of higher education and it is in the best interest of the public institution of higher education to accept the bid or contract. For purposes of this subsection, "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. The Executive Ethics Commission may promulgate rules and regulations for the implementation and administration of the provisions of this subsection (e).

(f) As used in this Section:

"Grant" means non-appropriated funding provided by a federal or private entity to support a project or program administered by a public institution of higher education and any non-appropriated funding provided to a sub-recipient of the grant.

"Public institution of higher education" means Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Southern Illinois University, University of Illinois, Western Illinois University, and, for purposes of this Code only, the Illinois Mathematics and Science Academy.

(g) (Blank).

(h) The General Assembly finds and declares that:

(1) Public Act 98-1076, which took effect on January 1, 2015, changed the repeal date set for this Section from December 31, 2014 to December 31, 2016.

(2) The Statute on Statutes sets forth general rules on the repeal of statutes and the construction of multiple amendments, but Section 1 of that Act also states that these rules will not be observed when the result would be "inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute".

(3) This amendatory Act of the 100th General Assembly manifests the intention of the General Assembly to remove the repeal of this Section.

(4) This Section was originally enacted to protect, promote, and preserve the general welfare. Any construction of this Section that results in the repeal of this Section on December 31, 2014 would be inconsistent with the manifest intent of the General Assembly and repugnant to the context of this Code.

It is hereby declared to have been the intent of the General Assembly that this Section not be subject to repeal on December 31, 2014.

This Section shall be deemed to have been in continuous effect since December 20, 2011 (the effective date of Public Act 97-643), and it shall continue to be in effect henceforward until it is otherwise lawfully repealed. All previously enacted amendments to this Section taking effect on or after December 31, 2014, are hereby validated.

All actions taken in reliance on or pursuant to this Section by any public institution of higher education, person, or entity are hereby validated.

In order to ensure the continuing effectiveness of this Section, it is set forth in full and re-enacted by this amendatory Act of the 100th General Assembly. This re-enactment is intended as a continuation of this Section. It is not intended to supersede any amendment to this Section that is enacted by the 100th General Assembly.

In this amendatory Act of the 100th General Assembly, the base text of the reenacted Section is set forth as amended by

Public Act 98-1076. Striking and underscoring is used only to show changes being made to the base text.

This Section applies to all procurements made on or before the effective date of this amendatory Act of the 100th General Assembly.

(Source: P.A. 102-16, eff. 6-17-21; 102-721, eff. 5-6-22; 102-1119, eff. 1-23-23; 103-570, eff. 1-1-24.)

(30 ILCS 500/10-20)

Sec. 10-20. Independent chief procurement officers.

(a) Appointment. Within 60 calendar days after July 1, 2010 (the effective date of Public Act 96-795) ~~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.

The ~~For fiscal year 2024, the~~ Executive Ethics Commission shall set aside from its appropriation those amounts necessary for the use of the 4 chief procurement officers for the ordinary and contingent expenses of their respective procurement offices. From the amounts set aside by the Commission, each chief procurement officer shall control the internal operations of his or her procurement office and shall procure the necessary equipment, materials, and services to perform the duties of that office, including hiring necessary procurement personnel, legal advisors, and other employees, and may establish, in the exercise of the chief procurement officer's discretion, the compensation of the office's employees, which includes the State purchasing officers and any legal advisors. The Executive Ethics Commission shall have no control over the employees of the chief procurement officers. The Executive Ethics Commission shall provide administrative support services, including payroll, for each

procurement office.

(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 Public Act 96-920 ~~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) (Blank).

(g) (Blank).

(Source: P.A. 103-8, eff. 6-7-23; revised 9-26-23.)

(30 ILCS 500/20-20)

Sec. 20-20. Small purchases.

(a) Amount. Any individual procurement of supplies or services not exceeding \$100,000 and any procurement of construction not exceeding \$100,000, or any individual procurement of professional or artistic services not exceeding \$100,000 may be made without competitive source selection. Procurements shall not be artificially divided so as to

constitute a small purchase under this Section. Any procurement of construction not exceeding \$100,000 may be made by an alternative competitive source selection. The construction agency shall establish rules for an alternative competitive source selection process. This Section does not apply to construction-related professional services contracts awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(b) Adjustment. Each July 1, the small purchase maximum established in subsection (a) shall be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest \$100.

(c) Based upon rules proposed by the Board and rules promulgated by the chief procurement officers, the small purchase maximum established in subsection (a) may be modified.

(d) Certification. All small purchases with an annual value that exceeds \$50,000 shall be accompanied by Standard Illinois Certifications in a form prescribed by each Chief Procurement Officer.

(e) Cumulative 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 this Code.

(Source: P.A. 102-721, eff. 1-1-23; 102-1115, eff. 1-23-23
(See Section 99-999 of P.A. 102-1115 for effective date of
P.A. 102-1115); 102-1119, eff. 1-23-23.)

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract 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; provided, however, in connection with the issuance of certificates of participation or bonds, the governing board of a public institution of higher education may enter into contracts in excess of 10 years but not to exceed 30 years for the purpose of financing or refinancing real or personal property. Third parties may lease State-owned dark fiber networks for any period of time deemed to be in the best interest of the State, but not exceeding 20 years. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. The length of energy conservation program contracts or energy savings contracts or leases shall be in accordance with the provisions of Section 25-45. 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. 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.

(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 and the Commission on Equity and Inclusion prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds \$249,999. The Procurement Policy Board or the Commission on Equity and Inclusion may object to the proposed extension or renewal within 14 calendar days and require a hearing before the Board or the Commission on Equity and Inclusion prior to entering into the extension or renewal. If the Procurement Policy Board or the Commission on Equity and Inclusion does not object within 14 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 or the Commission on Equity and Inclusion 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 and the Commission on Equity and Inclusion shall each file a report with the General Assembly identifying for the previous fiscal year (i) the proposed extensions or renewals that were filed and whether such extensions and renewals were objected to and (ii) the contracts exempt from this subsection.

(d) Notwithstanding the provisions of subsection (a) of this Section, the Department of Innovation and Technology may enter into leases for dark fiber networks for any period of time deemed to be in the best interests of the State but not exceeding 20 years inclusive. The Department of Innovation and Technology may lease dark fiber networks from third parties only for the primary purpose of providing services (i) to the offices of Governor, Lieutenant Governor, Attorney General,

Secretary of State, Comptroller, or Treasurer and State agencies, as defined under Section 5-15 of the Civil Administrative Code of Illinois or (ii) for anchor institutions, as defined in Section 7 of the Illinois Century Network Act. Dark fiber network lease contracts shall be subject to all other provisions of this Code and any applicable rules or requirements, including, but not limited to, publication of lease solicitations, use of standard State contracting terms and conditions, and approval of vendor certifications and financial disclosures.

(e) As used in this Section, "dark fiber network" means a network of fiber optic cables laid but currently unused by a third party that the third party is leasing for use as network infrastructure.

(f) No vendor shall be eligible for renewal of a contract when that vendor has failed to meet the goals agreed to in the vendor's utilization plan, as defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, unless the State agency or public institution of higher education has determined that the vendor made good faith efforts toward meeting the contract goals. If the State agency or public institution of higher education determines that the vendor made good faith efforts, the agency or public institution of higher education may issue a waiver after concurrence by the chief procurement officer, which shall not be unreasonably withheld or impair a State agency

determination to execute the renewal. The form and content of the waiver shall be prescribed by each chief procurement officer, but shall not impair a State agency or public institution of higher education determination to execute the renewal. The chief procurement officer shall post the completed form on his or her official website within 5 business days after receipt from the State agency or public institution of higher education. The chief procurement officer shall maintain on his or her official website a database of waivers granted under this Section with respect to contracts under his or her jurisdiction. The database shall be updated periodically and shall be searchable by contractor name and by contracting State agency or public institution of higher education.

(Source: P.A. 102-29, eff. 6-25-21; 102-721, eff. 1-1-23; 103-570, eff. 1-1-24.)

(30 ILCS 500/20-180 new)

Sec. 20-180. Electronic procurement systems. Nothing in this 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 this 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 this Code are met.

(30 ILCS 500/30-17 new)

Sec. 30-17. Job order contracting.

(a) In this Section:

"Indefinite quantity contract" means a contract for an indefinite quantity of services for a fixed time or for a job order contract.

"Job order contracting" means 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.

(b) Construction agencies may procure construction contracts via job order contracting through the use of competitive sealed bidding in accordance with Section 30-15.

(30 ILCS 500/50-57 new)

Sec. 50-57. Curability.

(a) If, during an active procurement, a violation or deficiency of this Code, or of the procurement rules, regulations, policies, or practices promulgated by a chief procurement officer under this Code occurs, then, at the

request of the State purchasing officer and agency head, the chief procurement officer may determine that curing the violation or deficiency is in the best interest of the State. The request to cure shall be in writing and include a clear description of the violation or 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 the 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.

(b) 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, a summary of determinations for the previous fiscal year. Permitting a cure does not absolve any person, as defined in Section 1-15.55, from any penalties in law. Each chief procurement officer may adopt rules to implement and administer this Section.

Section 2-10. The State Property Control Act is amended by

changing Section 7a as follows:

(30 ILCS 605/7a)

Sec. 7a. Surplus furniture. It is declared to be the public policy of this State, and the General Assembly determines, that it is in the best interest of the people of this State to expend the least amount of funds possible on the purchase of furniture.

Agencies that desire to purchase new furniture shall first check with the administrator if any of the surplus furniture under the administrator's control can be used in place of new furniture. If an agency finds that it is unable to use the surplus property, the agency may proceed with the new furniture purchase. The ~~the~~ agency shall file annually, not later than January 31 of the next year, a report ~~an affidavit~~ with the administrator ~~prior to any purchase,~~ specifying the types of new furniture purchased ~~to be bought,~~ the quantities of each type of new furniture, the cost per type, and the total cost per category. The report ~~affidavit~~ shall also clearly state why the furniture was ~~must be~~ purchased new as opposed to obtained from the administrator's surplus. The reports ~~affidavits~~ shall be made available by the administrator for public inspection and copying.

This Section applies only to the purchase of an item of furniture with a purchase price of \$1,500 ~~\$500~~ or more.

(Source: P.A. 88-515; 88-656, eff. 9-16-94.)

Section 2-15. The Counties Code is amended by changing Sections 5-1022 and 6-1003 as follows:

(55 ILCS 5/5-1022)

Sec. 5-1022. Competitive bids.

(a) Any purchase by a county with fewer than 2,000,000 inhabitants, or an elected official in a county with fewer than 2,000,000 inhabitants, including an elected official with control of the internal operations of the office, of services, materials, equipment, or supplies in excess of \$30,000, other than professional services, shall be contracted for in one of the following ways:

(1) by a contract let to the lowest responsible bidder after advertising for bids in a newspaper published within the county or, if no newspaper is published within the county, then a newspaper having general circulation within the county; ~~or~~

(2) by a contract let without advertising for bids in the case of an emergency if authorized by the county board; or

(3) by a contract let without advertising for bids in the case of the expedited replacement of a disabled, inoperable, or damaged patrol vehicle of the sheriff's department if authorized by the county board.

(b) In determining the lowest responsible bidder, the

county board shall take into consideration the qualities of the articles supplied; their conformity with the specifications; their suitability to the requirements of the county; the availability of support services; the uniqueness of the service, materials, equipment, or supplies as it applies to networked, integrated computer systems; the compatibility to existing equipment; and the delivery terms. In addition, the county board may take into consideration the bidder's active participation in an applicable apprenticeship program registered with the United States Department of Labor. The county board also may take into consideration whether a bidder is a private enterprise or a State-controlled enterprise and, notwithstanding any other provision of this Section or a lower bid by a State-controlled enterprise, may let a contract to the lowest responsible bidder that is a private enterprise.

(c) This Section does not apply to contracts by a county with the federal government or to purchases of used equipment, purchases at auction or similar transactions which by their very nature are not suitable to competitive bids, pursuant to an ordinance adopted by the county board.

(d) Notwithstanding the provisions of this Section, a county may let without advertising for bids in the case of purchases and contracts, when individual orders do not exceed \$35,000, for the use, purchase, delivery, movement, or installation of data processing equipment, software, or

services and telecommunications and inter-connect equipment, software, and services.

(e) A county may require, as a condition of any contract for goods and services, that persons awarded a contract with the county and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. For purposes of this subsection (e), the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (e), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (e), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(f) Bids submitted to, and contracts executed by, the county may require a certification by the bidder or contractor

that the bidder or contractor is not barred from bidding for or entering into a contract under this Section and that the bidder or contractor acknowledges that the county may declare the contract void if the certification completed pursuant to this subsection (f) is false.

(Source: P.A. 103-14, eff. 1-1-24; 103-286, eff. 7-28-23; revised 12-12-23.)

(55 ILCS 5/6-1003) (from Ch. 34, par. 6-1003)

Sec. 6-1003. Further appropriations barred; transfers. After the adoption of the county budget, no further appropriations shall be made at any other time during such fiscal year, except as provided in this Division. Appropriations in excess of those authorized by the budget in order to meet an immediate emergency may be made at any meeting of the board by a two-thirds vote of all the members constituting such board, the vote to be taken by ayes and nays and entered on the record of the meeting. After the adoption of the county budget, transfers of appropriations may be made without a vote of the board; however, transfers of appropriations affecting personnel and capital may be made at any meeting of the board by a two-thirds vote of all the members constituting such board, the vote to be taken by ayes and nays and entered on the record of the meeting, provided for any type of transfer that the total amount appropriated for the fund is not affected.

This Section applies to all elected officials, including elected officials with control of the internal operations of their office.

(Source: P.A. 99-356, eff. 8-13-15; 99-642, eff. 7-28-16.)

ARTICLE 3.

Section 3-5. The Department of Natural Resources Act is amended by changing Section 1-20 and by adding Section 1-50 as follows:

(20 ILCS 801/1-20)

Sec. 1-20. Real property. The Department has the power:

(a) To transfer jurisdiction of any realty under the control of the Department to any other Department of the State Government, or to any authority, commission or other agency of the State, and to acquire or accept federal lands, when such transfer, acquisition or acceptance is advantageous to the State and is approved in writing by the Governor.

(b) To lease, from time to time, any land or property, with or without appurtenances, of which the Department has jurisdiction, and which are not immediately to be used or developed by the State; provided that no such lease be for a longer period of time than that in which it can reasonably be expected the State will not have use for such property, and further provided that no such lease be for a longer period of

time than 10 ~~5~~ years.

(c) To lease any land or property over which the Department has jurisdiction for the purpose of creating, operating, or maintaining a commercial solar energy system, as defined in Section 10-720 of the Property Tax Code, or a clean energy project, as defined in the Department of Natural Resources (Conservation) Law of the Civil Administrative Code of Illinois. A lease under this subsection (c) shall not be for a period longer than 40 years. The Department shall competitively bid any project authorized pursuant to this subsection (c) pursuant to the requirements of Section 20-15 and subsections (c) and (f) of Section 20-10 of the Illinois Procurement Code. No person or business shall submit specifications to the Department pursuant to this subsection (c) unless requested to do so by an employee of the State. No person or business who contracts with a State agency to write specifications for any project pursuant to this subsection (c) shall submit a bid or proposal, review or evaluate any prospective proposals from the competitive bidding process, or receive a contract for any project issued pursuant to this subsection (c). If practical, the Department shall require that any land or property over which the Department has jurisdiction and that is used for the purpose of creating, operating, or maintaining a commercial solar energy system shall have implemented on it and maintained management practices that would qualify the land or property as a

beneficial habitat under the Pollinator-Friendly Solar Site Act. The Department shall prioritize commercial solar energy system sites based on their suitability and economic feasibility for solar use. The Department shall then prioritize commercial solar energy system sites with a significant history of disturbance, such as former strip mines or previously developed sites. The Department may consider any land use that is lost from the installation of a commercial solar energy system in making a determination regarding the suitability of a site. At least 60 days before entering into a lease for a commercial solar energy system under this subsection (c), the Department shall post in the Illinois Register and on the Department's website notice of the Department's intent to enter into the lease and shall provide a copy of the notice to a municipality if the leased area is located within the borders of the municipality. The notice shall include the specific location and size of the proposed commercial solar energy system. The Department shall consider and respond to all public comments regarding the posting that are received by the Department within 30 days of the posting.

(Source: P.A. 89-445, eff. 2-7-96.)

(20 ILCS 801/1-50 new)

Sec. 1-50. Administrative rules. The Department of Natural Resources may adopt rules necessary to carry out its duties under this Act.

