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Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2017 until January 2, 2018.

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2017

Issue#	Rules Due Date	Date of Issue
1	December 27, 2016	January 6, 2017
2	January 3, 2017	January 13, 2017
3	January 9, 2017	January 20, 2017
4	January 17, 2017	January 27, 2017
5	January 23, 2017	February 3, 2017
6	January 30, 2017	February 10, 2017
7	February 6, 2017	February 17, 2017
8	February 14, 2017	February 24, 2017
9	February 21, 2017	March 3, 2017
10	February 27, 2017	March 10, 2017
11	March 6, 2017	March 17, 2017
12	March 13, 2017	March 24, 2017
13	March 20, 2017	March 31, 2017
14	March 27, 2017	April 7, 2017
15	April 3, 2017	April 14, 2017
16	April 10, 2017	April 21, 2017
17	April 17, 2017	April 28, 2017
18	April 24, 2017	May 5, 2017
19	May 1, 2017	May 12, 2017
20	May 8, 2017	May 19, 2017
21	May 15, 2017	May 26, 2017

22	May 22, 2017	June 2, 2017
23	May 30, 2017	June 9, 2017
24	June 5, 2017	June 16, 2017
25	June 12, 2017	June 23, 2017
26	June 19, 2017	June 30, 2017
27	June 26, 2017	July 7, 2017
28	July 3, 2017	July 14, 2017
29	July 10, 2017	July 21, 2017
30	July 17, 2017	July 28, 2017
31	July 24, 2017	August 4, 2017
32	July 31, 2017	August 11, 2017
33	August 7, 2017	August 18, 2017
34	August 14, 2017	August 25, 2017
35	August 21, 2017	September 1, 2017
36	August 28, 2017	September 8, 2017
37	September 5, 2017	September 15, 2017
38	September 11, 2017	September 22, 2017
39	September 18, 2017	September 29, 2017
40	September 25, 2017	October 6, 2017
41	October 2, 2017	October 13, 2017
42	October 10, 2017	October 20, 2017
43	October 16, 2017	October 27, 2017
44	October 23, 2017	November 3, 2017
45	October 30, 2017	November 13, 2017
46	November 6, 2017	November 17, 2017
47	November 13, 2017	November 27, 2017
48	November 20, 2017	December 1, 2017
49	November 27, 2017	December 8, 2017
50	December 4, 2017	December 15, 2017
51	December 11, 2017	December 26, 2017
52	December 18, 2017	December 29, 2017

AUDITOR GENERAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Purchases and Contracts
- 2) Code Citation: 44 Ill. Adm. Code 500
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
500.40	Amendment
500.60	Amendment
500.320	Amendment
500.330	Amendment
500.350	Amendment
500.400	Amendment
500.430	Amendment
500.600	Amendment
500.910	Amendment
500.1120	Amendment
500.1130	Amendment
500.1160	Amendment
500.1190	Amendment
500.1260	Amendment
500.1270	Amendment
500.1275	Amendment
500.1285	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1-30(b) of the Illinois Procurement Code [30 ILCS 500/1-30(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12].
- 5) A Complete Description of the Subjects and Issues Involved: The Auditor General's purchasing rule was last updated effective March 1, 2015 and needs to be updated to reflect recent changes in laws, including PA 100-43 (effective August 9, 2017), PA 100-203 (effective August 18, 2017), and PA 100-391 (effective August 25, 2017). Changes include updating terminology, responsibility, emergency purchase, communications reporting, and continuing disclosure requirements and increasing the small purchase threshold.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Rebecca Patton
Office of the Auditor General
740 E. Ash St.
Springfield, IL 62703

217/782-6046
(TTY) 888/261-2887

All written comments filed within 45 days after the date of publication of this Notice will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rule was not included on either of the two most recent agendas because it was drafted in response to public acts that became law after the deadline for publication of Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING,
PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER I: AUDITOR GENERAL

PART 500
PURCHASES AND CONTRACTS

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500.30	Application
500.40	Definition of Terms Used in This Part
500.50	Property Rights
500.60	Department of Central Management Services
500.70	Capital Development Board

SUBPART B: PROCUREMENT AUTHORITY

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500.100	Conduct of Procurements
500.110	Small Business Specialist

SUBPART C: PUBLICIZING PROCUREMENT ACTIONS

Section	Title
500.200	Auditor General Volume of Illinois Procurement Bulletin
500.210	Publication of Auditor General Bulletin
500.220	Required Use of Auditor General Bulletin
500.230	Supplemental Notice
500.240	Error in Notice
500.250	Direct Solicitation
500.260	Retention of Bulletin Information

SUBPART D: SOURCE SELECTION AND CONTRACT FORMATION

Section

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- 500.300 General Provisions
- 500.310 Competitive Sealed Bidding
- 500.315 Multi-Step Sealed Bidding
- 500.320 Competitive Sealed Proposals
- 500.330 Small Purchases
- 500.340 Sole Economically Feasible Source Procurement
- 500.350 Emergency Procurements
- 500.360 Other Methods of Source Selection
- 500.370 Tie Bids and Proposals
- 500.380 Modification, Correction or Withdrawal of Offers
- 500.390 Cancellation of Solicitations; Rejection of Offers
- 500.395 Public Procurement File

SUBPART E: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

- Section
- 500.400 Suppliers
- 500.410 Vendor List/Required Use
- 500.420 Prequalification
- 500.430 Responsibility

SUBPART F: BID, PROPOSAL AND PERFORMANCE SECURITY

- Section
- 500.500 Security Requirements

SUBPART G: SPECIFICATIONS

- Section
- 500.600 Specifications

SUBPART H: CONTRACT TYPE

- Section
- 500.700 Types of Contracts

SUBPART I: DURATION OF CONTRACTS

- Section

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500.800 Duration of Contracts

SUBPART J: CONTRACT MATTERS

Section

500.900 Prevailing Wage
500.910 Filing with Comptroller
500.920 Equal Employment Opportunity; Affirmative Action

SUBPART K: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section

500.1000 Applicability
500.1010 Method of Source Selection
500.1015 Historic Area Preference
500.1020 Request for Information
500.1030 Lease Requirements
500.1040 Purchase Option
500.1050 Rent Without Occupancy
500.1060 Local Site Preferences

SUBPART L: PREFERENCES

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500.1110 Resident Vendor Preference
500.1120 Soybean Oil-based Ink [and Vegetable Oil-based Ink](#)
500.1130 Recycled Supplies
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500.1170 Gas Mileage
500.1180 Small Business
500.1190 Contracting with Businesses Owned and Controlled by Minorities,
[Women](#)~~Females~~ and Persons with Disabilities
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500.1197 Corn-based Plastics
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500.1250	Disclosure of Financial Interests and Potential Conflicts of Interest
500.1260	Reporting and Anticompetitive Practices
500.1265	Disclosure of Business in Iran
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500.1540	Records and Audits
500.1545	Taxes, Licenses, Assessments and Royalties
500.1550	No Waiver of Sovereign Immunity

AUTHORITY: Implementing and authorized by Section 1-30(b) of the Illinois Procurement Code [30 ILCS 500/1-30(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12].