Section 3-10. The Department of Natural Resources (Conservation) Law of the Civil Administrative Code of Illinois is amended by changing Sections 805-5, 805-230, and 805-235 and by adding Sections 805-280 and 805-580 as follows:

(20 ILCS 805/805-5)

Sec. 805-5. Definitions. In this Law:

"Clean energy" means energy that is generated, by design or operation, in a manner that is substantially free of carbon dioxide emissions or in a manner that otherwise contributes to the reduction in emissions of environmentally hazardous materials or reduces the volume of environmentally dangerous materials.

"Clean energy project" means a project that is undertaken to acquire, construct, refurbish, create, develop, or redevelop any facility, equipment, machinery, or real or personal property and that will aid, assist, or encourage the development or implementation of clean energy in the State.

"Department" means the Department of Natural Resources.

"Director" means the Director of Natural Resources.

(Source: P.A. 91-239, eff. 1-1-00.)

(20 ILCS 805/805-230) (was 20 ILCS 805/63a18)

Sec. 805-230. Developing recreational areas. The Department has the power to lease from individuals,

corporations, or any other form of private ownership, from any municipality, public corporation, or political subdivision of this State, or from the United States any lands or waters for the purpose of developing outdoor recreational areas for public use and to acquire all necessary property or rights-of-way for the purposes of ingress or egress to those lands and waters and to construct buildings and other recreational facilities, including roadways, bridges, ~~and~~ parking areas, commercial solar energy systems, and clean energy projects that the Department deems necessary or desirable for maximum utilization of recreational facilities for public use of the areas.

(Source: P.A. 91-239, eff. 1-1-00.)

(20 ILCS 805/805-235) (was 20 ILCS 805/63a6)

Sec. 805-235. Lease of lands acquired by the Department; disposition of obsolete buildings. The Department has the power to do and perform each and every act or thing considered by the Director to be necessary or desirable to fulfill and carry out the intent and purpose of all laws pertaining to the Department, including the right to rehabilitate or sell at public auction buildings or structures affixed to lands over which the Department has acquired jurisdiction when in the judgment of the Director those buildings or structures are obsolete, inadequate, or unusable for the purposes of the Department and to lease those lands with or without

appurtenances for a consideration in money or in kind for a period of time not in excess of 10 ~~5~~ years for the purposes and upon the terms and conditions that the Director considers to be in the best interests of the State when those lands are not immediately to be used or developed by the State. All those sales shall be made subject to the written approval of the Governor. The funds derived from those sales and from those leases shall be deposited in the State Parks Fund, except that funds derived from those sales and from those leases on lands managed and operated principally as wildlife or fisheries areas by the Department shall be deposited in the Wildlife and Fish Fund.

(Source: P.A. 91-239, eff. 1-1-00.)

(20 ILCS 805/805-280 new)

Sec. 805-280. Leases for the purpose of creating, operating, or maintaining a commercial solar energy system or clean energy project. The Department may lease any land or property over which the Department has jurisdiction for the purpose of creating, operating, or maintaining a commercial solar energy system, as defined in Section 10-720 of the Property Tax Code, or a clean energy project. The lease shall not be for a period longer than 40 years. The Department shall competitively bid any project authorized pursuant to this Section pursuant to the requirements of Section 20-15, and subsections (c) and (f) of Section 20-10 of the Illinois

Procurement Code. No person or business shall submit specifications to the Department pursuant to this Section unless requested to do so by an employee of the State. No person or business who contracts with a State agency to write specifications for any project pursuant to this Section shall submit a bid or proposal, review or evaluate any prospective proposals from the competitive bidding process, or receive a contract for any project issued pursuant to this Section. The Department shall require that any lease must provide for a signed project labor agreement for the length of the lease term. A project labor agreement entered into under this Section shall be entered into with the local building and construction trades council having geographic jurisdiction over the project. If practical, the Department shall require that any land or property over which the Department has jurisdiction that is used for the purpose of creating, operating, or maintaining a commercial solar energy system shall have implemented on it and maintained management practices that would qualify the land or property as a beneficial habitat under the Pollinator-Friendly Solar Site Act. The Department shall require that any lease must include a signed project labor agreement for the length of the lease term. The Department shall prioritize commercial solar energy system sites based on their suitability and economic feasibility for solar use. The Department shall then prioritize commercial solar energy system sites with a

significant history of disturbance, such as former strip mines or previously developed sites. The Department may consider any land use that is lost from the installation of a commercial solar energy system in making a determination for the suitability of a site.

(20 ILCS 805/805-580 new)

Sec. 805-580. Electric vehicle charging stations.

(a) The Department may provide for at least one electric vehicle charging station, as defined in the Electric Vehicle Act, at any State park or other real property that is owned by the Department where electrical service will reasonably permit. The Department is authorized to charge user fees for the use of such electric vehicle charging stations.

(b) The Department may adopt and publish specifications detailing the kind and type of electric vehicle charging stations to be provided and may adopt rules governing the fees for use of electric vehicle charging stations at State parks or other real property that is owned by the Department.

Section 3-15. The State Parks Act is amended by changing Sections 2, 3, 3a, and 4 as follows:

(20 ILCS 835/2) (from Ch. 105, par. 466)

Sec. 2. It shall be the policy of the State of Illinois to acquire a system of State parks which shall embody the

following purposes and objectives:

(1) To preserve the most important historic sites and events that ~~which~~ are connected with the peoples who are geographically and culturally affiliated to the land now known as the State of Illinois ~~early pioneer or Indian history,~~ so that their ~~such~~ history ~~of the Indians, explorers, missionaries and settlers~~ may be preserved, not only as a tribute to those peoples that came before us ~~who made possible the building of the State of Illinois and of the Union,~~ but also as a part of the education of present and future Illinois citizens.

(2) To set aside as public reservations those locations which have unusual scenic attractions caused by geologic or topographic formations, such as canyons, gorges, caves, dunes, beaches, moraines, palisades, examples of Illinois prairie, and points of scientific interest to botanists and naturalists. These areas should be large in size and whenever practicable shall be not less than 1,000 acres in extent. However, smaller areas may be acquired wherever conditions do not warrant the acquisition of the larger acreage.

(3) To preserve large forested areas and marginal lands along the rivers, small water courses, and lakes for a recreation use different from that given by the typical city park, and so that these tracts may remain unchanged by civilization, so far as possible, and be kept for

future generations. Such areas also, should be acquired in units of 1,000 acres or more and may be available as fish and game preserves. However, smaller areas may be acquired wherever conditions do not warrant the acquisition of the larger acreage.

(4) To connect these parks with each other by a system of scenic parkways with widths varying from 100 to 1,000 feet, as a supplement to and completion of the State highway system. Where the present State highway routes may serve this purpose, their location, alignment and design should be studied with this plan in view. At suitable locations along these highways, pure water supplies and shelters and comfort facilities of attractive design may be installed for the convenience of the public.

The Department of Natural Resources is authorized on ~~in~~ behalf of the State of Illinois to accept by donation or bequest, to purchase or acquire by condemnation proceedings in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act, or by contract for deed payable over a period of time not to exceed 10 years, or in any other legal manner, the title to all such lands, waters or regions, and the easements appurtenant or contributory thereto, which shall be in accord with such policy in respect to a system of State parks, for the purpose of which the General Assembly may make an appropriation. Purchases by contract for deed under this Section shall not exceed

\$20,000,000 in total purchase price for land under contract at any one given time.

(Source: P.A. 94-1055, eff. 1-1-07.)

(20 ILCS 835/3) (from Ch. 105, par. 467)

Sec. 3. (a) As used in this Section, "artificial landscaping" does not include any landscaping or other site modification or use resulting from any lease entered into by the Department of Natural Resources for the creation, operation, or maintenance of a commercial solar energy system, as defined in Section 10-720 of the Property Tax Code, or a clean energy project, as defined in the Department of Natural Resources (Conservation) Law of the Civil Administrative Code of Illinois. Instead, these site modifications and uses are hereby deemed to support conservation of the original character of the parks.

(b) In maintaining the State parks, the Department of Natural Resources shall conserve the original character as distinguished from the artificial landscaping of such parks.

(Source: P.A. 89-445, eff. 2-7-96.)

(20 ILCS 835/3a) (from Ch. 105, par. 467a)

Sec. 3a. The Department of Natural Resources shall not dispose of any portion of a State park except as specifically authorized by law. This prohibition shall not restrict the Department from conveyance of easements, leases, and other

lesser interests in land.

(Source: P.A. 89-445, eff. 2-7-96.)

(20 ILCS 835/4) (from Ch. 105, par. 468)

Sec. 4. The Department of Natural Resources has the power:

(1) To make rules and regulations necessary to carry out its duties under this Act, including rules and regulations for the use, care, improvement, control and administration of lands under its jurisdiction, and to enforce the same.

(2) To employ such custodians, keepers, clerks, assistants, laborers and subordinates as may be necessary to carry out the provisions of this Act.

(3) To lay out, construct and maintain all needful roads, parking areas, paths or trails, bridges, and docks, camp or lodge sites, picnic areas, beach houses, lodges and cabins and any other structures and improvements necessary and appropriate in any state park or easement thereto; and to provide water supplies, heat and light, and sanitary facilities for the public and living quarters for the custodians and keepers of state parks.

(4) To replant any devastated native plant areas of any State park or increase or supplement the same when necessary with plant material indigenous to such park.

(5) To cooperate with the United States government and with other states in matters relating to the care, improvement, control and administration of national or

interstate parks.

(6) To cooperate and contract with any agency, organization or individual in a manner consistent with the purposes of this Act and the powers granted the Department herein.

(7) To accept and administer gifts, grants and legacies of money, securities or property to be used by the Department of Natural Resources for the purposes of this Act and according to the tenor of such gift, grant or legacy.

(8) To enter into leases that allow for the creation, operation, or maintenance of a commercial solar energy system, as defined in Section 10-720 of the Property Tax Code, or a clean energy project, as defined in the Department of Natural Resources (Conservation) Law of the Civil Administrative Code of Illinois. If practical, the Department shall require that any land or property over which the Department has jurisdiction that is used for the purpose of creating, operating, or maintaining a commercial solar energy system shall have implemented on it and maintained management practices that would qualify the land or property as a beneficial habitat under the Pollinator-Friendly Solar Site Act. The Department shall require that any lease must include a signed project labor agreement for the length of the lease term. A project labor agreement entered into under this Section shall be entered into with the local building and construction trades council having geographic jurisdiction

over the project. The Department shall prioritize commercial solar energy system sites based on their suitability and economic feasibility for solar use. The Department shall then prioritize commercial solar energy system sites with a significant history of disturbance, such as former strip mines or previously developed sites. In making a determination for the suitability of a site, the Department may consider any land use that is lost from the installation of a commercial solar energy system.

(Source: P.A. 89-445, eff. 2-7-96.)

ARTICLE 5.

Section 5-5. The Illinois Procurement Code is amended by changing Section 20-60 as follows:

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract 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; provided, however, in connection with the issuance of certificates of participation or bonds, the governing board of a public institution of higher education may enter into contracts in excess of 10 years but not to exceed 30 years for the purpose of financing

or refinancing real or personal property. 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. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. The length of energy conservation program contracts or energy savings contracts or leases shall be in accordance with the provisions of Section 25-45. 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 and the Commission on Equity and Inclusion prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds \$249,999. The Procurement Policy Board or the Commission on Equity and Inclusion may object to the proposed extension or renewal

within 14 calendar days and require a hearing before the Board or the Commission on Equity and Inclusion prior to entering into the extension or renewal. If the Procurement Policy Board or the Commission on Equity and Inclusion does not object within 14 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 or the Commission on Equity and Inclusion 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 and the Commission on Equity and Inclusion shall each file a report with the General Assembly identifying for the previous fiscal year (i) the proposed extensions or renewals that were filed and whether such extensions and renewals were objected to and (ii) the

contracts exempt from this subsection.

(d) Notwithstanding the provisions of subsection (a) of this Section, the Department of Innovation and Technology may enter into leases for dark fiber networks for any period of time deemed to be in the best interests of the State but not exceeding 20 years inclusive. The Department of Innovation and Technology may lease dark fiber networks from third parties only for the primary purpose of providing services (i) to the offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer and State agencies, as defined under Section 5-15 of the Civil Administrative Code of Illinois or (ii) for anchor institutions, as defined in Section 7 of the Illinois Century Network Act. Dark fiber network lease contracts shall be subject to all other provisions of this Code and any applicable rules or requirements, including, but not limited to, publication of lease solicitations, use of standard State contracting terms and conditions, and approval of vendor certifications and financial disclosures.

(e) As used in this Section, "dark fiber network" means a network of fiber optic cables laid but currently unused by a third party that the third party is leasing for use as network infrastructure.

(f) No vendor shall be eligible for renewal of a contract when that vendor has failed to meet the goals agreed to in the vendor's utilization plan, as defined in Section 2 of the

Business Enterprise for Minorities, Women, and Persons with Disabilities Act, unless the State agency or public institution of higher education has determined that the vendor made good faith efforts toward meeting the contract goals. If the State agency or public institution of higher education determines that the vendor made good faith efforts, the agency or public institution of higher education may issue a waiver after concurrence by the chief procurement officer, which shall not be unreasonably withheld or impair a State agency determination to execute the renewal. The form and content of the waiver shall be prescribed by each chief procurement officer, but shall not impair a State agency or public institution of higher education determination to execute the renewal. The chief procurement officer shall post the completed form on his or her official website within 5 business days after receipt from the State agency or public institution of higher education. The chief procurement officer shall maintain on his or her official website a database of waivers granted under this Section with respect to contracts under his or her jurisdiction. The database shall be updated periodically and shall be searchable by contractor name and by contracting State agency or public institution of higher education.

(Source: P.A. 102-29, eff. 6-25-21; 102-721, eff. 1-1-23; 103-570, eff. 1-1-24.)

ARTICLE 7.

Section 7-5. The Illinois Procurement Code is amended by adding Section 45-46 as follows:

(30 ILCS 500/45-46 new)

Sec. 45-46. Mid-size businesses.

(a) As used in the Section, "mid-size business" means a business that is independently owned and operated and that is not dominant in its field of operation. "Mid-size business" includes a construction business with annual sales and receipts in excess of \$14,000,000 but not over \$45,000,000.

(a-5) This Section applies only to construction-related procurements for the Illinois State Toll Highway Authority.

(b) The chief procurement officer shall adopt rules to establish additional criteria to designate mid-size businesses for the purposes of the mid-size business set-asides described in subsection (c), including the number of employees and annual sales and receipts of the business. When computing the size status of a potential contractor, annual sales and receipts of the potential contractor and all of its affiliates shall be included. The maximum number of employees and the maximum annual sales and receipts that a mid-size business may have under the rules adopted by the chief procurement officer may vary from industry to industry, to the extent necessary to reflect differing characteristics of those industries, subject

to the limitation that no business shall qualify as a mid-size business if its annual sales and receipts exceed \$45,000,000.

(c) The applicable chief procurement officer shall designate a fair proportion, as determined by the applicable chief procurement officer in consultation with the Illinois State Toll Highway Authority, of construction, construction-related, and construction support contracts as mid-size business set-asides for award to mid-size businesses in Illinois. Advertisements for bids or offers for these contracts shall specify designation as mid-size business set-asides. In awarding the contracts, only bids or offers from qualified mid-size businesses shall be considered. The Illinois State Toll Highway Authority shall prepare an annual report setting forth the use of this Section during the preceding fiscal year and shall provide that report to the applicable chief procurement officer no later than March 1 of each calendar year. This Section is repealed 5 years after the effective date of this Section.

ARTICLE 10.

Section 10-5. The Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7)

Sec. 7. Exemptions.

(1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying. Subject to this requirement, the following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.

(b) Private information, unless disclosure is required by another provision of this Act, a State or federal law, or a court order.

(b-5) Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects.

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a

reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;

(ii) interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;

(iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or

penal agencies; except that the identities of witnesses to traffic crashes, traffic crash reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation, or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

(vi) endanger the life or physical safety of law enforcement personnel or any other person; or

(vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

(d-5) A law enforcement record created for law enforcement purposes and contained in a shared electronic record management system if the law enforcement agency that is the recipient of the request did not create the record, did not participate in or have a role in any of the events which are the subject of the record, and only has access to the record through the shared electronic record

management system.

(d-6) Records contained in the Officer Professional Conduct Database under Section 9.2 of the Illinois Police Training Act, except to the extent authorized under that Section. This includes the documents supplied to the Illinois Law Enforcement Training Standards Board from the Illinois State Police and Illinois State Police Merit Board.

(d-7) Information gathered or records created from the use of automatic license plate readers in connection with Section 2-130 of the Illinois Vehicle Code.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(e-5) Records requested by persons committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail if those materials are available in the library of the correctional institution or facility or jail where the inmate is confined.

(e-6) Records requested by persons committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail if those materials include records from staff members' personnel files, staff rosters, or other staffing assignment information.

(e-7) Records requested by persons committed to the

Department of Corrections or Department of Human Services Division of Mental Health if those materials are available through an administrative request to the Department of Corrections or Department of Human Services Division of Mental Health.

(e-8) Records requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, the disclosure of which would result in the risk of harm to any person or the risk of an escape from a jail or correctional institution or facility.

(e-9) Records requested by a person in a county jail or committed to the Department of Corrections or Department of Human Services Division of Mental Health, containing personal information pertaining to the person's victim or the victim's family, including, but not limited to, a victim's home address, home telephone number, work or school address, work telephone number, social security number, or any other identifying information, except as may be relevant to a requester's current or potential case or claim.

(e-10) Law enforcement records of other persons requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, including, but not limited to, arrest and booking records, mug shots, and

crime scene photographs, except as these records may be relevant to the requester's current or potential case or claim.

(f) Preliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged, or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

The information included under this exemption includes all trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private

equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings, and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in

this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) The following information pertaining to educational matters:

(i) test questions, scoring keys, and other examination data used to administer an academic examination;

(ii) information received by a primary or secondary school, college, or university under its procedures for the evaluation of faculty members by their academic peers;

(iii) information concerning a school or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and

(iv) course materials or research materials used by faculty members.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds,

including, but not limited to, power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

(l) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(m) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil, or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(n) Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.

(o) Administrative or technical information associated with automated data processing operations, including, but not limited to, software, operating protocols, computer

program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(p) Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(q) Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.

(r) The records, documents, and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents, and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents, and information relating to a real estate sale shall be exempt until a sale is consummated.

(s) Any and all proprietary information and records

related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice, or communications.

(t) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions, insurance companies, or pharmacy benefit managers, unless disclosure is otherwise required by State law.

(u) Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic signatures under the Uniform Electronic Transactions Act.

(v) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, but only to the extent that disclosure could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies,

or plans, or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, to cybersecurity vulnerabilities, or to tactical operations.

(w) (Blank).

(x) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.

(y) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

(z) Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009.

(aa) Information the disclosure of which is exempted

under the Viatical Settlements Act of 2009.

(bb) Records and information provided to a mortality review team and records maintained by a mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act.

(cc) Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act or the Cemetery Oversight Act, whichever is applicable.

(dd) Correspondence and records (i) that may not be disclosed under Section 11-9 of the Illinois Public Aid Code or (ii) that pertain to appeals under Section 11-8 of the Illinois Public Aid Code.

(ee) The names, addresses, or other personal information of persons who are minors and are also participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations.

(ff) The names, addresses, or other personal information of participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations where such programs are targeted primarily to minors.

(gg) Confidential information described in Section

1-100 of the Illinois Independent Tax Tribunal Act of 2012.

(hh) The report submitted to the State Board of Education by the School Security and Standards Task Force under item (8) of subsection (d) of Section 2-3.160 of the School Code and any information contained in that report.

(ii) Records requested by persons committed to or detained by the Department of Human Services under the Sexually Violent Persons Commitment Act or committed to the Department of Corrections under the Sexually Dangerous Persons Act if those materials: (i) are available in the library of the facility where the individual is confined; (ii) include records from staff members' personnel files, staff rosters, or other staffing assignment information; or (iii) are available through an administrative request to the Department of Human Services or the Department of Corrections.

(jj) Confidential information described in Section 5-535 of the Civil Administrative Code of Illinois.

(kk) The public body's credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and similar account information, the disclosure of which could result in identity theft or impression or defrauding of a governmental entity or a person.

(ll) Records concerning the work of the threat

assessment team of a school district, including, but not limited to, any threat assessment procedure under the School Safety Drill Act and any information contained in the procedure.

(mm) Information prohibited from being disclosed under subsections (a) and (b) of Section 15 of the Student Confidential Reporting Act.

(nn) Proprietary information submitted to the Environmental Protection Agency under the Drug Take-Back Act.

(oo) Records described in subsection (f) of Section 3-5-1 of the Unified Code of Corrections.

(pp) Any and all information regarding burials, interments, or entombments of human remains as required to be reported to the Department of Natural Resources pursuant either to the Archaeological and Paleontological Resources Protection Act or the Human Remains Protection Act.

(qq) ~~(pp)~~ Reports described in subsection (e) of Section 16-15 of the Abortion Care Clinical Training Program Act.

(rr) ~~(pp)~~ Information obtained by a certified local health department under the Access to Public Health Data Act.

(ss) ~~(pp)~~ For a request directed to a public body that is also a HIPAA-covered entity, all information that is

protected health information, including demographic information, that may be contained within or extracted from any record held by the public body in compliance with State and federal medical privacy laws and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act and its regulations, 45 CFR Parts 160 and 164. As used in this paragraph, "HIPAA-covered entity" has the meaning given to the term "covered entity" in 45 CFR 160.103 and "protected health information" has the meaning given to that term in 45 CFR 160.103.

(tt) Proposals or bids submitted by engineering consultants in response to requests for proposal or other competitive bidding requests by the Department of Transportation or the Illinois Toll Highway Authority.

(1.5) Any information exempt from disclosure under the Judicial Privacy Act shall be redacted from public records prior to disclosure under this Act.

(2) A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

(3) This Section does not authorize withholding of

information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 102-38, eff. 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752, eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23; 102-791, eff. 5-13-22; 102-982, eff. 7-1-23; 102-1055, eff. 6-10-22; 103-154, eff. 6-30-23; 103-423, eff. 1-1-24; 103-446, eff. 8-4-23; 103-462, eff. 8-4-23; 103-540, eff. 1-1-24; 103-554, eff. 1-1-24; revised 9-7-23.)

Section 10-10. The Illinois Procurement Code is amended by changing Section 50-39 as follows:

(30 ILCS 500/50-39)

Sec. 50-39. Procurement communications reporting requirement.

(a) Any written or oral communication received by a State employee who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board, and, with respect to the Illinois Power Agency,

by the initiator of the communication, and may be reported also by the recipient.

Any person communicating orally, in writing, electronically, or otherwise with the Director or any person employed by, or associated with, the Illinois Power Agency to impart, solicit, or transfer any information related to the content of any power procurement plan, the manner of conducting any power procurement process, the procurement of any power supply, or the method or structure of contracting with power suppliers must disclose to the Procurement Policy Board the full nature, content, and extent of any such communication in writing by submitting a report with the following information:

- (1) The names of any party to the communication.
- (2) The date on which the communication occurred.
- (3) The time at which the communication occurred.
- (4) The duration of the communication.
- (5) The method (written, oral, etc.) of the communication.
- (6) A summary of the substantive content of the communication.

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; (iii) statements made by a

State employee of the agency to the agency head or other employees of that agency, to the employees of the Executive Ethics Commission, or to an employee of another State agency who, through the communication, is either (a) exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate State purchasing officer, or (b) exercising oversight, supervisory, or management authority over the procurement in the normal course of business and as part of official responsibilities; (iv) ~~unsolicited~~ communications providing general information about a firm's products or services, or industry best practices provided before those products or services are not directly related to an open procurement matter ~~become involved in a procurement matter~~; (v) communications received in response to procurement solicitations, including, but not limited to, vendor responses to a request for information, request for proposal, request for qualifications, invitation for bid, or a small purchase, sole source, or emergency solicitation, or questions and answers posted to the Illinois Procurement Bulletin to supplement the procurement action, provided that the communications are made in accordance with the instructions contained in the procurement solicitation, procedures, or guidelines; (vi) communications that are privileged, protected, or confidential under law; ~~and~~ (vii) communications

that are part of a formal procurement process as set out by statute, rule, or the solicitation, guidelines, or procedures, including, but not limited to, the posting of procurement opportunities, the process for approving a procurement business case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes; and (viii) communications about proposal deficiencies as provided under Section 35 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. 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.

The reporting requirement does not apply to any communication asking for clarification regarding a contract solicitation so long as there is no competitive advantage to the person or business and the question and answer, if material, are posted to the Illinois Procurement Bulletin as an addendum to the contract solicitation.

(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. No trade secrets or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.

(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 calendar 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 Officials and Employees 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.

(g) For purposes of this Section:

"Active procurement matter" means a procurement process beginning with requisition or determination of need by an agency and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or Procurement Policy Board review period, if applicable. "Active procurement matter" also includes communications relating to change orders, renewals, or extensions.

"Material information" means information that a reasonable person would deem important in determining his or her course of action and pertains to significant issues, including, but not limited to, price, quantity, and terms of payment or performance.

"Material argument" means a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. "Material argument" does not include general information about products, services, or industry best practices or a response

to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services, or technologies.

(Source: P.A. 100-43, eff. 8-9-17.)

Section 10-15. The Architectural, Engineering, and Land Surveying Qualifications Based Selection Act is amended by changing Section 35 as follows:

(30 ILCS 535/35) (from Ch. 127, par. 4151-35)

Sec. 35. Selection procedure. On the basis of evaluations, discussions, and any presentations, the State agency shall select no less than 3 firms it determines to be qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The State agency shall then contact the firm ranked most preferred to negotiate a contract at a fair and reasonable compensation. If fewer than 3 firms submit letters of interest and the State agency determines that one or both of those firms are so qualified, the State agency may proceed to negotiate a contract under Section 40. The decision of the State agency shall be final and binding.

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.

(Source: P.A. 87-673.)

ARTICLE 15.

Section 15-5. The Governmental Joint Purchasing Act is amended by changing Section 2 as follows:

(30 ILCS 525/2) (from Ch. 85, par. 1602)

Sec. 2. Joint purchasing authority.

(a) Any governmental unit, except a governmental unit subject to the jurisdiction of a chief procurement officer established in Section 10-20 of the Illinois Procurement Code, may purchase personal property, supplies and services jointly with one or more other governmental units. All such joint purchases shall be by competitive solicitation as provided in Section 4, except as otherwise provided in this Act. The provisions of any other acts under which a governmental unit operates which refer to purchases and procedures in connection therewith shall be superseded by the provisions of this Act when the governmental units are exercising the joint powers created by this Act.

(a-5) For purchases made by a governmental unit subject to the jurisdiction of a chief procurement officer established in Section 10-20 of the Illinois Procurement Code, the applicable chief procurement officer established in Section 10-20 of the

Illinois Procurement Code may authorize the purchase of supplies and services jointly with a governmental unit of this State, governmental entity of another state, or with a consortium of governmental entities of one or more other states, except as otherwise provided in this Act. Subject to provisions of the joint purchasing solicitation, the appropriate chief procurement officer may designate the resulting contract as available to governmental units in Illinois.

(a-10) Each chief procurement officer appointed pursuant to Section 10-20 of the Illinois Procurement Code, with joint agreement of the respective agency or institution, may authorize the purchase or lease of supplies and services which have been procured through a competitive process by a federal agency; a consortium of governmental, educational, medical, research, or similar entities; or a group purchasing organization of which the chief procurement officer or State agency is a member or affiliate, including, without limitation, any purchasing entity operating under the federal General Services Administration, the Higher Education Cooperation Act, and the Midwestern Higher Education Compact Act. Each applicable chief procurement officer may authorize purchases and contracts which have been procured through other methods of procurement if each chief procurement officer determines it is in the best interests of the State, considering a recommendation by their respective agencies or

institutions. The chief procurement officer may establish detailed rules, policies, and procedures for use of these cooperative contracts. Notice of award shall be published by the chief procurement officer in the Illinois Procurement Bulletin at least prior to use of the contract. Each chief procurement officer shall submit to the General Assembly by November 1 of each year a report of procurements made under this subsection (a-10).

(a-15) Each chief procurement officer appointed pursuant to Section 10-20 of the Illinois Procurement Code may authorize any governmental unit of this 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 this State, the chief procurement officer shall consult with the governmental unit that is party to the contract and is subject to the jurisdiction of the chief procurement officer. A governmental unit of this 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 (a-15).

(b) Any not-for-profit agency that qualifies under Section 45-35 of the Illinois Procurement Code and that either (1) acts pursuant to a board established by or controlled by a unit of local government or (2) receives grant funds from the State or from a unit of local government, shall be eligible to participate in contracts established by the State.

(c) For governmental units subject to the jurisdiction of a chief procurement officer established in Section 10-20 of the Illinois Procurement Code, if any contract or amendment to a contract is entered into or purchase or expenditure of funds is made at any time in violation of this Act or any other law, the contract or amendment may be declared void by the chief procurement officer or may be ratified and affirmed, if the chief procurement officer determines that ratification is in the best interests of the governmental unit. If the contract or amendment is ratified and affirmed, it shall be without prejudice to the governmental unit's rights to any appropriate damages.

(d) This Section does not apply to construction-related professional services contracts awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(Source: P.A. 100-43, eff. 8-9-17.)

ARTICLE 20.

Section 20-5. The Illinois Procurement Code is amended by changing Section 40-15 as follows:

(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 base rent of less than \$200,000 ~~\$100,000~~ per year.

(2) (Blank).

(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 calendar 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. 98-1076, eff. 1-1-15.)

ARTICLE 25.

Section 25-10. The Illinois Procurement Code is amended by changing Section 1-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which bidders, offerors, potential contractors, or contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including, but not limited to, any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this

Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies, except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care, except as provided in Section 5-30.6 of the Illinois Public Aid Code and this Section.

(4) Hiring of an individual as an employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 10 calendar days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated

litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) (Blank).

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) (Blank).

(11) Public-private agreements entered into according to the procurement requirements of Section 20 of the Public-Private Partnerships for Transportation Act and design-build agreements entered into according to the procurement requirements of Section 25 of the Public-Private Partnerships for Transportation Act.

(12) (A) Contracts for legal, financial, and other professional and artistic services entered into by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Finance Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the

Illinois Finance Authority of the terms of the contract.

(B) Contracts for legal and financial services entered into by the Illinois Housing Development Authority in connection with the issuance of bonds in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Housing Development Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Housing Development Authority of the terms of the contract.

(13) Contracts for services, commodities, and equipment to support the delivery of timely forensic science services in consultation with and subject to the approval of the Chief Procurement Officer as provided in subsection (d) of Section 5-4-3a of the Unified Code of Corrections, except for the requirements of Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of this Code; however, the Chief Procurement Officer may, in writing with justification, waive any certification required under Article 50 of this Code. For any contracts for services which are currently provided by members of a collective bargaining agreement, the applicable terms of the collective bargaining agreement concerning subcontracting shall be followed.

On and after January 1, 2019, this paragraph (13),

except for this sentence, is inoperative.

(14) Contracts for participation expenditures required by a domestic or international trade show or exhibition of an exhibitor, member, or sponsor.

(15) Contracts with a railroad or utility that requires the State to reimburse the railroad or utilities for the relocation of utilities for construction or other public purpose. Contracts included within this paragraph (15) shall include, but not be limited to, those associated with: relocations, crossings, installations, and maintenance. For the purposes of this paragraph (15), "railroad" means any form of non-highway ground transportation that runs on rails or electromagnetic guideways and "utility" means: (1) public utilities as defined in Section 3-105 of the Public Utilities Act, (2) telecommunications carriers as defined in Section 13-202 of the Public Utilities Act, (3) electric cooperatives as defined in Section 3.4 of the Electric Supplier Act, (4) telephone or telecommunications cooperatives as defined in Section 13-212 of the Public Utilities Act, (5) rural water or waste water systems with 10,000 connections or less, (6) a holder as defined in Section 21-201 of the Public Utilities Act, and (7) municipalities owning or operating utility systems consisting of public utilities as that term is defined in Section 11-117-2 of the Illinois Municipal Code.

(16) Procurement expenditures necessary for the Department of Public Health to provide the delivery of timely newborn screening services in accordance with the Newborn Metabolic Screening Act.

(17) Procurement expenditures necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, and the Department of Public Health to implement the Compassionate Use of Medical Cannabis Program and Opioid Alternative Pilot Program requirements and ensure access to medical cannabis for patients with debilitating medical conditions in accordance with the Compassionate Use of Medical Cannabis Program Act.