SOURCE: Old Part repealed and new Part adopted at 24 Ill. Reg. 1836, effective February 7, 2000; amended at 35 Ill. Reg. 5307, effective April 1, 2011; amended at 37 Ill. Reg. 3741, effective April 1, 2013; amended at 39 Ill. Reg. 3561, effective March 1, 2015; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 500.40 Definition of Terms Used in This Part

As used throughout this Part, each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Amendment" – A written modification to a contract provision, as permitted by the original contract.

"Award" – The determination that a particular vendor has been selected from among other potential vendors to enter into negotiations for the purpose of finalizing a contract.

"Bid" – The response to an Invitation for Bids.

"Bidder" – The person or entity submitting a bid.

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"Brand Name or Equal Specification" – A specification that uses one or more manufacturer's names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet OAG requirements, and that allows the submission of equivalent products.

"Brand Name Specification" – A specification limited to one or more items by manufacturers' names or catalog numbers.

"CMS" – The Department of Central Management Services.

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist the OAG in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in this Part.

"Contract" – *All types of State agreements, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property where the State is the lessee, or capital improvements, and including renewals, master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.* [30 ILCS 500/1-15.30] The term contract as used in this Part does not include supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission and for which there is no authorized competition.

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of this Part. When appropriate, the term "vendor" shall also include subcontractors.

"Day" – Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

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"Invitation for Bids" or "IFB" – The process by which the OAG requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.

"Items" – Anything that may be procured under this Part.

"OAG" – The Office of the Auditor General.

"Offer" – A bid, proposal or response solicited by the OAG.

"Offeror" – The person or entity submitting a bid, proposal or response solicited by the OAG. A person or entity (other than an individual acting as a sole proprietor) may qualify as a bidder or offeror only if the person or entity is a legal entity authorized to do business in Illinois prior to submitting the bid, offer or proposal.

"Procurement Officer" – One or more OAG employees who serve at the direction of the Chief Procurement Officer of the OAG (CPO) and are responsible for conducting OAG procurement activity.

"Proposal" – The response to a Request for Proposals.

"Proposer" – The person or entity submitting a proposal.

"Qualified Products List" – An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the OAG has determined will meet the applicable specification requirements.

"Request for Information" or "RFI" – The process by which the OAG requests information from offerors for OAG contracts for leases of real property or capital improvements.

"Request for Proposals" or "RFP" – The process by which the OAG requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.

"Respondent" – The person or entity submitting a response to a Request for Information from the OAG.

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"Response" – A response to a Request for Information.

"Responsible Offeror" – A person or entity that is capable in all respects of performing fully the contract requirements and has the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid, proposal or offer is submitted for a State contract.

"Responsive Offeror" – A person or entity that has submitted an offer conforming in all material respects to the solicitation.

"Service" – The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance and the financing thereof.

"Solicitation" – An Invitation for Bids, Request for Proposals or Request for Information.

"Specification for a Common or General Use Item" – A specification that has been developed and approved for repeated use in procurements.

"Specifications" – *Any description, provision, or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service, or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, professional or artistic service, construction, or other item for delivery.*
[30 ILCS 500/1-15.95]

"Subcontract" – A contract with a total value of more than \$50,000 between a person or entity and another person or entity who has a State contract, pursuant to which the subcontractor provides to the contractor, or, if the subcontract price is more than \$50,000, another subcontractor some or all of the ~~supplies~~goods, services, real property, remuneration or other monetary forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency. For purposes of this Part, a "subcontract" does not include purchases of ~~goods or~~ supplies that are incidental to the performance of a contract by a person who has a contract subject to this Part.

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"Subcontractor" – A person or entity that enters into a contractual agreement with a total value of more than \$50,000 with a person or entity who has a contract with the OAG pursuant to which the person or entity provides some or all of the ~~supplies~~~~goods~~, services, real property, remuneration or other monetary forms of consideration that are the subject of the primary OAG contract, including subleases from a lessee of a State contract. For purposes of this Part, a person or entity is not a "subcontractor" if that person only provides ~~goods or~~ supplies that are incidental to the performance of a contract by a person who has a contract subject to this Part.

"Supplier" – Any person or entity providing supplies, including, but not limited to, equipment, materials, printing, and insurance, and the financing of those supplies that can be procured regularly or are available on the commercial market.

"Supplies" – All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies that can be procured regularly or are available on the commercial market.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.60 Department of Central Management Services

- a) To the extent practicable and available, the OAG may obtain the following ~~supplies~~~~goods~~ and services from or through CMS or another State agency with appropriate procurement authority without soliciting independent bids, proposals or responses:
- 1) employee benefits authorized under the State Employees Group Insurance Act or other law;
 - 2) financing of any procurement;
 - 3) paper, stationery and envelopes, and any other ~~supplies~~~~goods~~ or services available from the Paper and Printing Warehouse;
 - 4) postage stamps;
 - 5) property, casualty, liability and other insurance and bonds;

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- 6) telecommunications equipment, services and software;
 - 7) utilities;
 - 8) vehicles and vehicle services, including fleet management and repairs;
 - 9) electronic data processing services, including Central Computing Facility services;
 - 10) leases of real estate and any capital improvements to leased real estate for OAG use; and
 - 11) any other supplies and services, including those available through master, scheduled or open-ended contracts established by CMS or another State agency with appropriate procurement authority.
- b) The CPO may submit purchase requests to CMS or another State agency with appropriate procurement authority in accordance with applicable rules.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: SOURCE SELECTION AND CONTRACT FORMATION

Section 500.320 Competitive Sealed Proposals

- a) The Competitive Sealed Proposal method of source selection shall be used to procure professional and artistic services, except as otherwise provided in subsection (b) of this Section. Other supplies and services may be procured through the Competitive Sealed Proposal method of source selection, on a case-by-case basis, when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.
- 1) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].
 - 2) "Practicable" Distinguished from "Advantageous". As used in this Section, "practicable" denotes what may be accomplished or put into

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practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest.

- A) Factors to be considered in determining whether competitive sealed bidding is not practicable include:
- i) whether the contract needs to be other than a fixed-price type;
 - ii) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - iii) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - iv) whether award may need to be based upon a comparative evaluation, as stated in the RFP, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and
 - v) whether the primary consideration in determining award may not be price.
- B) Factors to be considered in determining whether competitive sealed bidding is not advantageous include:
- i) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and
 - ii) whether the factors listed in subsection (a)(2)(A) ~~of this Section~~ are desirable, in conducting a procurement, rather than necessary.