(18) This Code does not apply to any procurements necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, the Department of Commerce and Economic Opportunity, and the Department of Public Health to implement the Cannabis Regulation and Tax Act if the applicable agency has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this exemption and if the process is conducted in a manner substantially in accordance with the requirements of Sections 20-160, 25-60, 30-22, 50-5, 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35, 50-36, 50-37, 50-38, and 50-50 of this Code; however, for

Section 50-35, compliance applies only to contracts or subcontracts over \$100,000. Notice of each contract entered into under this paragraph (18) that is related to the procurement of goods and services identified in paragraph (1) through (9) of this subsection shall be published in the Procurement Bulletin within 14 calendar days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice. Each agency shall provide the Chief Procurement Officer, on a monthly basis, in the form and content prescribed by the Chief Procurement Officer, a report of contracts that are related to the procurement of goods and services identified in this subsection. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to this Code utilized. A copy of any or all of these contracts shall be made available to the Chief Procurement Officer immediately upon request. The Chief Procurement Officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that includes, at a minimum, an annual summary of the monthly information reported to the Chief Procurement Officer. This exemption becomes inoperative 5 years after June 25, 2019 (the effective date of Public Act 101-27).

(19) Acquisition of modifications or adjustments,

limited to assistive technology devices and assistive technology services, adaptive equipment, repairs, and replacement parts to provide reasonable accommodations (i) that enable a qualified applicant with a disability to complete the job application process and be considered for the position such qualified applicant desires, (ii) that modify or adjust the work environment to enable a qualified current employee with a disability to perform the essential functions of the position held by that employee, (iii) to enable a qualified current employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities, and (iv) that allow a customer, client, claimant, or member of the public seeking State services full use and enjoyment of and access to its programs, services, or benefits.

For purposes of this paragraph (19):

"Assistive technology devices" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"Assistive technology services" means any service that directly assists an individual with a disability in selection, acquisition, or use of an assistive technology device.

"Qualified" has the same meaning and use as provided under the federal Americans with Disabilities Act when describing an individual with a disability.

(20) Procurement expenditures necessary for the Illinois Commerce Commission to hire third-party facilitators pursuant to Sections 16-105.17 and 16-108.18 of the Public Utilities Act or an ombudsman pursuant to Section 16-107.5 of the Public Utilities Act, a facilitator pursuant to Section 16-105.17 of the Public Utilities Act, or a grid auditor pursuant to Section 16-105.10 of the Public Utilities Act.

(21) Procurement expenditures for the purchase, renewal, and expansion of software, software licenses, or software maintenance agreements that support the efforts of the Illinois State Police to enforce, regulate, and administer the Firearm Owners Identification Card Act, the Firearm Concealed Carry Act, the Firearms Restraining Order Act, the Firearm Dealer License Certification Act, the Law Enforcement Agencies Data System (LEADS), the Uniform Crime Reporting Act, the Criminal Identification Act, the Illinois Uniform Conviction Information Act, and the Gun Trafficking Information Act, or establish or maintain record management systems necessary to conduct human trafficking investigations or gun trafficking or other stolen firearm investigations. This paragraph (21) applies to contracts entered into on or after January 10,

2023 (the effective date of Public Act 102-1116) and the renewal of contracts that are in effect on January 10, 2023 (the effective date of Public Act 102-1116).

(22) Contracts for project management services and system integration services required for the completion of the State's enterprise resource planning project. This exemption becomes inoperative 5 years after June 7, 2023 (the effective date of the changes made to this Section by Public Act 103-8). This paragraph (22) applies to contracts entered into on or after June 7, 2023 (the effective date of the changes made to this Section by Public Act 103-8) and the renewal of contracts that are in effect on June 7, 2023 (the effective date of the changes made to this Section by Public Act 103-8).

(23) Procurements necessary for the Department of Insurance to implement the Illinois Health Benefits Exchange Law if the Department of Insurance has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this exemption. The procurement process shall be conducted in a manner substantially in accordance with the requirements of Sections 20-160 and 25-60 and Article 50 of this Code. A copy of these contracts shall be made available to the Chief Procurement Officer immediately upon request. This paragraph is inoperative 5 years after June 27, 2023 (the effective date of Public Act 103-103).

(24) ~~(22)~~ Contracts for public education programming, noncommercial sustaining announcements, public service announcements, and public awareness and education messaging with the nonprofit trade associations of the providers of those services that inform the public on immediate and ongoing health and safety risks and hazards.

(25) Procurements that are necessary for increasing the recruitment and retention of State employees, particularly minority candidates for employment, including:

(A) procurements related to registration fees for job fairs and other outreach and recruitment events;

(B) production of recruitment materials; and

(C) other services related to recruitment and retention of State employees.

The exemption under this paragraph (25) applies only if the State agency has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this paragraph (25). The procurement process under this paragraph (25) shall be conducted in a manner substantially in accordance with the requirements of Sections 20-160 and 25-60 and Article 50 of this Code. A copy of these contracts shall be made available to the Chief Procurement Officer immediately upon request. Nothing in this paragraph (25) authorizes the replacement or diminishment of State responsibilities in hiring or the

positions that effectuate that hiring. This paragraph (25) is inoperative on and after June 30, 2029.

Notwithstanding any other provision of law, for contracts with an annual value of more than \$100,000 entered into on or after October 1, 2017 under an exemption provided in any paragraph of this subsection (b), except paragraph (1), (2), or (5), each State agency shall post to the appropriate procurement bulletin the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. The chief procurement officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the chief procurement officer.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act. This Code does not apply to the procurement of technical and policy experts pursuant to Section 1-129 of the Illinois Power Agency Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(e) This Code does not apply to the process used by the Capital Development Board to retain a person or entity to assist the Capital Development Board with its duties related to the determination of costs of a clean coal SNG brownfield facility, as defined by Section 1-10 of the Illinois Power Agency Act, as required in subsection (h-3) of Section 9-220 of the Public Utilities Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction.

(f) (Blank).

(g) (Blank).

(h) This Code does not apply to the process to procure or contracts entered into in accordance with Sections 11-5.2 and 11-5.3 of the Illinois Public Aid Code.

(i) Each chief procurement officer may access records necessary to review whether a contract, purchase, or other expenditure is or is not subject to the provisions of this Code, unless such records would be subject to attorney-client privilege.

(j) This Code does not apply to the process used by the Capital Development Board to retain an artist or work or works of art as required in Section 14 of the Capital Development Board Act.

(k) This Code does not apply to the process to procure

contracts, or contracts entered into, by the State Board of Elections or the State Electoral Board for hearing officers appointed pursuant to the Election Code.

(l) This Code does not apply to the processes used by the Illinois Student Assistance Commission to procure supplies and services paid for from the private funds of the Illinois Prepaid Tuition Fund. As used in this subsection (l), "private funds" means funds derived from deposits paid into the Illinois Prepaid Tuition Trust Fund and the earnings thereon.

(m) This Code shall apply regardless of the source of funds with which contracts are paid, including federal assistance moneys. Except as specifically provided in this Code, this Code shall not apply to procurement expenditures necessary for the Department of Public Health to conduct the Healthy Illinois Survey in accordance with Section 2310-431 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois.

(Source: P.A. 102-175, eff. 7-29-21; 102-483, eff. 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22; 102-1116, eff. 1-10-23; 103-8, eff. 6-7-23; 103-103, eff. 6-27-23; 103-570, eff. 1-1-24; 103-580, eff. 12-8-23; revised 1-2-24.)

ARTICLE 30.

Section 30-5. The Reimagining Hotel Florence Act is amended by changing Sections 45-5, 45-10, 45-15, 45-20, 45-25, and 45-30 as follows:

(20 ILCS 3407/45-5)

Sec. 45-5. Legislative intent. Originally built in 1881, the Hotel Florence is located within the Pullman Historic District and was placed on the National Register of Historic Places in 1969 and was designated a National Historic Landmark on December 30, 1970. To save it from demolition the Historic Pullman Foundation purchased the hotel in 1975 and maintained ownership until 1991 when the State of Illinois took title of the building. The Hotel Florence is continually closed for renovations and is a semi-closed public space.

The hotel sits within ~~next to~~ the Pullman National Historic Landmark District, which was designated as a National Monument in 2015 and recently redesignated as Illinois' ~~Illinois's~~ first National Park on December 29, 2022 and is operated by the U.S. National Park Service. This redesignation allows for the National Park Service to enter into cooperative agreements with outside parties for interpretive and educational programs at nonfederal historic properties within the boundaries of the park and to provide assistance for the preservation of nonfederal land within the boundaries of the historical park and at sites in close proximity to it, which includes ~~may include~~ the Pullman State Historic Site (Hotel

Florence, Hotel Florence Annex, Factory Grounds, Rear Erecting Shops, Front Erecting Shop North Factory Wing, Front Erecting Shop South Factory Wing Ruin, and the Historic 1911 "Advance" Railroad Passenger Car).

The General Assembly has allocated \$21,000,000 in capital infrastructure funds to aid in the restoration and capital improvements at the Pullman State Historic Site, including, but not limited to, renovation ~~redevelopment~~ of the Hotel Florence.

The General Assembly finds that allowing for the Department of Natural Resources to enter into a public-private partnership that will allow the Hotel Florence to become a fully reactivated space in a timely manner that is in the public benefit of the State and the local Pullman community.

(Source: P.A. 103-570, eff. 1-1-24.)

(20 ILCS 3407/45-10)

Sec. 45-10. Definitions. In this Act:

"Agreement" means a public-private agreement.

"Contractor" means a person that has been selected to enter or has entered into a public-private agreement with the Department on behalf of the State for the development, financing, construction, management, or operation of the Hotel Florence pursuant to this Act.

"Department" means the Department of Natural Resources.

"Hotel Florence" means real property in the City of

Chicago located within the Pullman State Historic Site ~~District~~ that is owned by the Illinois Department of Natural Resources and was acquired in 1991, at the address of 11111 S. Forrestville Avenue, Chicago, Illinois, as well as the adjacent Hotel Florence Annex building located at 537 East 111th Street, Chicago, Illinois 60628 and any associated grounds connected to the Hotel Florence or Hotel Florence Annex ~~either property~~.

"Maintain" or "maintenance" includes ordinary maintenance, repair, rehabilitation, capital maintenance, maintenance replacement, and any other categories of maintenance that may be designated by the Department.

"Offeror" means a person that responds to a request for solicitations ~~proposals~~ under this Act.

"Operate" or "operation" means to do one or more of the following: maintain, improve, equip, modify, or otherwise operate.

"Person" means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, or any other legal entity, group, or combination thereof.

"Public-private agreement" means an agreement or contract between the Department on behalf of the State and all schedules, exhibits, and attachments thereto, entered into pursuant to a competitive request for solicitations ~~proposals~~ process governed by this Act, for the development, financing,

construction, management, or operation of the Hotel Florence under this Act.

"Pullman Factory" means real property in the City of Chicago located within the Pullman State Historic Site that is owned by the Department of Natural Resources and was acquired in 1991, at the addresses 620 and 630 East 111th Street, Chicago, Illinois 60628. The Factory Grounds include the Front Erecting Shop North Factory Wing, Front Erecting Shop South Factory Wing (Ruin), Rear Erecting Shops, Proposed Train Car Display Building, Historic 1911 "Advance" Railroad Passenger Car, Rail Spur Connection, and associated grounds.

"Revenues" means all revenues, including, but not limited to, income, user fees, earnings, interest, lease payments, allocations, moneys from the federal government, the State, and units of local government, including, but not limited to, federal, State, and local appropriations, grants, loans, lines of credit, and credit guarantees; bond proceeds; equity investments; service payments; or other receipts arising out of or in connection with the financing, development, construction, management, or operation of the Hotel Florence.

"State" means the State of Illinois.

(Source: P.A. 103-570, eff. 1-1-24.)

(20 ILCS 3407/45-15)

Sec. 45-15. Authority to enter public-private agreement.

(a) Notwithstanding any provision of law to the contrary,

the Department on behalf of the State may, pursuant to a competitive solicitation ~~request for proposals~~ process governed by ~~the Illinois Procurement Code, rules adopted under that Code, and~~ this Act, enter into a public-private agreement to develop, finance, construct, lease, manage, divest ownership in, and ~~or~~ operate the Hotel Florence and the Pullman Factory on behalf of the State, pursuant to which the contractors may receive certain revenues, including management or user fees in consideration of the payment of moneys to the State for that right. At the discretion of the Department, the Factory Grounds may be included in the public-private agreement.

(b) The term of a public-private agreement shall be no less than 25 years and no more than 75 years.

(c) The term of a public-private agreement may be extended, but only if the extension is specifically authorized by the General Assembly by law.

(Source: P.A. 103-570, eff. 1-1-24.)

(20 ILCS 3407/45-20)

Sec. 45-20. Prequalification ~~Procurement,~~ ~~prequalification~~. The Department may establish a process for prequalification of offerors. The Department may enter into agreements with governmental entities and other outside entities to assist in drafting the solicitation and evaluation process as well as develop evaluation criteria for the

prequalification of offerors. If the Department does create such a process, it shall:

(1) provide a public notice of the prequalification at least 30 days prior to the date on which applications are due;

(2) set forth requirements and evaluation criteria in order to become prequalified;

(3) determine which offerors that have submitted prequalification applications, if any, meet the requirements and evaluation criteria; and

(4) allow only those offerors that have been prequalified to respond to the request for solicitations proposals.

(Source: P.A. 103-570, eff. 1-1-24.)

(20 ILCS 3407/45-25)

Sec. 45-25. Request for solicitation proposals process to enter into public-private agreement.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State shall select a contractor through a competitive solicitation request for proposals process governed by ~~the Illinois Procurement Code and rules adopted under that Code and~~ this Act. The Department may enter into agreements with governmental entities and other outside entities to assist the Department in drafting, reviewing, and scoring the proposals.

(b) The competitive solicitation ~~request for proposals~~ process shall, at a minimum, solicit statements of qualification and proposals from offerors.

(c) The competitive request for solicitation ~~proposals~~ process shall, at a minimum, take into account the following criteria:

(1) the offeror's plans for the Hotel Florence project, including, but not limited to, building use, experience, environmental concerns, and a proposed preservation and rehabilitation plan compliant with the Illinois State Agency Historic Preservation Act;

(2) the offeror's current and past business practices;

(3) the offeror's poor or inadequate past performance in developing, financing, constructing, managing, or operating historic landmark properties or other public assets;

(4) the offeror's ability to meet and past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act;

(5) the offeror's ability to comply with and past performance in complying with Section 2-105 of the Illinois Human Rights Act; ~~and~~

(6) the offeror's plans to comply with the Business Enterprise for Minorities, Women, and Persons with

Disabilities Act and Section 2-105 of the Illinois Human Rights Act; ~~and-~~

(7) the offeror's plans for the Pullman Factory.

(d) The Department shall not include terms in the request for solicitations ~~proposals~~ that provide an advantage, whether directly or indirectly, to any contractor presently providing goods, services, or equipment to the Department.

(e) The Department shall select one or more offerors as finalists.

(f) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the Hotel Florence project and shall submit the decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of the Department, the Governor shall designate the offeror for the Hotel Florence project.

(Source: P.A. 103-570, eff. 1-1-24.)

(20 ILCS 3407/45-30)

Sec. 45-30. Provisions of the public-private agreement.

~~(a)~~ The public-private agreement shall include all of the following:

(1) the term of the public-private agreement that is

consistent with Section 45-40 of this Act;

(2) the powers, duties, responsibilities, obligations, and functions of the Department and the contractor;

(3) compensation or payments to the Department, if applicable;

(4) compensation or payments to the contractor, if applicable;

(5) a provision specifying that the Department:

(A) has ready access to information regarding the contractor's powers, duties, responsibilities, obligations, and functions under the public-private agreement;

(B) has the right to demand and receive information from the contractor concerning any aspect of the contractor's powers, duties, responsibilities, obligations, and functions under the public-private agreement; and

(C) has the authority to direct or countermand decisions by the contractor at any time;

(6) a provision imposing an affirmative duty on the contractor to provide the Department with any information the contractor reasonably believes the Department would want to know or would need to know to enable the Department to exercise its powers, carry out its duties, responsibilities, and obligations, and perform its functions under this Act or the public-private agreement

or as otherwise required by law;

(6.5) a provision that this project will require using guidelines with The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings; the period of the original construction (Hotel Florence and grounds from 1880 through 1897; and Hotel Annex from 1914 through 1930) should be used to guide the project design and construction;

(7) the authority of the Department to enter into contracts with third parties pursuant to Section 45-40;

(8) the authority of the Department to request that the contractor reimburse the Department for third party consultants related to the monitoring the project;

(9) a provision governing the contractor's authority to negotiate and execute subcontracts with third parties;

(10) the authority of the contractor to impose user fees and the amounts of those fees;

(11) a provision governing the deposit and allocation of revenues including user fees;

(12) a provision governing rights to real and personal property of the State, the Department, the contractor, and other third parties;

(13) grounds for termination of the agreement by the Department or the contractor and a restatement of the

Department's rights under this Act;

(14) a requirement that the contractor enter into a project labor agreement;

(15) a provision stating that construction contractors shall comply with the requirements of Section 30-22 of the Illinois Procurement Code;

(16) rights and remedies of the Department if the contractor defaults or otherwise fails to comply with the terms of the agreement;

(17) procedures for amendment to the agreement; ~~and~~

(18) all other terms, conditions, and provisions acceptable to the Department that the Department deems necessary and proper and in the public interest; and ~~-~~

(19) a requirement that the contract complies with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

(Source: P.A. 103-570, eff. 1-1-24.)

(20 ILCS 3407/45-35 rep.)

Section 30-10. The Reimagining Hotel Florence Act is amended by repealing Section 45-35.

ARTICLE 35.

Section 35-5. The Illinois Procurement Code is amended by

changing Section 45-105 as follows:

(30 ILCS 500/45-105)

Sec. 45-105. Bid preference for Illinois businesses.

(a) (Blank).

(b) It is hereby declared to be the public policy of the State of Illinois to promote the economy of Illinois through the use of Illinois businesses for all State construction contracts.

(c) Construction agencies procuring construction and construction-related professional services shall make reasonable efforts to contract with Illinois businesses.

(d) Beginning in 2022, each construction agency shall submit a report to the Governor and the General Assembly by September 1 of each year that identifies the Illinois businesses procured by the construction agency, the primary location of the construction project, the percentage of the construction agency's utilization of Illinois businesses on the project as a whole, and the actions that the construction agency has undertaken to increase the use of Illinois businesses.

(e) In procuring construction and construction-related professional services for projects with a total value that exceeds the small purchase maximum established by Section 20-20 of this Code, construction agencies shall provide a bid preference to a responsive and responsible bidder that is an

Illinois business as defined in this Section. The construction agency shall allocate to the lowest bid by an Illinois business that is responsible and responsive a bid preference of 4% of the contract base bid. This subsection applies only to projects where a business that is not an Illinois business submits a bid.

(e-5) 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 an Illinois business and, if applicable, submit an affidavit and other supporting documents demonstrating that the bidder or contractor is eligible for a 4% bid preference under this Section.

(e-10) If a contractor who is awarded a contract through the use of a preference for Illinois businesses provided false information in order to obtain that preference, then the contractor is subject to disciplinary procedures as identified in Section 50-65 of this Act.

(f) This Section does not apply to any contract for any project for which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

(g) As used in this Section, "Illinois business" means a contractor that is, for at least one year prior, operating and

headquartered in Illinois, subject to applicable State taxes,
and providing, at the time that an invitation for a bid or
notice of contract opportunity is first advertised,
construction or construction-related professional services.
"Illinois business" includes a foreign corporation duly
authorized to transact business in this State that has a bona
fide establishment for transacting business within this 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. , and is operating
as:

~~(1) a sole proprietor whose primary residence is in
Illinois;~~

~~(2) a business incorporated or organized as a domestic
corporation under the Business Corporation Act of 1983;~~

~~(3) a business organized as a domestic partnership
under the Uniform Partnership Act of 1997;~~

~~(4) a business organized as a domestic limited
partnership under the Uniform Limited Partnership Act of
2001;~~

~~(5) a business organized under the Limited Liability
Company Act; or~~

~~(6) a business organized under the Professional
Limited Liability Company Act.~~

"Illinois business" does not include any subcontractors or

businesses headquartered outside of the State that have an affiliated entity operating in the State.

(Source: P.A. 102-721, eff. 1-1-23; 103-570, eff. 1-1-24.)

ARTICLE 45.

Section 45-5. The Illinois Procurement Code is amended by changing Section 50-10.5 as follows:

(30 ILCS 500/50-10.5)

Sec. 50-10.5. Prohibited bidders, offerors, potential contractors, and contractors.

(a) Unless otherwise provided, no business shall bid, offer, enter into a contract or subcontract under this Code, or make a submission to a vendor portal 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 and offer submitted to the State, every contract executed by the State, every vendor's submission to a vendor portal, and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, offeror, potential contractor, contractor, or subcontractor, respectively, that the bidder, offeror, potential contractor,

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. If the false certification is made by a subcontractor, then the contractor's submitted bid or offer and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was 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, offer, make a submission to a vendor portal, or enter into a contract under this Code if the person or business assisted an employee of the State of Illinois, who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract, by reviewing,

drafting, directing, or preparing any invitation for bids, a request for proposal, 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 offer or entering into a contract if the person or business: (i) initiates a communication with an employee to provide general information about products, services, or industry best practices, (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, or (iii) asks for clarification regarding a solicitation, so long as there is no competitive advantage to the person or business and the question and answer, if material, are posted to the Illinois Procurement Bulletin as an addendum to the solicitation.

Nothing in this Section prohibits a vendor developing technology, goods, or services from bidding or offering to supply that technology or those goods or services if the subject demonstrated to the State represents industry trends and innovation and is not specifically designed to meet the State's needs.

Nothing in this Section prohibits a person performing construction-related services from initiating contact with a business that performs construction for the purpose of

obtaining market costs or production time to determine the estimated costs to complete the construction project.

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, or manager of a business.

No person or business shall submit specifications to a State agency unless requested to do so by an employee of the State. No person or business who contracts with a State agency to write specifications for a particular procurement need shall submit a bid or proposal or receive a contract for that procurement need.

Nothing in this subsection (e) shall prohibit a person or business from submitting an unsolicited proposal under Section 19 of the Public-Private Partnerships for Transportation Act.

(Source: P.A. 100-43, eff. 8-9-17.)

ARTICLE 50.

Section 50-5. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Sections 2, 5, and 8 and by adding Section 3.5 as follows:

(Section scheduled to be repealed on June 30, 2029)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:

(a) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).

(b) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).

(c) Black or African American (a person having origins in any of the black racial groups of Africa).

(d) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).

(e) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).

(2) "Woman" shall mean a person who is a citizen or

lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as a person with a disability under subdivision (2.1) of this subsection (A).

(2.1) "Person with a disability" means a person with a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,

blindness,

burn injury,

cancer,

cerebral palsy,

Crohn's disease,

cystic fibrosis,

deafness,

head injury,

heart disease,

hemiplegia,

hemophilia,

respiratory or pulmonary dysfunction,

an intellectual disability,

mental illness,

multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and
epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
ulcerative colitis,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the
person's major life activities.

Another disability or combination of disabilities may
also be considered as a severe disability for the purposes
of item (a) of this subdivision (2.1) if it is determined
by an evaluation of rehabilitation potential to cause a
comparable degree of substantial functional limitation
similar to the specific list of disabilities listed in
item (a) of this subdivision (2.1).

(3) "Minority-owned business" means a business which
is at least 51% owned by one or more minority persons, or
in the case of a corporation, at least 51% of the stock in
which is owned by one or more minority persons; and the
management and daily business operations of which are
controlled by one or more of the minority individuals who

own it.

(4) "Women-owned business" means a business which is at least 51% owned by one or more women, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more women; and the management and daily business operations of which are controlled by one or more of the women who own it.

(4.1) "Business owned by a person with a disability" means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Women, and Persons with Disabilities created under Section 5 of this Act.

(4.3) "Commission" means, unless the context clearly indicates otherwise, the Commission on Equity and Inclusion created under the Commission on Equity and Inclusion Act.

(4.4) "Certified vendor" means a minority-owned business, women-owned business, or business owned by a person with a disability that is certified by the Business

Enterprise Program.

(4.5) "Subcontractor" means a person or entity that enters into a contractual agreement with a prime vendor to provide, on behalf of the prime vendor, goods, services, real property, or remuneration or other monetary consideration that is the subject of the primary State contract. "Subcontractor" includes a sublessee under a State contract.

(4.6) "Prime vendor" means any person or entity having a contract that is subject to this Act with a State agency or public institution of higher education.

(5) "State contracts" means all contracts entered into by the State, any agency or department thereof, or any public institution of higher education, including community college districts, regardless of the source of the funds with which the contracts are paid, which are not subject to federal reimbursement. "State contracts" does not include contracts awarded by a retirement system, pension fund, or investment board subject to Section 1-109.1 of the Illinois Pension Code. This definition shall control over any existing definition under this Act or applicable administrative rule.

"State construction contracts" means all State contracts entered into by a State agency or public institution of higher education for the repair, remodeling, renovation or construction of a building or

structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "Public institutions of higher education" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the public community colleges of the State, and any other public universities, colleges, and community colleges now or hereafter established or authorized by the General Assembly.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, or person with a disability for whatever purpose. A business owned and controlled by women shall be certified as a "woman-owned business". A business owned and controlled by women who are also minorities shall be certified as both a "women-owned business" and a "minority-owned business".

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple

majority or absentee ownership.

(10) "Business" means a business that has annual gross sales of less than \$150,000,000 as evidenced by the federal income tax return of the business. A certified vendor with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the vendor can demonstrate that the contract would have significant impact on businesses owned by minorities, women, or persons with disabilities as suppliers or subcontractors or in employment of minorities, women, or persons with disabilities. Firms with gross sales in excess of this cap that are granted certification by the Council shall be granted certification for the life of the contract, including available renewals.

(11) "Utilization plan" means an attachment that is made to all bids or proposals and that demonstrates the bidder's or offeror's efforts to meet the contract-specific Business Enterprise Program goal. The utilization plan shall indicate whether the prime vendor intends to meet the Business Enterprise Program goal through its own performance, if it is a certified vendor, or through the use of subcontractors that are certified vendors. The utilization plan shall demonstrate that the Vendor has either: (1) met the entire contract goal or (2) requested a full or partial waiver of the contract goal. If the prime vendor intends to use a subcontractor that is

a certified vendor to fulfill the contract goal, a participation agreement executed between the prime vendor and the certified subcontractor must be included with the utilization plan.

(12) "Business Enterprise Program" means the Business Enterprise Program of the Commission on Equity and Inclusion.

(13) "Good faith effort" means actions undertaken by a vendor to achieve a contract specific Business Enterprise Program goal that, by scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

(14) "Goal" means the participation levels of certified vendors on State contracts.

(B) When a business is owned at least 51% by any combination of minority persons, women, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business.

(Source: P.A. 102-29, eff. 6-25-21; 102-1119, eff. 1-23-23; 103-570, eff. 1-1-24.)

(30 ILCS 575/3.5 new)

Sec. 3.5. Uniform standard of contract goals.

(a) The Business Enterprise Program may establish uniform standards for calculating contract specific Business Enterprise Program goals for all State contracts and State construction contracts subject to this Act. In establishing those standards, the Business Enterprise Program may consider normal industry practice, the scope of the work to be performed under a 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 set forth in this Act.

(b) Each State agency that is subject to this 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 the State agency or public institution 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.

(c) As used in this Section, the terms "State contract" and "State construction contract" do not include grants from

State agencies to grantees for capital improvements or operational expenses.

(30 ILCS 575/5) (from Ch. 127, par. 132.605)

(Section scheduled to be repealed on June 30, 2029)

Sec. 5. Business Enterprise Council.

(1) To help implement, monitor, and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Women, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Chairperson of the Commission on Equity and Inclusion, the Secretary of Human Services and the Directors of the Department of Human Rights, the Department of Commerce and Economic Opportunity, the Department of Central Management Services, the Department of Transportation and the Capital Development Board, or their duly appointed representatives, with the Comptroller, or his or her designee, serving as an advisory member of the Council. Ten individuals representing businesses that are minority-owned, women-owned, or owned by persons with disabilities, 2 individuals representing the business community, and a representative of public institutions of higher education shall be appointed by the Governor. These members shall serve 2-year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for

which his or her predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

The Chairperson of the Commission shall serve as the Council chairperson and shall select, subject to approval of the Council, a Secretary responsible for the operation of the program who shall serve as the Division Manager of the Business Enterprise for Minorities, Women, and Persons with Disabilities Division of the Commission on Equity and Inclusion.

The Director of each State agency and the chief executive officer of each public institution of higher education shall appoint a liaison to the Council. The liaison shall be responsible for submitting to the Council any reports and documents necessary under this Act.

(2) The Council's authority and responsibility shall be to:

(a) Devise a certification procedure to assure that businesses taking advantage of this Act are legitimately classified as businesses owned by minorities, women, or persons with disabilities and a registration procedure to recognize, without additional evidence of Business Enterprise Program eligibility, the certification of businesses owned by minorities, women, or persons with

disabilities certified by the City of Chicago, Cook County, or other jurisdictional programs with requirements and procedures equaling or exceeding those in this Act.

(b) Maintain a list of all businesses legitimately classified as businesses owned by minorities, women, or persons with disabilities to provide to State agencies and public institutions of higher education.

(c) Review rules and regulations for the implementation of the program for businesses owned by minorities, women, and persons with disabilities.

(d) Review compliance plans submitted by each State agency and public institution of higher education pursuant to this Act.

(e) Make annual reports as provided in Section 8f to the Governor and the General Assembly on the status of the program.

(f) Serve as a central clearinghouse for information on State contracts, including the maintenance of a list of all pending State contracts upon which businesses owned by minorities, women, and persons with disabilities may bid. At the Council's discretion, maintenance of the list may include 24-hour electronic access to the list along with the bid and application information.

(g) Establish a toll-free telephone number to facilitate information requests concerning the certification process and pending contracts.

(h) Adopt a procedure to grant automatic certification to businesses holding a certification from at least one of the following entities: (i) the Illinois Unified Certification Program; (ii) the Women's Business Development Center in Chicago; (iii) the Chicago Minority Supplier Development Council; or (iv) any other similar entity offering such certification to businesses.

(i) Develop and maintain a repository for non-certified vendors that: (i) have applied for certification and have been denied; (ii) have started, but not completed, the certification process; (iii) have achieved certification, but did not seek renewal; or (iv) are known businesses owned by minorities, women, or persons with disabilities.

(3) No premium bond rate of a surety company for a bond required of a business owned by a minority, woman, or person with a disability bidding for a State contract shall be higher than the lowest rate charged by that surety company for a similar bond in the same classification of work that would be written for a business not owned by a minority, woman, or person with a disability.

(4) Any Council member who has direct financial or personal interest in any measure pending before the Council shall disclose this fact to the Council and refrain from participating in the determination upon such measure.

(5) The Secretary shall have the following duties and

responsibilities:

(a) To be responsible for the day-to-day operation of the Council.

(b) To serve as a coordinator for all of the State's programs for businesses owned by minorities, women, and persons with disabilities and as the information and referral center for all State initiatives for businesses owned by minorities, women, and persons with disabilities.

(c) To establish an enforcement procedure whereby the Council may recommend to the appropriate State legal officer that the State exercise its legal remedies which shall include (1) termination of the contract involved, (2) prohibition of participation by the respondent in State public contracts for a period not to exceed 3 years, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof. Such procedures shall require prior approval by Council. All funds collected as penalties under this subsection shall be used exclusively for maintenance and further development of the Business Enterprise Program and encouragement of participation in State procurement by minorities, women, and persons with disabilities.

(d) To devise appropriate policies, regulations, and procedures for including participation by businesses owned by minorities, women, and persons with disabilities as prime contractors, including, but not limited to: (i)

encouraging the inclusions of qualified businesses owned by minorities, women, and persons with disabilities on solicitation lists, (ii) investigating the potential of blanket bonding programs for small construction jobs, and (iii) investigating and making recommendations concerning the use of the sheltered market process.

(e) To devise procedures for the waiver of the participation goals in appropriate circumstances.

(f) To accept donations and, with the approval of the Council or the Chairperson of the Commission on Equity and Inclusion, grants related to the purposes of this Act; to conduct seminars related to the purpose of this Act and to charge reasonable registration fees; and to sell directories, vendor lists, and other such information to interested parties, except that forms necessary to become eligible for the program shall be provided free of charge to a business or individual applying for the Business Enterprise Program.

(Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-558, eff. 8-20-21; 102-721, eff. 1-1-23.)