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- b) All new procurements of professional and artistic services shall be made using the procedures contained in this Section, except:
- 1) Procurements under Section 500.330 (Small Purchases);
 - 2) Procurements under Section 500.340 (Sole Source Procurement);
 - 3) Procurements under Section 500.350 (Emergency Procurements);
 - 4) Procurements of contract audit services pursuant to subsection (c) ~~of this Section~~; and
 - 5) Procurements subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].
- c) Contract Audit Rotation
- 1) Auditor Retention Policy. Initial audits by a contractor involve audit hours to identify key records and personnel, become familiar with agency operations and the electronic data processing environment, determine what internal controls and procedures are in place, and develop agency specific audit programs. Retaining a contractor for successive audits of the same agency generally allows audits to be conducted more economically, efficiently and effectively, and minimizes audit effort by both the contractor and the agency under audit. Professional auditing standards generally recognize the importance of an auditor retention policy.
 - 2) Rotation Policy. To maximize the efficiencies obtained by auditor retention, it is the OAG's general policy, subject to the OAG's sole discretion, to maintain the same contractor on an audit engagement for six successive fiscal years, subject to an examination of ~~thosesueh~~ factors, including but not limited to performance review, the satisfactory negotiation of terms (including price) and the annual availability of an appropriation.
 - 3) Emergency Purchases. The term of a contract for audit or examination services procured in compliance with the emergency purchase provisions of Section 500.350 shall not be limited to 90 calendar days but shall be valid until the completion of the audit or examination to which the

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contract relates.

d) Contents

The RFP shall be in the form specified by the Procurement Officer and shall contain at least the following information:

- 1) instructions and information to proposers concerning the proposal submission requirements, including the time and date set for receipt of proposals, and the address of the office to which proposals are to be delivered;
- 2) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description;
- 3) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - A) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - B) the abilities, qualifications, and experience of key persons who would be assigned to provide the required services;
 - C) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP;
 - D) a plan, giving as much detail as is practical, explaining how the services will be performed; and
- 4) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package).

e) Prequalification

The Procurement Officer shall maintain a list of prequalified professional and artistic vendors in accordance with Section 500.420 ~~of this Part~~. Persons may

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amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.

- f) Public Notice
 - 1) Proposals shall be obtained by issuing an RFP. Notice of Intent to Issue an RFP may be made by the Procurement Officer.
 - 2) Availability of the RFP shall be published in the Auditor General Bulletin at least 14 calendar days before proposals are due.
 - 3) The RFP shall also be distributed to prequalified persons expressing interest in performing the services required by the proposed contract.
- g) Pre-Proposal Conference

A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 500.310(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.
- h) Receipt and Registration of Proposals

Proposals shall not be opened publicly but shall be opened in the presence of at least one witness. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a Register of Proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service offered. All proposals, except as otherwise provided in subsection (i) ~~of this Section~~, and the Register of Proposals, shall be available for public inspection after award.
- i) Confidential Data

The Procurement Officer shall examine the proposals to determine the validity of any written requests from the vendor for nondisclosure of trade secrets or other proprietary data. If the parties do not agree as to the disclosure of data or other information, the proposal shall be rejected as non-responsive.
- j) Evaluation of Proposals

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The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: the first, covering items except price, and the second, covering price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals. Factors not specified in the RFP shall not be considered. Numerical rating systems may be used but are not required.

- k) Discussions
 - 1) Discussions Permissible.
 - A) The Procurement Officer may conduct discussions with any offeror to:
 - i) promote understanding of the OAG's requirements and the offerors' proposals;
 - ii) determine in greater detail such offeror's qualifications;
 - iii) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach; and
 - iv) facilitate arriving at a contract that will be most advantageous to the OAG, taking into consideration price and the other evaluation factors set forth in the RFP.
 - B) The Procurement Officer may allow changes to the proposal based on those discussions.
 - 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and information contained in any proposals shall not be disclosed until after award of the proposed contract has been made.
 - 3) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date

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and time. The Procurement Officer may conduct additional discussions or change the OAG's requirements and require another submission of best and final offers. The scope of the best and final and the number of offerors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

- 4) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the RFP being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.
- l) Award
An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the OAG, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made. If the price of the most qualified vendor is not the lowest price, and if the price exceeds ~~\$100,000~~~~\$30,000~~, the Procurement Officer must state in writing why a vendor other than the low priced vendor was selected and that determination must be published in the Auditor General Bulletin.
- m) Publicizing Awards
Notice of award shall be issued by either paper or electronic means to all offerors submitting responses to the solicitation and published in the Auditor General Bulletin prior to contract execution.
- n) Pre-solicitation Request for Information
When the Procurement Officer does not have sufficient information about available supplies or services to issue an RFP, the Procurement Officer may issue a Pre-solicitation request for information inviting vendors to submit non-price information about the availability of specified types of supplies or services. Public notice of the Pre-solicitation request for information shall be published in the Auditor General Bulletin at least 14 calendar days before the date set for the receipt of information. The submission of information by a vendor in response to a Pre-solicitation request for information is not a prerequisite for that vendor to

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respond to a subsequent IFB or RFP for the types of supplies or services for which information was solicited, and the issuance of a Pre-solicitation request for information does not commit the OAG to make any procurement of supplies or services of any kind. Confidential information will not be accepted from a vendor in response to a Pre-solicitation request for information.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.330 Small Purchases

- a) Application
 - 1) ~~Any individual procurement not exceeding \$100,000~~~~Procurements of \$33,500 or less~~ for supplies or services, ~~not exceeding \$100,000~~~~other than professional and artistic, of less than \$30,000~~ for professional and artistic services, and ~~not exceeding \$100,000~~~~of \$50,000 or less~~ for construction, may be made without advance notice, competition or use of any prescribed method of source selection.
 - 2) Any change identified by the United States Department of Labor in the Consumer Price Index, as certified by CMS or another State agency with appropriate authority, for All Urban consumers for the period ending December 31, 1998, and for each year thereafter, shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter. Changes to the small purchase maximums can be found on the Illinois Procurement Policy Board website (ppb.illinois.gov) and updated annually.
- b) In determining whether a contract is under the limit, the stated value of the supplies or services, plus any optional supplies and services, determined in good faith, shall be utilized. Where the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.
- c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a)).
- d) If, after signing the contract, the actual cost of completing the contract is

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determined to exceed the small purchase amount, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

- e) Notice of award shall be published in the Auditor General Bulletin no later than 14 calendar days after the contract is awarded.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.350 Emergency Procurements

- a) **Application**
The provisions of this Section apply to every procurement over the small purchase limit set in Section 500.330 (Small Purchases) of this Part and that is not a sole source procurement under Section 500.340 ~~of this Part~~ made under emergency, including quick purchase, conditions.
- b) **Definition of Emergency Conditions**
Procurements may be made under this Section 500.350 in the following circumstances:
 - 1) Traditional circumstances include but are not limited to:
 - A) public health or safety, including the health or safety of any particular person, is threatened;
 - B) immediate repairs are needed to OAG property to protect against further loss or damage to OAG property, or to prevent loss or damage to OAG property;
 - C) immediate action is needed to prevent or minimize serious disruption in critical OAG services that affect health, safety or collection of substantial State revenues;
 - D) action is needed to ensure the integrity of State records;