(30 ILCS 575/8) (from Ch. 127, par. 132.608)

(Section scheduled to be repealed on June 30, 2029)

Sec. 8. Enforcement.

(1) The Commission on Equity and Inclusion shall make such

findings, recommendations and proposals to the Governor as are necessary and appropriate to enforce this Act. If, as a result of its monitoring activities, the Commission determines that its goals and policies are not being met by any State agency or public institution of higher education, the Commission may recommend any or all of the following actions:

(a) Establish enforcement procedures whereby the Commission may recommend to the appropriate State agency, public institutions of higher education, or law enforcement officer that legal or administrative remedies be initiated for violations of contract provisions or rules issued hereunder or by a contracting State agency or public institutions of higher education. State agencies and public institutions of higher education shall be authorized to adopt remedies for such violations which shall include (1) termination of the contract involved, (2) prohibition of participation of the respondents in public contracts for a period not to exceed one year, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof.

(b) If the Commission concludes that a compliance plan submitted under Section 6 is unlikely to produce the participation goals for businesses owned by minorities, women, and persons with disabilities within the then current fiscal year, the Commission may recommend that the State agency or public institution of higher education

revise its plan to provide additional opportunities for participation by businesses owned by minorities, women, and persons with disabilities. Such recommended revisions may include, but shall not be limited to, the following:

(i) assurances of stronger and better focused solicitation efforts to obtain more businesses owned by minorities, women, and persons with disabilities as potential sources of supply;

(ii) division of the scope of work ~~job or project requirements~~, when economically feasible, into tasks or quantities to permit participation of businesses owned by minorities, women, and persons with disabilities;

(iii) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of businesses owned by minorities, women, and persons with disabilities;

(iv) identification of specific proposed contracts as particularly attractive or appropriate for participation by businesses owned by minorities, women, and persons with disabilities, such identification to result from and be coupled with the efforts of subparagraphs (i) through (iii);

(v) implementation of those regulations established for the use of the sheltered market process.

(2) State agencies and public institutions of higher education shall monitor a vendor's compliance with its utilization plan and the terms of its contract. Without limitation, a vendor's failure to comply with its contractual commitments as contained in the utilization plan; failure to cooperate in providing information regarding its compliance with its utilization plan; or the provision of false or misleading information or statements concerning compliance, certification status, or eligibility of the Business Enterprise Program-certified vendor, good faith efforts, or any other material fact or representation shall constitute a material breach of the contract and entitle the State agency or public institution of higher education to declare a default, terminate the contract, or exercise those remedies provided for in the contract, at law, or in equity.

(3) Prior to the expiration or termination of a contract, State agencies and public institutions of higher education shall evaluate the contractor's fulfillment of the contract goals for participation by certified businesses owned by minorities, women, and persons with disabilities. The agency or public institution of higher education shall prepare a report of the vendor's compliance with the contract goals and file it with the Secretary. If the Secretary determines that the vendor did not fulfill the contract goals, the vendor shall be in breach of the contract and may be subject to remedies or sanctions, unless the vendor can show that it made

good faith efforts to meet the contract goals. Such remedies or sanctions for failing to make good faith efforts may include (i) disqualification of the contractor from doing business with the State for a period of no more than one year or (ii) cancellation, without any penalty to the State, of any contract entered into by the vendor. The Business Enterprise Program shall develop procedures for determining whether a vendor has made good faith efforts to meet the contract goals upon the expiration or termination of a contract.

(Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

ARTICLE 55.

Section 55-5. The Public Contract Fraud Act is amended by changing Section 2 as follows:

(30 ILCS 545/2) (from Ch. 127, par. 132.52)

Sec. 2. Spending money without obtaining title to land; approval of title by Attorney General.

(a) Except as otherwise provided in Section 2 of the Superconducting Super Collider Act or for projects constructed under the Bikeway Act, any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the construction or repair of any public work or improvement, as set forth in Section 1, who shall expend or cause to be expended upon such public work or improvement, the whole or

any part of the moneys appropriated therefor, or who shall commence work, or in any way authorize work to be commenced, thereon, without first having obtained a title, by purchase, donation, condemnation or otherwise, to all lands needed for such public work or improvement, running to the People of the State of Illinois; such title to be approved by the Attorney General, and his approval certified by the Secretary of State and placed on record in his office, shall be deemed guilty of a Class A misdemeanor.

(b) Approval of title by the Attorney General for all lands needed for a public work or improvement shall not be required as established under subsection (a) of this Section and the State Comptroller may draw warrant in payment of consideration for all such lands without requiring approval of title by the Attorney General if consideration to be paid does not exceed \$25,000 ~~\$10,000~~ and the title acquired for such lands is for:

(1) a fee simple title or easement acquired by the State for highway right-of-way; or

(2) an acquisition of rights or easements of access, crossing, light, air or view to, from or over a freeway vested in abutting property; or

(3) a fee simple title or easement used to place utility lines and connect a permanent public work or improvement owned by the State to main utility lines; or

(4) for the purpose of flood relief or other water

resource projects.

(c) This Section does not apply to any otherwise lawful expenditures for the construction, completion, remodeling, maintenance and equipment of buildings and other facilities made in connection with and upon premises owned by the Illinois Building Authority, nor shall this Section apply to improvements to real estate leased by any State agency as defined in the Illinois State Auditing Act, provided the leasehold improvements were contracted for by an agency with leasing authority and in compliance with the rules and regulations promulgated by such agency for that purpose.

(Source: P.A. 88-676, eff. 12-14-94; 89-78, eff. 6-30-95.)

ARTICLE 60.

Section 60-5. The Metropolitan Water Reclamation District Act is amended by changing Sections 11.3 and 11.5 as follows:

(70 ILCS 2605/11.3) (from Ch. 42, par. 331.3)

Sec. 11.3. Except as provided in Sections 11.4 and 11.5, all purchase orders or contracts involving amounts in excess of the mandatory competitive bid threshold and made by or on behalf of the sanitary district for labor, services or work, the purchase, lease or sale of personal property, materials, equipment or supplies, or the granting of any concession, shall be let by free and open competitive bidding after

advertisement, to the lowest responsible bidder or to the highest responsible bidder, as the case may be, depending upon whether the sanitary district is to expend or receive money.

All such purchase orders or contracts which shall involve amounts that will not exceed the mandatory competitive bid threshold, shall also be let in the manner prescribed above whenever practicable, except that after solicitation of bids, such purchase orders or contracts may be let in the open market, in a manner calculated to insure the best interests of the public. The provisions of this section are subject to any contrary provisions contained in "An Act concerning the use of Illinois mined coal in certain plants and institutions", filed July 13, 1937, as heretofore and hereafter amended. For purposes of this Section, the "mandatory competitive bid threshold" is a dollar amount equal to 0.1% of the total general fixed assets of the district as reported in the most recent required audit report. In no event, however, shall the mandatory competitive bid threshold dollar amount be less than \$60,000 ~~\$10,000~~ or more than ~~\$40,000~~.

If a unit of local government performs non-emergency construction, alteration, repair, improvement, or maintenance work on the public way, the sanitary district may enter into an intergovernmental agreement with the unit of local government allowing similar construction work to be performed by the sanitary district on the same project, in an amount no greater than \$100,000, to save taxpayer funds and eliminate

duplication of government effort. The sanitary district and the other unit of local government shall, before work is performed by either unit of local government on a project, adopt a resolution by a majority vote of both governing bodies certifying work will occur at a specific location, the reasons why both units of local government require work to be performed in the same location, and the projected cost savings if work is performed by both units of local government on the same project. Officials or employees of the sanitary district may, if authorized by resolution, purchase in the open market any supplies, materials, equipment, or services for use within the project in an amount no greater than \$100,000 without advertisement or without filing a requisition or estimate. A full written account of each project performed by the sanitary district and a requisition for the materials, supplies, equipment, and services used by the sanitary district required to complete the project must be submitted by the officials or employees authorized to make purchases to the board of trustees of the sanitary district no later than 30 days after purchase. The full written account must be available for public inspection for at least one year after expenditures are made.

Notwithstanding the provisions of this Section, the sanitary district is expressly authorized to establish such procedures as it deems appropriate to comply with state or federal regulations as to affirmative action and the

utilization of small and minority businesses in construction and procurement contracts.

(Source: P.A. 100-882, eff. 8-14-18.)

(70 ILCS 2605/11.5) (from Ch. 42, par. 331.5)

Sec. 11.5. In the event of an emergency affecting the public health or safety, so declared by action of the board of trustees, which declaration shall describe the nature of the injurious effect upon the public health or safety, contracts may be let to the extent necessary to resolve such emergency without public advertisement. The declaration shall fix the date upon which such emergency shall terminate. The date may be extended or abridged by the board of trustees as in its judgment the circumstances require.

The executive director appointed in accordance with Section 4 of this Act shall authorize in writing and certify to the director of procurement and materials management those officials or employees of the several departments of the sanitary district who may purchase in the open market without filing a requisition or estimate therefor, and without advertisement, any supplies, materials, equipment or services, for immediate delivery to meet bona fide operating emergencies where the amount thereof is not in excess of \$100,000 ~~\$50,000~~; provided, that the director of procurement and materials management shall be notified of such emergency. A full written account of any such emergency together with a requisition for

the materials, supplies, equipment or services required therefor shall be submitted immediately by the requisitioning agent to the executive director and such report and requisition shall be submitted to the director of procurement and materials management and shall be open to public inspection for a period of at least one year subsequent to the date of such emergency purchase. The exercise of authority in respect to purchases for such bona fide operating emergencies shall not be dependent upon a declaration of emergency by the board of trustees under the first paragraph of this Section.

(Source: P.A. 95-923, eff. 1-1-09; 96-165, eff. 8-10-09.)

ARTICLE 65.

Section 65-5. The Illinois Procurement Code is amended by changing Section 45-105 as follows:

(30 ILCS 500/45-105)

Sec. 45-105. Bid preference for Illinois businesses.

(a) (Blank).

(b) It is hereby declared to be the public policy of the State of Illinois to promote the economy of Illinois through the use of Illinois businesses for all State construction contracts.

(c) A construction agency, as defined in Section 1-15.25,
~~Construction agencies~~ procuring construction ~~and~~

~~construction-related professional~~ services shall make reasonable efforts to contract with Illinois businesses.

(d) ~~Each Beginning in 2022, each~~ construction agency shall submit a report to the Governor and the General Assembly by ~~December~~ September 1 of each year that identifies the Illinois businesses procured by the construction agency, the primary location of the construction project, the percentage of the construction agency's utilization of Illinois businesses on the project as a whole, and the actions that the construction agency has undertaken to increase the use of Illinois businesses.

(e) In procuring construction ~~and construction-related professional~~ services for projects with a total value that exceeds the small purchase maximum established by Section 20-20 of this Code, construction agencies shall provide a bid preference to a responsive and responsible bidder that is an Illinois business as defined in this Section. The construction agency shall allocate to the lowest bid by an Illinois business that is responsive and responsive a bid preference of 4% of the contract base bid. This subsection applies only to projects where a business that is not an Illinois business submits a bid.

(f) This Section does not apply to any contract for any project for which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

(g) As used in this Section, "Illinois business" means a contractor that is operating and headquartered in Illinois and providing, at the time that an invitation for a bid or notice of contract opportunity is first advertised, construction ~~or construction related professional~~ services, and is operating as:

(1) a sole proprietor whose primary residence is in Illinois;

(2) a business incorporated or organized as a domestic corporation under the Business Corporation Act of 1983;

(3) a business organized as a domestic partnership under the Uniform Partnership Act of 1997;

(4) a business organized as a domestic limited partnership under the Uniform Limited Partnership Act of 2001;

(5) a business organized under the Limited Liability Company Act; or

(6) a business organized under the Professional Limited Liability Company Act.

"Illinois business" does not include any subcontractors.

(Source: P.A. 102-721, eff. 1-1-23; 103-570, eff. 1-1-24.)

ARTICLE 70.

Section 70-5. The Governmental Joint Purchasing Act is amended by changing Section 4 as follows:

(30 ILCS 525/4) (from Ch. 85, par. 1604)

Sec. 4. Bids, offers, and small purchases. The purchases of all personal property, supplies and services under this Act, except for small purchases, shall be based on competitive solicitations unless, for purchases made pursuant to subsection (a) of Section 2 of this Act, it is the determination of the applicable chief procurement officer that it is impractical to obtain competition. Purchases pursuant to this Section shall follow the same procedures used for competitive solicitations made pursuant to the Illinois Procurement Code when the State is a party to the joint purchase. For purchases made pursuant to subsection (a) of Section 2 of this Act where the applicable chief procurement officer makes the determination that it is impractical to obtain competition, purchases shall either follow the same procedure used for sole source procurements in Section 20-25 of the Illinois Procurement Code or the same procedure used for emergency purchases in Section 20-30 of the Illinois Procurement Code. For purchases pursuant to subsection (a) of Section 2, bids and offers shall be solicited by public notice inserted at least once in a newspaper of general circulation in one of the counties where the materials are to be used and at least 5 calendar days before the final date of submitting bids or offers, except as otherwise provided in this Section. Where the State of Illinois is a party to the joint purchase

agreement, public notice soliciting the bids or offers shall be published in the appropriate volume of the Illinois Procurement Bulletin. Such notice shall include a general description of the supplies or services to be purchased and shall state where specifications may be obtained and the time and place for the opening of bids and offers. The governmental unit conducting the competitive procurement process may also solicit sealed bids or offers by sending requests by mail to potential contractors and by posting notices on a public bulletin board in its office. Small purchases pursuant to this Section shall follow the same procedure used for small purchases in Section 20-20 of the Illinois Procurement Code.

All purchases, orders or contracts shall be awarded to the lowest responsible 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, taking into consideration the qualities of the articles or services supplied, their conformity with the specifications, their suitability to the requirements of the participating governmental units and the delivery terms. 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.

Where the State of Illinois is not a party, all bids or offers may be rejected and new bids or offers solicited if one or more of the participating governmental units believes the public interest may be served thereby. Each bid or offer, with the name of the bidder or offeror, shall be entered on a record, which record with the successful bid or offer, indicated thereon shall, after the award of the purchase or order or contract, be open to public inspection. A copy of all contracts shall be filed with the purchasing office or clerk or secretary of each participating governmental unit.

(Source: P.A. 100-43, eff. 8-9-17.)

ARTICLE 75.

Section 75-5. The Commission on Equity and Inclusion Act is amended by changing Section 40-10 as follows:

(30 ILCS 574/40-10)

Sec. 40-10. Powers and duties. In addition to the other powers and duties which may be prescribed in this Act or elsewhere, the Commission shall have the following powers and duties:

- (1) The Commission shall have a role in all State and university procurement by facilitating and streamlining communications between the Business Enterprise Council for Minorities, Women, and Persons with Disabilities, the

purchasing entities, the Chief Procurement Officers, and others.

(2) The Commission may create a scoring evaluation for State agency directors, public university presidents and chancellors, and public community college presidents. The scoring shall be based on the following 3 principles: (i) increasing capacity; (ii) growing revenue; and (iii) enhancing credentials. These principles should be the foundation of the agency compliance plan required under Section 6 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(3) The Commission shall exercise the authority and duties provided to it under Section 5-7 of the Illinois Procurement Code.

(4) The Commission, working with State agencies, shall provide support for diversity in State hiring.

(5) The Commission shall supervise ~~oversee~~ the implementation and effectiveness of supplier diversity training of the State procurement workforce.

(6) Each January, and as otherwise frequently as may be deemed necessary and appropriate by the Commission, the Commission shall propose and submit to the Governor and the General Assembly legislative changes to increase inclusion and diversity in State government.

(7) The Commission shall have oversight over the following entities:

(A) the Illinois African-American Family Commission;

(B) the Illinois Latino Family Commission;

(C) the Asian American Family Commission;

(D) the Illinois Muslim American Advisory Council;

(E) the Illinois African-American Fair Contracting Commission created under Executive Order 2018-07; and

(F) the Business Enterprise Council for Minorities, Women, and Persons with Disabilities.

(8) The Commission shall adopt any rules necessary for the implementation and administration of the requirements of this Act.

(9) The Commission shall exercise the authority and duties provided to it under Section 45-57 of the Illinois Procurement Code.

(Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-671, eff. 11-30-21.)

ARTICLE 80.