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- E) equipment or services are necessary in the furtherance of covert activities (including the conduct of audits and investigations) lawfully conducted by the OAG. Any required disclosures may be postponed or shall be made so as not to jeopardize those covert activities;
 - F) immediate action is necessary to avoid lapsing or loss of federal or donated funds; or
 - G) the need for items to protect or further State interests is immediate and use of other competitive source selection procedures under this Part cannot be accomplished without significant risk of causing serious disadvantage to the State.
- 2) After Unsuccessful Competitive Sealed Bidding or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or non-competitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding or competitive sealed proposals, an emergency procurement may be made.
- 3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection ~~when~~where terminating or allowing the contract to terminate would not be advantageous to the OAG.
- 4) Quick Purchase
- A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the OAG than instituting a competitive procurement under the provisions of this Part for the supplies or services;
 - B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

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- C) availability of rare items, such as books of historical value;
 - D) the procurement is for entertainment.
- c) **Scope and Duration of Emergency Conditions**
Emergency procurements shall be limited to those supplies, services or construction items necessary to meet the emergency. Except as otherwise provided in Section 500.320(c)(3), the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 calendar days. A contract may be extended beyond 90 calendar days if the Procurement Officer determines additional time is necessary and the contract scope and duration are limited to the emergency. Prior to execution of the extension, the Procurement Officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.
- d) **Source Selection Methods**
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.
- e) **Determination and Record of Emergency Procurement**
- 1) **Determination.** The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. ~~These~~~~Such~~ determinations shall be kept in the contract file.
 - 2) **Record.** ~~A statement~~~~An affidavit~~ of each emergency procurement shall be filed with the Auditor General within 10 calendar days after the procurement and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;

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- C) a description of what the vendor will do or provide; and
 - D) the reasons for using the emergency method of source selection.
- 3) Notice of the Emergency Procurement. Notice of the emergency procurement shall be published in the Auditor General Bulletin no later than 5 calendar days after the contract is awarded and shall include a description of the procurement, the reasons for the emergency procurement and the total cost. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.
- 4) Notice of Extension. Notice of intent to extend an emergency contract shall be published in the Auditor General Bulletin no later than 14 calendar days prior to a public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor and, if applicable, the date, time and location of the public hearing. Any hearing shall be conducted in accordance with the procedures set forth in Section 500.1340.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 500.400 Suppliers

The OAG may contract with any qualified source of supply, including the following special sources, from which procurements may be made without notice and competition:

- a) Correctional Industries;
- b) State and Federal Surplus Warehouses under the jurisdiction of CMS. The State Property Control Act [30 ILCS 605/7a] requires that surplus furniture be considered before any purchase of new furniture valued at \$500 or more per piece;

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- c) Qualified workshops for ~~persons with significant disabilities~~ the disabled;
- d) State agencies and other governmental units.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.430 Responsibility

- a) Application
Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the OAG's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.
- b) Standards of Responsibility
 - 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met may include, but are not limited to, whether a prospective vendor:
 - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level below which the vendor will be deemed "not responsible");
 - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
 - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
 - D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil

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actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;

- E) is a legal entity ~~authorized to transact or conduct affairs in Illinois~~ prior to submitting the bid, offer or proposal and is authorized to transact business or conduct affairs in Illinois prior to execution of the contract~~qualified legally to contract with the State~~;
 - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
 - G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination;
 - H) pays prevailing wages, if required by law; and
 - D) is current in payment of all State of Illinois taxes, including the unemployment insurance tax.
- 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of ~~the~~ vendor. The OAG may supplement this information from other sources and may require additional documentation at any time. If ~~the~~ vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.
- c) **Written Determination of Nonresponsibility Required**
If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Procurement Officer. The final determination shall be made part of the procurement file.
 - d) **Bond for Responsibility**

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Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of ~~these~~ vendors.

- e) **Affiliated Companies**
Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART G: SPECIFICATIONS

Section 500.600 Specifications

- a) **Responsibilities Regarding Specifications**
The Procurement Officer is authorized to write specifications for procurements for the OAG.
- b) **Procedures for the Development of Specifications**
- 1) All procurements shall be based on specifications that accurately reflect the OAG's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
 - 2) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate OAG needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 3) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 4) A specification may provide alternate descriptions where two or more

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design, functional, or performance criteria will satisfactorily meet the OAG's requirements.

- 5) *A solicitation or specification for a contract, or a contract, may not require, stipulate, suggest or encourage a monetary or other financial contribution or donation, cash bonus or incentive, or economic investment as an explicit or implied term or condition of awarding or completing the contract. [30 ILCS 500/20-50]*

c) Brand Name or Equal Specification

- 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
- A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the OAG's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the OAG's best interest.
- 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal," and shall further state that substantially equivalent products to those designated will be considered for award.
- 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
- 4) ~~When~~Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand

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name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the vendor.

d) Brand Name Only Specification

- 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the OAG's needs.
- 2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the Procurement Officer. The OAG may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
- 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit ~~thosesuch~~ sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 500.340 (Sole Economically Feasible Source Procurement) ~~of this Part~~.
- 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (Section 500.330 ~~of this Part~~) and emergency (Section 500.350 of this Part) provisions ~~of this Part~~.

e) Qualified Products List

- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy OAG

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requirements.

- 2) **Solicitation.** When developing a qualified products list, a notice shall be posted to the Auditor General Bulletin soliciting potential suppliers to submit products for testing and examination to determine acceptability for inclusion in a qualified products list.
 - 3) **Testing and Confidential Data.** Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.
- f) **Proven Products**
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year prior to the notice date of a solicitation. Specifications may require that the supply or services must have been used in governmental or commercial venues for a specified period of time to be considered.
- g) **Product Demonstration**
Any vendor may request time and space to demonstrate a product or service. Agreement to allow ~~thesesuch~~ demonstration will be solely at the OAG's discretion and will not entitle the vendor to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.
- h) **Prohibition on Incentives**
A solicitation or specification for a contract, or a contract, may not require, stipulate, suggest or encourage a monetary or other financial contribution or donation, cash bonus or incentive, or economic investment as an explicit or implied term or condition for awarding or completing the contract.
- i) **Prohibited Bidders and Contractors**
 - 1) *No person or business shall bid, offer, or enter into a contract with the OAG if the person or business assisted an employee of the OAG, who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award an OAG contract, by reviewing,*

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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.

- 2) *This subsection (i) does not prohibit a person or business from submitting a bid or offer or entering into a contract if the person or business:*
- A) *initiates a communication with an employee to provide general information about ~~industry trends and innovations~~, products, services, or industry best practices ~~and, if applicable, that communication is documented~~;*
 - B) *responds to a communication initiated by an employee of the OAG for the purposes of providing information to evaluate new products, trends, services or technologies;*
 - C) *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 Auditor General Bulletin as an addendum to the solicitation [30 ILCS 500/50-10.5(e)];*
 - DE) *receives or possesses written material obtained from a State employee from public sources, such as through an internet search, or literature packets obtained in conjunction with an event such as a trade show; or*
 - ED) *provides, at the request of the OAG, general marketing material or makes a general sales presentation to show the person's qualifications or product capabilities. Material may be personalized for the OAG provided any personalization is obtained from publicly available sources.*
- 3) *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.*

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- 4) *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.*
- 5) *For purposes of this subsection (i), "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. [30 ILCS 500/50-10.5(e)]*

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART J: CONTRACT MATTERS

Section 500.910 Filing with Comptroller

- a) **Filing with Comptroller**
Whenever a contract liability, except for contracts paid from personal services or contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code [\[40 ILCS 5\]](#), exceeding \$20,000 is incurred by the OAG, a copy of the contract, purchase order, or lease shall be filed with the Comptroller within 30 calendar days thereafter.
- b) **Late Filing Affidavit**
When a contract, purchase order, or lease required to be filed by this Section has not been filed within 30 calendar days after execution, the OAG must file with the Comptroller an affidavit, signed by the Auditor General or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 calendar days after execution. A copy of this affidavit shall be filed with the Auditor General.
- c) **Timely Execution of Contracts**
No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract unless the contract is reduced to writing before the services are performed and filed, if so required under subsection (a), with the Comptroller. [Contractors](#)~~Vendors~~ shall not be paid for

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any ~~supplies~~~~goods~~ that were received or services that were rendered before the contract was reduced to writing and signed by all necessary parties. A Procurement Officer may request an exception to this requirement by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of this requirement must be approved by the Comptroller and Treasurer. The requirements of this subsection shall not apply to emergency purchases if notice of the emergency purchase is published in the Auditor General Bulletin as required by Section 500.350.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART L: PREFERENCES

Section 500.1120 Soybean Oil-based Ink and Vegetable Oil-based Ink

Contracts requiring the procurement of offset printing services shall specify the use of soybean oil-based ink or vegetable oil-based ink unless the Procurement Officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product. This Section does not apply to digital printing services.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.1130 Recycled Supplies

When a public contract is to be awarded to the lowest responsible bidder or offeror, an otherwise qualified bidder or offeror who will fulfill the contract through the use of products made of recycled supplies ~~shall~~may be given preference over other bidders or offerors unable to do so, provided that the cost included in the bid of supplies is equal to or less than other bids or offers, unless the use of the product constitutes an undue practical hardship~~made of recycled materials does not constitute an undue economic or practical hardship~~. [30 ILCS 500/45-20]

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.1160 Qualified Not-for-Profit Agencies for Persons with Significant~~Severe~~ Disabilities

- a) Use
The Procurement Officer may determine to contract with a qualified not-for-profit

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agency for persons with ~~significant~~severe disabilities on the list maintained by the State Use Committee and may do so without notice or competition.

- b) Pricing Approval
While notice and competition is not required prior to contracting with a-qualified not-for-profit agencies for persons with ~~significant~~severe disabilities, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from qualified not-for-profit agencies for persons with ~~significant~~severe disabilities, and other such relevant factors.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.1190 Contracting with Businesses Owned and Controlled by Minorities, ~~Women,Females~~ and Persons with Disabilities

- a) Upon direction of the CPO, the OAG may establish goals and other such preferences for contracting or subcontracting with businesses owned and controlled by minorities, ~~women,females~~ and persons with disabilities.
- b) For purposes of this Section, the individuals claiming ownership and control must own at least 51% of the business.
- c) The CPO may refer to the list of businesses that have been certified by CMS or other appropriate agency under the Business Enterprise Act for Minorities, ~~Women,Females~~ and Persons with Disabilities [30 ILCS 575].

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART M: ETHICS

Section 500.1260 Reporting and Anticompetitive Practices

When, for any reason, any vendor, bidder, offeror, potential contractor, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, potential contractors, contractors, or employees of the State, a notice of the relevant facts shall be transmitted to the appropriate Inspector General, the Attorney General, and the chief

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procurement officer. [30 ILCS 500/50-40]

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.1270 Confidentiality

Any chief procurement officer, State purchasing officer, designee, ~~or~~ executive officer, or State employee who willfully uses or allows the use of specifications, competitive solicitation documents, proprietary competitive information, contracts, or selection information to compromise the fairness or integrity of the procurement or contract process shall be subject to immediate dismissal [30 ILCS 500/50-45], regardless of personnel rules, any contract, law or other agreement, and may, in addition, be subject to criminal prosecution.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.1275 Procurement Communications Reporting Requirement

a) *Reporting Requirement*

- 1) *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 CPO. These communications do not include the following:*
 - A) *statements by a person publicly made in a public forum;*
 - B) *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;*
 - C) *statements made by an OAG employee to the Auditor General or other employees of the OAG, or to an employee of another State agency who, through the communication, is either:*

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- i) *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 OAG; or*
 - ii) *exercising oversight, supervisory, or management authority over the procurement in the normal course of business and as part of official responsibilities;*
- D) *unsolicited communications providing general information about products, services, or industry best practices before those products or services become involved in a procurement matter;*
- E) *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 Auditor General 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;*
- F) *communications that are privileged, protected, or confidential under law; and*
- G) *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 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.*
- 2) *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 Auditor General Bulletin as an addendum to the solicitation.*

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- ~~32~~) *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. [30 ILCS 500/50-39(a)]*
- b) *The report required by subsection (a) shall be submitted monthly and include at least the following:*
- 1) *the date and time of each communication;*
 - 2) *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;*
 - 3) *the identity and job title of the person to whom each communication was made;*
 - 4) *if a response is made, the identity and job title of the person making each response;*
 - 5) *a detailed summary of the points made by each person involved in the communication;*
 - 6) *the duration of the communication;*
 - 7) *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*
 - 8) *any other pertinent information. [30 ILCS 500/50-39(b)]*
- 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). [30 ILCS 500/50-39(c)]*

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- d) The CPO shall make each report submitted pursuant to this Section available on the Auditor General Bulletin within 7 calendar days after receipt of the report. *No trade secrets or other proprietary or confidential information shall be included in any communication reported to the CPO.* [30 ILCS 500/50-39(b)]
- e) The reporting requirements shall also be conveyed through ethics training under the State Officials and Employees Ethics Act [5 ILCS 430]. An employee who knowingly and intentionally violates this Section shall be subject to suspension or discharge.
- f) *For purposes of this Section:*
- 1) *"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 review period, if applicable. "Active procurement matter" also includes communications relating to change orders, renewals, or extensions.*
 - 2) *"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.*
 - 3) *"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.* [30 ILCS 500/50-39(g)]