Section 80-5. The Metropolitan Pier and Exposition Authority Act is amended by changing Sections 24 and 25.4 as follows:

(70 ILCS 210/24) (from Ch. 85, par. 1244)

Sec. 24. All contracts for the sale of property of the

value of more than \$10,000 or for any concession in or lease of property of the Authority for a term of more than one year shall be awarded to the highest responsible bidder, after advertising for bids, except as may be otherwise authorized by this Act. All construction contracts, ~~when the cost will exceed \$30,000,~~ and contracts for supplies, materials, equipment and services, when the cost thereof will exceed \$100,000 ~~\$10,000~~, shall be let to the lowest responsible bidder, after advertising for bids, excepting (1) when repair parts, accessories, equipment or services are required for equipment or services previously furnished or contracted for, (2) professional services contracted for in accordance with Section 25.1 of this Act, (3) when services such as water, light, heat, power, telephone (other than long-distance service) or telegraph are required, (4) when contracts for the use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications equipment, software, and services are required, and (5) when the immediate delivery of supplies, materials, equipment, or services is required and (i) the chief executive officer determines that an emergency situation exists; (ii) the contract accepted is based on the lowest responsible bid after the Authority has made a diligent effort to solicit multiple bids by telephone, facsimile, or other efficient means; and (iii) the chief executive officer submits a report at the next regular Board meeting, to be ratified by

the Board and entered into the official record, stating the chief executive officer's reason for declaring an emergency situation, the names of the other parties solicited and their bids, and a copy of the contract awarded.

All ~~construction contracts involving less than \$30,000 and all other~~ contracts involving less than \$100,000 ~~\$10,000~~ shall be let by competitive bidding whenever possible, and in any event in a manner calculated to insure the best interests of the public.

Each bidder shall disclose in his bid the name of each individual having a beneficial interest, directly or indirectly, of more than 7 1/2% in such bidding entity and, if such bidding entity is a corporation, the names of each of its officers and directors. The bidder shall notify the Board of any changes in its ownership or its officers or directors at the time such changes occur if the change occurs during the pendency of a proposal or a contract.

In determining the responsibility of any bidder, the Board may take into account past record of dealings with the bidder, experience, adequacy of equipment, ability to complete performance within the time set, and other factors besides financial responsibility, but in no case shall any such contracts be awarded to any other than the highest bidder (in case of sale or concession or lease) or the lowest bidder (in case of purchase or expenditure) unless authorized or approved by a vote of at least three-fourths of the members of the

Board, and unless such action is accompanied by a statement in writing setting forth the reasons for not awarding the contract to the highest or lowest bidder, as the case may be, which statement shall be kept on file in the principal office of the Authority and open to public inspection.

From the group of responsible bidders the lowest bidder shall be selected in the following manner: to all bids for sales the gross receipts of which are not taxable under the "Retailers' Occupation Tax Act", approved June 28, 1933, as amended, there shall be added an amount equal to the tax which would be payable under said Act, if applicable, and the lowest in amount of said adjusted bids and bids for sales the gross receipts of which are taxable under said Act shall be considered the lowest bid; provided, that, if said lowest bid relates to a sale not taxable under said Act, any contract entered into thereon shall be in the amount of the original bid not adjusted as aforesaid.

Contracts shall not be split into parts involving expenditures of less than \$100,000 ~~\$10,000 (or \$30,000 in the case of construction contracts)~~ for the purposes of avoiding the provisions of this Section, and all such split contracts shall be void. If any collusion occurs among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid a fixed amount or to refrain from bidding, or otherwise, the bids of such bidders shall be void. Each bidder shall accompany his bid with a sworn statement that he has not

been a party to any such agreement.

The Board shall have the right to reject all bids and to readvertise for bids. If after any such readvertisement no responsible and satisfactory bid, within the terms of the advertisement, shall be received, the Board may award such contract without competitive bidding, provided that it shall not be less advantageous to the Authority than any valid bid received pursuant to advertisement.

The Board shall adopt rules and regulations of general application within 90 days of the effective date of this amendatory Act of 1985 to carry into effect the provisions of this Section.

(Source: P.A. 91-422, eff. 1-1-00.)

(70 ILCS 210/25.4)

Sec. 25.4. Contracts for professional services.

(a) When the Authority proposes to enter into a contract or agreement for professional services, other than the marketing agreement required in Section 5.6, the Authority shall use a request for proposal process in accordance with the Illinois Procurement Code.

(b) Any person that submits a response to a request for proposals under this Section shall disclose in the response the name of each individual having a beneficial interest directly or indirectly of more than 7 1/2% in such person and, if such person is a corporation, the names of each of its

officers and directors. The person shall notify the Board of any changes in its ownership or its officers or directors at the time such changes occur if the change occurs during the pendency of a proposal or a contract.

(c) All contracts and agreements under this Section shall be authorized and approved by the Board and shall be set forth in a writing executed by the contractor and the Authority. No payment shall be made under this Section until a written contract or agreement shall be so authorized, approved, and executed. A copy of each contract or agreement (whether or not exempted under this Section) and the response, if any, to the request for proposals upon which the contract was awarded must be filed with the Secretary of the Authority and is required to be open for public inspection.

(d) This Section applies to (i) contracts in excess of \$25,000 for architectural, engineering, or land surveying services provided to the Authority; (ii) ~~(i)~~ contracts in excess of \$100,000 ~~\$25,000~~ for other professional services provided to the Authority, including the services of accountants, ~~architects,~~ attorneys, ~~engineers,~~ physicians, superintendents of construction, financial advisors, bond trustees, and other similar professionals possessing a high degree of skill; and (iii) ~~(ii)~~ contracts or bond purchase agreements in excess of \$10,000 with underwriters or investment bankers with respect to sale of the Authority's bonds under this Act. This Section shall not apply to

contracts for professional services to be provided by, or the agreement is with, a State agency, federal agency, or unit of local government.

(Source: P.A. 96-898, eff. 5-27-10; 96-899, eff. 5-28-10.)

ARTICLE 85.

Section 85-5. The Public-Private Partnerships for Transportation Act is amended by changing Sections 10, 15, 19, and 35 as follows:

(630 ILCS 5/10)

Sec. 10. Definitions. As used in this Act:

"Approved proposal" means the proposal that is approved by the responsible public entity pursuant to subsection (j) of Section 20 of this Act.

"Approved proposer" means the private entity whose proposal is the approved proposal.

"Authority" means the Illinois State Toll Highway Authority.

"Contractor" means a private entity that has entered into a public-private agreement with the responsible public entity to provide services to or on behalf of the responsible public entity.

"Department" means the Illinois Department of Transportation.

"Design-build agreement" means the agreement between the selected private entity and the responsible public entity under which the selected private entity agrees to furnish design, construction, and related services for a transportation facility under this Act.

"Develop" or "development" means to do one or more of the following: plan, design, develop, lease, acquire, install, construct, reconstruct, rehabilitate, extend, or expand.

"Maintain" or "maintenance" includes ordinary maintenance, repair, rehabilitation, capital maintenance, maintenance replacement, and any other categories of maintenance that may be designated by the responsible public entity.

"Operate" or "operation" means to do one or more of the following: maintain, improve, equip, modify, or otherwise operate.

"Private entity" means any combination of one or more individuals, corporations, general partnerships, limited liability companies, limited partnerships, joint ventures, business trusts, nonprofit entities, or other business entities that are parties to a proposal for a transportation project or an agreement related to a transportation project. A public agency may provide services to a contractor as a subcontractor or subconsultant without affecting the private status of the private entity and the ability to enter into a public-private agreement. A transportation agency is not a private entity.

"Proposal" means all materials and documents prepared by or on behalf of a private entity relating to the proposed development, financing, or operation of a transportation facility as a transportation project.

"Proposer" means a private entity that has submitted an unsolicited proposal for a public-private agreement to a responsible public entity under this Act or a proposal or statement of qualifications for a public-private agreement in response to a request for proposals or a request for qualifications issued by a responsible public entity under this Act.

"Public-private agreement" means the public-private agreement between the contractor and the responsible public entity relating to one or more of the development, financing, or operation of a transportation project that is entered into under this Act.

"Request for information" means all materials and documents prepared by or on behalf of the responsible public entity to solicit information from private entities with respect to transportation projects.

"Request for proposals" means all materials and documents prepared by or on behalf of the responsible public entity to solicit proposals from private entities to enter into a public-private agreement.

"Request for qualifications" means all materials and documents prepared by or on behalf of the responsible public

entity to solicit statements of qualification from private entities to enter into a public-private agreement.

"Responsible public entity" means the Department of Transportation, the Illinois State Toll Highway Authority, and the 5 most populous counties of Illinois, as of the most recent publicly available decennial census.

"Revenues" means all revenues, including any combination of: income; earnings and interest; user fees; lease payments; allocations; federal, State, and local appropriations, grants, loans, lines of credit, and credit guarantees; bond proceeds; equity investments; service payments; or other receipts; arising out of or in connection with a transportation project, including the development, financing, and operation of a transportation project. The term includes money received as grants, loans, lines of credit, credit guarantees, or otherwise in aid of a transportation project from the federal government, the State, a unit of local government, or any agency or instrumentality of the federal government, the State, or a unit of local government.

"Shortlist" means the process by which a responsible public entity will review, evaluate, and rank statements of qualifications submitted in response to a request for qualifications and then identify the proposers who are eligible to submit a detailed proposal in response to a request for proposals. The identified proposers constitute the shortlist for the transportation project to which the request

for proposals relates.

"Transportation agency" means (i) the Department or (ii) the Authority.

"Transportation facility" means any new or existing road, highway, toll highway, bridge, tunnel, intermodal facility, intercity or high-speed passenger rail, or other transportation facility or infrastructure, excluding airports, under the jurisdiction of a responsible public entity, except those facilities for the Illiana Expressway. The term "transportation facility" may refer to one or more transportation facilities that are proposed to be developed or operated as part of a single transportation project.

"Transportation project" or "project" means any or the combination of the design, development, construction, financing, or operation with respect to all or a portion of any transportation facility under the jurisdiction of the responsible public entity, except those facilities for the Illiana Expressway, undertaken pursuant to this Act.

"Unit of local government" has the meaning ascribed to that term in Article VII, Section 1 of the Constitution of the State of Illinois and also means any unit designated as a municipal corporation.

"Unsolicited proposal" means a written proposal that is submitted to a transportation agency ~~responsible public entity~~ on the initiative of the private sector entity or entities for the purpose of developing a partnership, and that is not in

response to a formal or informal request issued by a transportation agency ~~responsible public entity~~.

"User fees" or "tolls" means the rates, tolls, fees, or other charges imposed by the contractor for use of all or a portion of a transportation project under a public-private agreement.

(Source: P.A. 103-570, eff. 1-1-24.)

(630 ILCS 5/15)

Sec. 15. Formation of public-private agreements; project planning.

(a) Each responsible public entity may exercise the powers granted by this Act to do some or all to design, develop, construct, finance, and operate any part of one or more transportation projects through public-private agreements with one or more private entities, except for transportation projects for the Illiana Expressway as defined in the Public Private Agreements for the Illiana Expressway Act. The net proceeds, if any, arising out of a transportation project or public-private agreement undertaken by the Department pursuant to this Act shall be deposited into the Public-Private Partnerships for Transportation Fund. The net proceeds arising out of a transportation project or public-private agreement undertaken by the Authority pursuant to this Act shall be deposited into the Illinois State Toll Highway Authority Fund and shall be used only as authorized by Section 23 of the Toll

Highway Act.

(b) The Authority may enter into a public-private partnership to design, develop, construct, finance, and operate new toll highways authorized by the Governor and the General Assembly pursuant to Section 14.1 of the Toll Highway Act, non-highway transportation projects on the toll highway system such as commuter rail or high-speed rail lines, and intelligent transportation infrastructure that will enhance the safety, efficiency, and environmental quality of the toll highway system. The Authority may operate or provide operational services such as toll collection on highways which are developed or financed, or both, through a public-private agreement entered into by another public entity, under an agreement with the public entity or contractor responsible for the transportation project.

(c) A contractor has:

(1) all powers allowed by law generally to a private entity having the same form of organization as the contractor; and

(2) the power to develop, finance, and operate the transportation facility and to impose user fees in connection with the use of the transportation facility, subject to the terms of the public-private agreement.

No tolls or user fees may be imposed by the contractor except as set forth in a public-private agreement.

(d) Prior to commencing the procurement process under an

unsolicited proposal or the issuance of any request for qualifications or request for proposals with respect to any potential project undertaken by a responsible public entity pursuant to Section 19 or 20 of this Act, the commencement of a procurement process for that particular potential project shall be authorized by joint resolution of the General Assembly.

(e) (Blank).

(f) Any project undertaken under this Act shall be subject to all applicable planning requirements otherwise required by law, including land use planning, regional planning, transportation planning, and environmental compliance requirements.

(g) (Blank).

(h) The responsible public entity shall hold one or more public hearings before entering into negotiations with a proposer ~~following its submittals to the General Assembly under subsection (d) of this Section.~~ These public hearings shall address any potential project that the responsible public entity submitted to the General Assembly for review under subsection (d). The responsible public entity shall publish a notice of the hearing or hearings at least 7 days before a hearing takes place, and shall include the following in the notice: (i) the date, time, and place of the hearing and the address of the responsible public entity; (ii) a brief description of the potential projects that the responsible

public entity is considering undertaking; and (iii) a statement that the public may comment on the potential projects.

(i) Each year, at least 30 days prior to the beginning of the transportation agency's fiscal year, the transportation agency shall submit a description of potential projects that the transportation agency is considering undertaking under this Act to each county, municipality, and metropolitan planning organization, with respect to each project located within its boundaries.

(j) A new transportation facility developed as a project under this Act must be consistent with the regional plan then in existence of a metropolitan planning organization in whose boundaries the project is located.

(Source: P.A. 103-570, eff. 1-1-24.)

(630 ILCS 5/19)

Sec. 19. Unsolicited proposals.

(a) A transportation agency ~~responsible public entity~~ may receive unsolicited proposals for a project and may thereafter enter into a public-private agreement with a private entity, or a consortium of private entities, for the design, construction, upgrading, operating, ownership, or financing of facilities.

(b) A transportation agency ~~responsible public entity~~ may consider, evaluate, and accept an unsolicited proposal for a

public-private partnership project from a private entity if the proposal:

(1) is independently developed and drafted by the proposer without transportation agency ~~responsible public entity~~ supervision;

(2) shows that the proposed project could benefit the transportation system;

(3) includes a financing plan to allow the project to move forward pursuant to the applicable transportation agency's ~~responsible public entity's~~ budget and finance requirements; and

(4) includes sufficient detail and information for the transportation agency ~~responsible public entity~~ to evaluate the proposal in an objective and timely manner and permit a determination that the project would be worthwhile.

(c) The unsolicited proposal shall include the following:

(1) an executive summary covering the major elements of the proposal;

(2) qualifications concerning the experience, expertise, technical competence, and qualifications of the private entity and of each member of its management team and of other key employees, consultants, and subcontractors, including the name, address, and professional designation;

(3) a project description, including, when applicable:

- (A) the limits, scope, and location of the proposed project;
 - (B) right-of-way requirements;
 - (C) connections with other facilities and improvements to those facilities necessary if the project is developed;
 - (D) a conceptual project design; and
 - (E) a statement of the project's relationship to and impact upon relevant existing plans of the transportation agency ~~responsible public entity~~;
- (4) a facilities project schedule, including when applicable, estimates of:
- (A) dates of contract award;
 - (B) start of construction;
 - (C) completion of construction;
 - (D) start of operations; and
 - (E) major maintenance or reconstruction activities during the life of the proposed project agreement;
- (5) an operating plan describing the operation of the completed facility if operation of a facility is part of the proposal, describing the management structure and approach, the proposed period of operations, enforcement, emergency response, and other relevant information;
- (6) a finance plan describing the proposed financing of the project, identifying the source of funds to, where applicable, design, construct, maintain, and manage the

project during the term of the proposed contract; and

(7) the legal basis for the project and licenses and certifications; the private entity must demonstrate that it has all licenses and certificates necessary to complete the project.

(c-5) A transportation agency shall develop rules for receiving, reviewing, and implementing unsolicited proposals as outlined in this Section. A transportation agency shall submit these rules for the First Notice period within one year after the effective date of this amendatory Act of the 103rd General Assembly. A transportation agency shall not receive unsolicited proposals until rules are adopted.

(c-10) A transportation agency shall receive unsolicited proposals no more than every 2 years for a time frame of no more than 90 days.

(c-15) A nonnegotiable proposal review fee of \$25,000 shall be required for an unsolicited proposal submitted under this Act. A proposal review fee that is submitted with a proposal for a project that is not an eligible project, or that the Department is not otherwise legally authorized to accept, shall be returned to the proposer. All other proposal review fees are nonrefundable.