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 500.1285 Continuing Disclosure; False Certification

Every person that has entered into a ~~multi-year~~ contract for more than one year in duration for the initial term or for any renewal term and every subcontractor with a ~~multi-year~~ subcontract

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shall certify, by ~~January~~July 1 of each fiscal year covered by the contract after the initial fiscal year, to the ~~responsible~~ chief procurement officer of any changes that affect its ability~~whether it continues~~ to satisfy the requirements of Article 50 of the Code pertaining to eligibility for a contract award. If a contractor or subcontractor continues to meet all requirements of Article 50 of the Code, it shall not be required to submit any certification or if the work under the contract has been substantially completed before contract expiration but the contract has not yet expired. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under Article 50 of the Code is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act [740 ILCS 175] for submission of a false claim. [30 ILCS 500/50-2]

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Number: 112.10 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and PA 099-0870.
- 5) A Complete Description of the Subjects and Issues involved: Pursuant to the provisions of PA 99-870, this rulemaking expands categorical eligibility for Temporary Assistance for Needy Families (TANF) to non-citizens who are a foreign-born victim of trafficking, torture or other serious crimes, and his or her derivate family members.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this amendment within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor

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Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas because it was not anticipated by the Department when those agendas were published.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section

112.1	Description of the Assistance Program and Time Limit
112.2	Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3	Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5	Incorporation by Reference
112.6	The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.55	Electronic Benefits Transfer (EBT) Restrictions
112.60	Basis of Eligibility
112.61	Death of a Parent (Repealed)
112.62	Incapacity of a Parent (Repealed)
112.63	Continued Absence of a Parent (Repealed)
112.64	Unemployment of the Parent (Repealed)
112.65	Responsibility and Services Plan
112.66	Alcohol and Substance Abuse Treatment
112.67	Restriction in Payment to Households Headed by a Minor Parent
112.68	School Attendance Initiative

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112.69 Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section

- 112.70 Employment and Work Activity Requirements
- 112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
- 112.72 Participation/Cooperation Requirements
- 112.73 Adolescent Parent Program (Repealed)
- 112.74 Responsibility and Services Plan
- 112.75 Teen Parent Personal Responsibility Plan (Repealed)
- 112.76 TANF Orientation
- 112.77 Reconciliation and Fair Hearings
- 112.78 TANF Employment and Work Activities
- 112.79 Sanctions
- 112.80 Good Cause for Failure to Comply with TANF Participation Requirements
- 112.81 Responsible Relative Eligibility for JOBS (Repealed)
- 112.82 Supportive Services
- 112.83 Teen Parent Services
- 112.84 Employment Retention and Advancement Project
- 112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section

- 112.86 Project Advance (Repealed)
- 112.87 Project Advance Experimental and Control Groups (Repealed)
- 112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
- 112.90 Project Advance Sanctions (Repealed)
- 112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
- 112.93 Individuals Exempt From Project Advance (Repealed)
- 112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section

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112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section

112.100	Unearned Income
112.101	Unearned Income of Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.115	Education Benefits
112.120	Incentive Allowances
112.125	Unearned Income In-Kind
112.126	Earmarked Income
112.127	Lump-Sum Payments
112.128	Protected Income (Repealed)
112.130	Earned Income
112.131	Earned Income Tax Credit
112.132	Budgeting Earned Income
112.133	Budgeting Earned Income of Employed Applicants
112.134	Initial Employment
112.135	Budgeting Earned Income For Contractual Employees
112.136	Budgeting Earned Income For Non-contractual School Employees
112.137	Termination of Employment
112.138	Transitional Payments (Repealed)
112.140	Exempt Earned Income
112.141	Earned Income Exemption
112.142	Exclusion from Earned Income Exemption
112.143	Recognized Employment Expenses
112.144	Income from Work-Study and Training Programs
112.145	Earned Income From Self-Employment
112.146	Earned Income From Roomer and Boarder
112.147	Income From Rental Property
112.148	Payments from the Illinois Department of Children and Family Services
112.149	Earned Income In-Kind
112.150	Assets
112.151	Exempt Assets (Repealed)

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- 112.152 Asset Disregards (Repealed)
- 112.153 Deferral of Consideration of Assets (Repealed)
- 112.154 Property Transfers (Repealed)
- 112.155 Income Limit
- 112.156 Assets for Independence Program

SUBPART H: PAYMENT AMOUNTS

- Section
- 112.250 Grant Levels
- 112.251 Payment Levels
- 112.252 Payment Levels in Group I Counties
- 112.253 Payment Levels in Group II Counties
- 112.254 Payment Levels in Group III Counties
- 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

- Section
- 112.300 Persons Who May Be Included in the Assistance Unit
- 112.301 Presumptive Eligibility
- 112.302 Reporting Requirements for Clients with Earnings
- 112.303 Budgeting
- 112.304 Budgeting Schedule
- 112.305 Strikers
- 112.306 Foster Care Program
- 112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
- 112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
- 112.309 Institutional Status
- 112.310 Child Care for Representative Payees
- 112.315 Young Parents Program (Renumbered)
- 112.320 Redetermination of Eligibility
- 112.330 Extension of Medical Assistance Due to Increased Income from Employment
- 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
- 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
- 112.340 New Start Payments to Individuals Released from Department of Corrections

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Facilities (Repealed)

SUBPART J: CHILD CARE

Section

112.350	Child Care (Repealed)
112.352	Child Care Eligibility (Repealed)
112.354	Qualified Provider (Repealed)
112.356	Notification of Available Services (Repealed)
112.358	Participant Rights and Responsibilities (Repealed)
112.362	Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364	Rates of Payment for Child Care (Repealed)
112.366	Method of Providing Child Care (Repealed)
112.370	Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section

112.400	Transitional Child Care Eligibility (Repealed)
112.404	Duration of Eligibility for Transitional Child Care (Repealed)
112.406	Loss of Eligibility for Transitional Child Care (Repealed)
112.408	Qualified Child Care Providers (Repealed)
112.410	Notification of Available Services (Repealed)
112.412	Participant Rights and Responsibilities (Repealed)
112.414	Child Care Overpayments and Recoveries (Repealed)
112.416	Fees for Service for Transitional Child Care (Repealed)
112.418	Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18,

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1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective

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December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency

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amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609,

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effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days;