(d) Within 120 days after receiving an unsolicited proposal, the transportation agency ~~responsible public entity~~ shall complete a preliminary evaluation of the unsolicited proposal and shall ~~either~~:

(1) if the preliminary evaluation is unfavorable, return the proposal without further action;

(2) if the preliminary evaluation is favorable, notify the proposer that the transportation agency ~~responsible public entity~~ will further evaluate the proposal; or

(3) request amendments, clarification, or modification of the unsolicited proposal.

(e) The procurement process for unsolicited proposals shall be as follows:

(1) If the transportation agency ~~responsible public entity~~ chooses to further evaluate an unsolicited proposal with the intent to enter into a public-private agreement for the proposed project, then the transportation agency ~~responsible public entity~~ shall publish notice in its regular online publication for relevant procurements ~~the Illinois Procurement Bulletin~~ or in a newspaper of general circulation covering the location of the project at least once a week for 2 weeks stating that the transportation agency ~~responsible public entity~~ has received a proposal and will accept other proposals for the same project. The time frame within which the transportation agency ~~responsible public entity~~ may accept other proposals shall be determined by the transportation agency ~~responsible public entity~~ on a project-by-project basis based upon the complexity of the transportation project and the public benefit to be gained by allowing a longer or shorter

period of time within which other proposals may be received; however, the time frame for allowing other proposals must be at least 21 days, but no more than 120 days, after the initial date of publication.

(2) A copy of the notice must be mailed to each local government directly affected by the transportation project.

(3) The transportation agency ~~responsible public entity~~ shall provide reasonably sufficient information, including the identity of its contact person, to enable other private entities to make proposals.

(4) If, after no less than 120 days, no counterproposal is received, or if the counterproposals are evaluated and found to be equal to or inferior to the original unsolicited proposal, the transportation agency ~~responsible public entity~~ may proceed to negotiate a contract with the original proposer.

(5) If, after no less than 120 days, one or more counterproposals meeting unsolicited proposal standards are received, and if, in the opinion of the transportation agency ~~responsible public entity~~, the counterproposals are evaluated and found to be superior to the original unsolicited proposal, the transportation agency ~~responsible public entity~~ shall proceed to determine the successful participant through a final procurement phase known as "Best and Final Offer" (BAFO). The BAFO is a

process whereby a transportation agency ~~responsible public entity~~ shall invite the original private sector party and the proponent submitting the superior counterproposal to engage in a BAFO phase. The invitation to participate in the BAFO phase will provide to each participating proposer:

(A) the general concepts that were considered superior to the original proposal, while keeping proprietary information contained in the proposals confidential to the extent possible; and

(B) the preestablished evaluation criteria or the "basis of award" to be used to determine the successful proponent.

(6) Offers received in response to the BAFO invitation will be reviewed by the transportation agency ~~responsible public entity~~ and scored in accordance with a preestablished criteria, or alternatively, in accordance with the basis of award provision identified through the BAFO process. The successful proponent will be the proponent offering "best value" to the transportation agency ~~responsible public entity~~.

(7) In all cases, the basis of award will be the best value to the transportation agency ~~responsible public entity~~, as determined by the transportation agency ~~responsible public entity~~.

(f) After a comprehensive evaluation and acceptance of an

unsolicited proposal and any alternatives, the transportation agency must provide public notice of the proposal to members of impacted communities meeting the following criteria:
~~responsible public entity~~

(1) Public notice shall be meaningful, timely, and effective public notice of a proposal to members of impacted communities, accounting for linguistic needs and other relevant characteristics, and provide meaningful opportunity for public comment on a proposal.

(2) The public notice and project application shall be translated into non-English languages in impacted communities where a language other than English is widely spoken.

(3) The notice must, at a minimum, include all of the following:

(A) the name of the applicant;

(B) the location of the use;

(C) a brief description of the use and its impacts; and

(D) a link to a website where the application and more detailed information on the use and its impacts can be found.

(4) The notice shall be written at a third or fourth grade reading level to ensure ease of understanding for all members of the public.

(f-5) The transportation agency shall provide an

opportunity for public comment, which must, at a minimum, include one public meeting within an impacted community. The notice of a public meeting required under this subsection must include:

(1) the date, time, and location of the public meeting required under this Section;

(2) the date and time of all public meetings regarding the project;

(3) where to access the project description required under paragraph (3) of subsection (c), if applicable;

(4) the expected location of the project associated construction duration; and

(5) a non-English version of the notice if 10% or more of the local population speaks a primary language other than English, which shall reflect the prevalent languages of the non-English speaking residents in that area.

The public meeting is subject to the following rules:

(1) The public meeting must begin after 5:00 p.m. and be located at a venue that is in a location within an impacted equity investment community and easily accessible to residents of other impacted equity investment eligible communities.

(2) The public meeting must be at a venue that is accessible to persons with disabilities and the owner or operator of the venue must provide reasonable accommodations, as defined in the Americans with

Disabilities Act, upon request.

(3) The transportation agency must provide translation services during a public meeting if a proposed project is located in an area in which 10% or more of the local population speaks a primary language other than English, if requested by a non-English speaking member of the public.

During a public meeting, a proposer must:

(1) present the schedule and process for the project;

(2) include a question-and-answer portion of the meeting to allow the public to ask questions; and

(3) ensure that representatives that speak on behalf of the contractor are qualified and knowledgeable on the subject matter to answer questions posed by the public.

The transportation agency shall have a representative present at the public meeting who is familiar with the proposed project. The transportation agency must create a meeting summary, including issues raised by the public, and respond to all questions in writing no later than 14 days after the meeting. The transportation agency shall post the summary and responses to the transportation agency's publicly accessible website and advise the telephone, email, and text lists along with the meeting summary document. The transportation agency shall ensure that the public meeting is made available to watch and participate in a meaningful way online and recorded. The recording shall be made available on

a publicly accessible website.

After the public notice requirements are completed, the transportation agency may commence negotiations with a proposer, considering:

(1) the proposal has received a favorable comprehensive evaluation;

(2) the proposal is not duplicative of existing infrastructure project;

(3) the alternative proposal does not closely resemble a pending competitive proposal for a public-private private partnership or other procurement;

(4) the proposal demonstrates a unique method, approach, or concept;

(5) facts and circumstances that preclude or warrant additional competition;

(6) the availability of any funds, debts, or assets that the State will contribute to the project;

(7) facts and circumstances demonstrating that the project will likely have a significant adverse impact on ~~en~~ State bond ratings; and

(8) indemnifications included in the proposal.

(Source: P.A. 103-570, eff. 1-1-24; revised 1-3-24.)

(630 ILCS 5/35)

Sec. 35. Public-private agreements.

(a) A responsible public entity may enter into

public-private agreements as outlined in this Section. The transportation agency may receive unsolicited proposals to enter into public-private agreements as outlined in Section 19.

(a-5) ~~(a)~~ Unless undertaking actions otherwise permitted in an interim agreement entered into under Section 30 of this Act, before developing, financing, or operating the transportation project, the approved proposer shall enter into a public-private agreement with the responsible public entity ~~transportation agency~~. Subject to the requirements of this Act, a public-private agreement may provide that the approved proposer, acting on behalf of the responsible public entity, is partially or entirely responsible for any combination of developing, financing, or operating the transportation project under terms set forth in the public-private agreement.

(b) The public-private agreement may, as determined appropriate by the responsible public entity for the particular transportation project, provide for some or all of the following:

(1) Development, financing, and operation of the transportation project under terms set forth in the public-private agreement, in any form as deemed appropriate by the responsible public entity, including, but not limited to, a long-term concession and lease, a design-bid-build agreement, a design-build agreement, a design-build-maintain agreement, a design-build-finance

agreement, a design-build-operate-maintain agreement and a design-build-finance-operate-maintain agreement.

(2) Delivery of performance and payment bonds or other performance security determined suitable by the responsible public entity, including letters of credit, United States bonds and notes, parent guaranties, and cash collateral, in connection with the development, financing, or operation of the transportation project, in the forms and amounts set forth in the public-private agreement or otherwise determined as satisfactory by the responsible public entity to protect the responsible public entity and payment bond beneficiaries who have a direct contractual relationship with the contractor or a subcontractor of the contractor to supply labor or material. The payment or performance bond or alternative form of performance security is not required for the portion of a public-private agreement that includes only design, planning, or financing services, the performance of preliminary studies, or the acquisition of real property.

(3) Review of plans for any development or operation, or both, of the transportation project by the responsible public entity.

(4) Inspection of any construction of or improvements to the transportation project by the responsible public entity or another entity designated by the responsible public entity or under the public-private agreement to

ensure that the construction or improvements conform to the standards set forth in the public-private agreement or are otherwise acceptable to the responsible public entity.

(5) Maintenance of:

(A) one or more policies of public liability insurance (copies of which shall be filed with the responsible public entity accompanied by proofs of coverage); or

(B) self-insurance;

each in form and amount as set forth in the public-private agreement or otherwise satisfactory to the responsible public entity as reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the transportation project.

(6) Where operations are included within the contractor's obligations under the public-private agreement, monitoring of the maintenance practices of the contractor by the responsible public entity or another entity designated by the responsible public entity or under the public-private agreement and the taking of the actions the responsible public entity finds appropriate to ensure that the transportation project is properly maintained.

(7) Reimbursement to be paid to the responsible public entity as set forth in the public-private agreement for

services provided by the responsible public entity.

(8) Filing of appropriate financial statements and reports as set forth in the public-private agreement or as otherwise in a form acceptable to the responsible public entity on a periodic basis.

(9) Compensation or payments to the contractor. Compensation or payments may include any or a combination of the following:

(A) a base fee and additional fee for project savings as the design-builder of a construction project;

(B) a development fee, payable on a lump sum ~~lump-sum~~ basis, progress payment basis, time and materials basis, or another basis deemed appropriate by the responsible public entity;

(C) an operations fee, payable on a lump sum ~~lump-sum~~ basis, time and material basis, periodic basis, or another basis deemed appropriate by the responsible public entity;

(D) some or all of the revenues, if any, arising out of operation of the transportation project;

(E) a maximum rate of return on investment or return on equity or a combination of the two;

(F) in-kind services, materials, property, equipment, or other items;

(G) compensation in the event of any termination;

(H) availability payments or similar arrangements whereby payments are made to the contractor pursuant to the terms set forth in the public-private agreement or related agreements; or

(I) other compensation set forth in the public-private agreement or otherwise deemed appropriate by the responsible public entity.

(10) Compensation or payments to the responsible public entity, if any. Compensation or payments may include any or a combination of the following:

(A) a concession or lease payment or other fee, which may be payable upfront or on a periodic basis or on another basis deemed appropriate by the responsible public entity;

(B) sharing of revenues, if any, from the operation of the transportation project;

(C) sharing of project savings from the construction of the transportation project;

(D) payment for any services, materials, equipment, personnel, or other items provided by the responsible public entity to the contractor under the public-private agreement or in connection with the transportation project; or

(E) other compensation set forth in the public-private agreement or otherwise deemed appropriate by the responsible public entity.

(11) The date and terms of termination of the contractor's authority and duties under the public-private agreement and the circumstances under which the contractor's authority and duties may be terminated prior to that date.

(12) Reversion of the transportation project to the responsible public entity at the termination or expiration of the public-private agreement.

(13) Rights and remedies of the responsible public entity in the event that the contractor defaults or otherwise fails to comply with the terms of the public-private agreement.

(14) Procedures for the selection of professional design firms and subcontractors for use by the responsible public entity or eligible county as an owner's representation services, which shall ~~be include procedures~~ consistent with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act for the selection of professional design firms and may include, in the discretion of the responsible public entity, procedures consistent with the low bid procurement procedures outlined in the Illinois Procurement Code for the selection of construction companies.

(15) Other terms, conditions, and provisions that the responsible public entity believes are in the public interest.

(c) The responsible public entity may fix and revise the amounts of user fees that a contractor may charge and collect for the use of any part of a transportation project in accordance with the public-private agreement. In fixing the amounts, the responsible public entity may establish maximum amounts for the user fees and may provide that the maximums and any increases or decreases of those maximums shall be based upon the indices, methodologies, or other factors the responsible public entity considers appropriate.

(c-5) The Department may accept proposals subject to environmental review and the documentation of the environmental review. The environmental review and documentation of the environmental review shall at all times be conducted as directed by the Department, shall be subject to the oversight of the Department, and shall comply with all requirements of State and federal law, applicable federal regulations, and the National Environmental Policy Act (42 U.S.C. 4321 et seq.), if applicable, including, but not limited to, the study of alternatives to the proposed project and any proposed alignments, procedural requirements, and the completion of any and all environmental documents required to be completed by the Department and any federal agency acting as a lead agency. All environmental mitigation commitments agreed to during the environmental review phase are required to be implemented during project implementation, or, as required, to ensure compliance is maintained with all

applicable environmental laws and regulations.

(d) A public-private agreement may:

(1) authorize the imposition of tolls in any manner determined appropriate by the responsible public entity for the transportation project;

(2) authorize the contractor to adjust the user fees for the use of the transportation project, so long as the amounts charged and collected by the contractor do not exceed the maximum amounts established by the responsible public entity under the public-private agreement;

(3) provide that any adjustment by the contractor permitted under paragraph (2) of this subsection (d) may be based on the indices, methodologies, or other factors described in the public-private agreement or approved by the responsible public entity;

(4) authorize the contractor to charge and collect user fees through methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, global positioning system-based, photo-based, or video-based toll collection enforcement, provided that to the maximum extent feasible the contractor will (i) utilize open road tolling methods that allow payment of tolls at highway speeds and (ii) comply with United States Department of Transportation requirements and best practices with respect to tolling methods; and

(5) authorize the collection of user fees by a third party.

(e) In the public-private agreement, the responsible public entity may agree to make grants or loans for the development or operation, or both, of the transportation project from time to time from amounts received from the federal government or any agency or instrumentality of the federal government or from any State or local agency.

(f) Upon the termination or expiration of the public-private agreement, including a termination for default, the responsible public entity shall have the right to take over the transportation project and to succeed to all of the right, title, and interest in the transportation project. Upon termination or expiration of the public-private agreement relating to a transportation project undertaken by the Department, all real property acquired as a part of the transportation project shall be held in the name of the State of Illinois. Upon termination or expiration of the public-private agreement relating to a transportation project undertaken by the Authority, all real property acquired as a part of the transportation project shall be held in the name of the Authority.

(g) If a responsible public entity elects to take over a transportation project as provided in subsection (f) of this Section, the responsible public entity may do the following:

(1) develop, finance, or operate the project,

including through a public-private agreement entered into in accordance with this Act; or

(2) impose, collect, retain, and use user fees, if any, for the project.

(h) If a responsible public entity elects to take over a transportation project as provided in subsection (f) of this Section, the responsible public entity may use the revenues, if any, for any lawful purpose, including to:

(1) make payments to individuals or entities in connection with any financing of the transportation project, including through a public-private agreement entered into in accordance with this Act;

(2) permit a contractor to receive some or all of the revenues under a public-private agreement entered into under this Act;

(3) pay development costs of the project;

(4) pay current operation costs of the project or facilities;

(5) pay the contractor for any compensation or payment owing upon termination; and

(6) pay for the development, financing, or operation of any other project or projects the responsible public entity deems appropriate.

(i) The full faith and credit of the State or any political subdivision of the State or the responsible public entity is not pledged to secure any financing of the contractor by the

election to take over the transportation project. Assumption of development or operation, or both, of the transportation project does not obligate the State or any political subdivision of the State or the responsible public entity to pay any obligation of the contractor.

(j) The responsible public entity may enter into a public-private agreement with multiple approved proposers if the responsible public entity determines in writing that it is in the public interest to do so.

(k) A public-private agreement shall not include any provision under which the responsible public entity agrees to restrict or to provide compensation to the private entity for the construction or operation of a competing transportation facility during the term of the public-private agreement.

(l) With respect to a public-private agreement entered into by the Department, the Department shall certify in its State budget request to the Governor each year the amount required by the Department during the next State fiscal year to enable the Department to make any payment obligated to be made by the Department pursuant to that public-private agreement, and the Governor shall include that amount in the State budget submitted to the General Assembly.

(Source: P.A. 103-570, eff. 1-1-24.)

ARTICLE 99.

Public Act 103-0865

HB5511 Enrolled

LRB103 38791 MXP 68928 b

Section 99-99. Effective date. This Article and Article 1
take effect upon becoming law.