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amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 9331, effective May 8, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006; amended at 31 Ill. Reg. 6968, effective April 30, 2007; amended at 31 Ill. Reg. 10462, effective July 6, 2007; amended at 31 Ill. Reg. 15080, effective October 24, 2007; amended at 32 Ill. Reg. 2767, effective February 7, 2008; emergency amendment at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17167, effective October 20, 2008; peremptory amendment at 32 Ill. Reg. 18051, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4977, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7320, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12763, effective September 8, 2009; amended at 33 Ill. Reg. 13831, effective September 17, 2009; amended at 33 Ill. Reg. 16828, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6930, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 10085, effective July 1, 2010; amended at 35 Ill. Reg. 998, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6933, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17082, effective October 5, 2011; amended at 35 Ill. Reg. 18739, effective October 28, 2011; amended at 36 Ill. Reg. 15120, effective September 28, 2012; emergency amendment at 37 Ill. Reg. 15388, effective September 9, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 4441, effective January 29, 2014; amended at 38 Ill. Reg. 17603, effective August 8, 2014; amended at 38 Ill. Reg. 18646, effective August 29, 2014; amended at 39 Ill. Reg. 15563, effective December 1, 2015; amended at 41 Ill. Reg. 395, effective January 1, 2017; amended at 42 Ill. Reg. _____, effective _____.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 112.10 Citizenship

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To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to the following specific restrictions:

- a) Citizenship status – Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign country of U.S. citizen parents.
- b) Non-citizens
 - 1) The following categories of non-citizens may receive assistance, if otherwise eligible:
 - A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;
 - B) Refugees under section 207 of the Immigration and Nationality Act (INA);
 - C) Asylees under section 208 of the INA;
 - D) Persons for whom deportation has been withheld under section 243(h) of the INA;
 - E) Persons granted conditional entry under section 203(a)(7) of the INA as in effect prior to April 1, 1980;
 - F) Persons lawfully admitted for permanent residence under the INA including:
 - i) Afghani immigrants with special immigrant status under section 101(a)(27) of the INA. The five-year residency requirement set forth in subsection (b)(2) of this Section does not apply to this sub-group.
 - ii) Iraqi immigrants with special immigrant status under section 101(a)(27) of the INA. The five-year residency

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requirement set forth in subsection (b)(2) of this Section does not apply to this sub-group;

- G) Parolees, for at least one year, under section 212(d)(5) of the INA;
 - H) Persons who are a spouse, widow or child of a U.S. citizen or a spouse or child of a legal permanent resident (LPR) who have been battered or subjected to extreme cruelty by the U.S. citizen or LPR or a member of that relative's family who lived with them, who no longer live with the abuser or plans to live separately within one month after receipt of assistance and whose need for assistance is due, at least in part, to the abuse; ~~and~~
 - I) Victims of trafficking, or the minor child, spouse, parent or sibling of the trafficking victim, who have been certified by or whose status has been verified by the federal Office of Refugee Resettlement (ORR); ~~and~~.
 - J) Persons who are a foreign-born victim of trafficking, torture, or other serious crimes as defined in Art. XVI of the Illinois Public Aid Code, and his or her derivative family members, are eligible for cash assistance if he or she:
 - i) has filed or is preparing to file an application for T Nonimmigrant status with the appropriate federal agency pursuant to 8 USC 1101(a)(15)(T), or is otherwise taking steps to meet the conditions for federal benefits eligibility under 22 USC 7105;
 - ii) has filed or is preparing to file a formal application with the appropriate federal agency for status pursuant to 8 USC 1101(a)(15)(U); or
 - iii) has filed or is preparing to file a formal application with the appropriate federal agency for status under 8 USC 1158.
- 2) Benefits provided pursuant to subsection (b)(1)(J) shall be terminated if there is a final denial of that person's visa or asylum application under 8 USC 1101(a)(15)(T), 1101(a)(15)(U) or 1158.

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- 3) Benefits provided pursuant to subsection (b)(1)(J) shall be denied one year after the date of the TANF application if a formal application under 8 USC 1101(a)(15)(T), 1101(a)(15)(U) or 1158 has not been filed.
- 42) Those persons who are in the categories set forth in subsections (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Supplemental Nutrition Assistance Program (SNAP)
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.107 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13] and PA 99-870.
- 5) A Complete Description of the Subjects and Issues involved: Pursuant to the provisions of PA 99-870, this rulemaking expands categorical eligibility for Supplemental Nutrition Assistance Program (SNAP) to non-citizens who are a foreign-born victim of trafficking, torture or other serious crimes, and his or her derivate family members who are ineligible for federal SNAP.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this amendment within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services

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100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas because it was not anticipated by the Department when those agendas were published.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.8 Express Stamps Application Project
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Periods of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

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121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomers or Boarders
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Supplemental Nutrition Assistance Program (SNAP) Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Categorically Eligible Households

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

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Section

121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting (Repealed)
121.91	Monthly Reporting (Repealed)
121.92	Budgeting
121.93	Issuance of Food Stamp Benefits
121.94	Replacement of the EBT Card or SNAP Benefits
121.95	Restoration of Lost Benefits
121.96	Uses for SNAP Benefits
121.97	Supplemental Payments
121.98	Client Training Brochure for the Electronic Benefits Transfer (EBT) System
121.105	State Food Program (Repealed)
121.107	New State Food Program
121.108	Transitional Food Stamp (TFS) Benefits
121.117	Farmers' Market Technology Improvement Program
121.120	Redetermination of Eligibility
121.125	Simplified Reporting
121.130	Residents of Shelters for Battered Women and their Children
121.131	Fleeing Felons and Probation/Parole Violators
121.135	Incorporation By Reference
121.136	Food and Nutrition Act of 2008
121.140	Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
121.145	Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

121.150	Definition of Intentional Violations of the Program
121.151	Penalties for Intentional Violations of the Program
121.152	Notification To Applicant Households
121.153	Disqualification Upon Finding of Intentional Violation of the Program
121.154	Court Imposed Disqualification

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SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

121.160	Persons Required to Participate
121.162	Program Requirements
121.163	Vocational Training
121.164	Orientation (Repealed)
121.165	Community Work
121.166	Assessment and Employability Plan (Repealed)
121.167	Counseling/Prevention Services
121.170	Job Search Activity
121.172	Basic Education Activity
121.174	Job Readiness Activity
121.176	Work Experience Activity
121.177	Illinois Works Component (Repealed)
121.178	Job Training Component (Repealed)
121.179	JTPA Employability Services Component (Repealed)
121.180	Grant Diversion Component (Repealed)
121.182	Earnfare Activity
121.184	Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186	Good Cause for Failure to Cooperate
121.188	Supportive Services
121.190	Conciliation
121.200	Types of Claims (Recodified)
121.201	Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202	Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203	Collecting Claim Against Households (Recodified)
121.204	Failure to Respond to Initial Demand Letter (Recodified)
121.205	Methods of Repayment of Food Stamp Claims (Recodified)
121.206	Determination of Monthly Allotment Reductions (Recodified)
121.207	Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208	Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

121.220	Work Requirement Components (Repealed)
121.221	Meeting the Work Requirement with the Earnfare Component (Repealed)

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- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; preemptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; preemptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; preemptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with

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no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991;

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emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective

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January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; preemptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; preemptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; preemptory amendment at 31 Ill. Reg. 14372, effective October 1, 2007; amended at 32 Ill. Reg. 2813, effective February 7, 2008; amended at 32 Ill. Reg. 4380, effective March 12, 2008; amended at 32 Ill. Reg. 4813, effective March 18, 2008; amended at 32 Ill. Reg. 9621, effective June 23, 2008; preemptory amendment at 32 Ill. Reg. 16905, effective October 1, 2008; preemptory amendment to Sections 121.94(c), 121.96(d)(2) and 121.150(b) suspended at 32 Ill. Reg. 18908, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 200, effective February 5, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 3514, effective February 5, 2009, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 18092, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4187, effective February 24, 2009, for a maximum of 150 days; emergency expired July 23, 2009; preemptory amendment at 33 Ill. Reg. 5537,

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NOTICE OF PROPOSED AMENDMENT

effective April 1, 2009; emergency amendment at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days; emergency expired December 16, 2009; amended at 33 Ill. Reg. 12802, effective September 3, 2009; amended at 33 Ill. Reg. 14121, effective September 22, 2009; emergency amendment at 33 Ill. Reg. 14627, effective October 13, 2009, for a maximum of 150 days; emergency expired March 11, 2010; amended at 33 Ill. Reg. 16875, effective November 30, 2009; amended at 33 Ill. Reg. 17350, effective December 14, 2009; amended at 34 Ill. Reg. 4777, effective March 17, 2010; amended at 34 Ill. Reg. 5295, effective April 12, 2010; amended at 34 Ill. Reg. 5823, effective April 19, 2010; emergency amendment at 34 Ill. Reg. 6967, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7265, effective May 10, 2010; amended at 34 Ill. Reg. 7685, effective May 18, 2010; amended at 34 Ill. Reg. 12547, effective August 11, 2010; preemptory amendment at 34 Ill. Reg. 15543, effective October 1, 2010; amended at 35 Ill. Reg. 1042, effective December 28, 2010; amended at 35 Ill. Reg. 7688, effective April 29, 2011; amended at 35 Ill. Reg. 10119, effective June 7, 2011; preemptory amendment at 35 Ill. Reg. 16118, effective October 1, 2011; preemptory amendment at 35 Ill. Reg. 16904, effective October 1, 2011; amended at 35 Ill. Reg. 17120, effective October 5, 2011; amended at 35 Ill. Reg. 18780, effective October 28, 2011; amended at 35 Ill. Reg. 19278, effective November 8, 2011; amended at 35 Ill. Reg. 19778, effective December 5, 2011; preemptory amendment at 36 Ill. Reg. 15148, effective October 1, 2012; emergency amendment at 37 Ill. Reg. 15423, effective September 9, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 16016, effective October 1, 2013; emergency amendment at 37 Ill. Reg. 16845, effective October 1, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 17983, effective November 1, 2013; amended at 38 Ill. Reg. 4475, effective January 29, 2014; amended at 38 Ill. Reg. 5382, effective February 7, 2014; emergency amendment at 38 Ill. Reg. 8414, effective April 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 17616, effective August 8, 2014; preemptory amendment at 38 Ill. Reg. 19831, effective October 1, 2014; amended at 39 Ill. Reg. 6470, effective April 22, 2015; preemptory amendment at 39 Ill. Reg. 13513, effective October 1, 2015; amended at 39 Ill. Reg. 15577, effective December 1, 2015; amended at 40 Ill. Reg. 360, effective January 1, 2016; preemptory amendment at 40 Ill. Reg. 14114, effective October 1, 2016; preemptory amendment at 41 Ill. Reg. 12905, effective October 1, 2017; amended at 42 Ill. Reg. _____, effective _____.

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section 121.107 New State Food Program

Persons who are a foreign-born victim of trafficking, torture, or other serious crimes, as defined in Art. XVI of the Illinois Public Aid Code, and his or her derivatives family members who are ineligible for the federal Supplemental Nutrition Assistance Program (SNAP) ineligible for the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

~~Food Stamp Program~~ solely on the basis that they do not meet citizenship requirements (see Section 121.20) may qualify for the New State Food Program.

- a) ~~The Department will determine that an applicant for the State Food Program is eligible for benefits if the applicant meets the income guidelines (see Sections 121.60 and 121.61) and is otherwise eligible. The monthly benefit amount is determined by using the maximum benefit amount for the household size minus the monthly benefit amount received by the eligible persons using the regular SNAP calculation. Persons must have been legally residing in the U.S. on 8/22/96, and must meet the citizenship requirements of one of the following groups (further described in Section 112.10): American Indians Born in Canada; U.S. Veterans, Active Military Service, and Dependents; Refugee/Asylee/Cuban-Haitian/Amerasian/Deportation Withheld; Hmong or Highland Laotian Tribe Members; Persons Granted Conditional Entry and Certain Parolees; or Persons Who Are Lawfully Admitted for Permanent Residence.~~
- b) ~~Persons who are a foreign-born victim of trafficking, torture, or other serious crimes and his or her derivatives family members are eligible for the New State Food Program if he or she: must be age 60 through 64 and not disabled, or must be parents living with their child age 17 or under who is eligible to receive federal food stamps.~~
- 1) ~~has filed or is preparing to file an application for T Nonimmigrant status with the appropriate federal agency pursuant to 8 USC 1101(a)(15)(T) or is otherwise taking steps to meet the conditions for federal benefits eligibility under 22 USC 7105;~~
 - 2) ~~has filed or is preparing to file a formal application with the appropriate federal agency for status pursuant to 8 USC 1101(a)(15)(U); or~~
 - 3) ~~has filed or is preparing to file a formal application with the appropriate federal agency for status under 8 USC 1158.~~
- c) ~~These persons are subject to the same work requirements and work requirement exemptions as other recipients of federal SNAP benefits. A person shall be exempted from any work requirements if physical or psychological trauma related to or arising from the trafficking, torture, or other serious crimes impedes his or her ability to comply. The monthly benefit amount is \$50 per person.~~

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- d) Benefits shall be terminated if there is a final denial of that person's visa or asylum application under 8 USC 1101(a)(15)(T), 1101(a)(15)(U) or 1158.
- e) A person shall be ineligible for continued State-funded food benefits if that individual has not filed a formal application for status pursuant to 8 USC 1101(a)(15)(T), 1101(a)(15)(U) or 1158 within one year after the date of his or her application for food benefits under this program.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting
- 2) Code Citation: 17 Ill. Adm. Code 550
- 3) Section Number: 550.26 Proposed Action: New Section
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to PA 100-524, amendments are being made to identify the process the agency will use to close the Bobcat season, if necessary.
- 6) Published Studies or Reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Ronald Fuhr, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

217/524-5468

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agenda's because: The Department did not anticipate the need for this rulemaking at the time the agendas were published.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 550

RACCOON, OPOSSUM, STRIPED SKUNK, RED FOX, GRAY FOX, COYOTE,
BOBCAT AND WOODCHUCK (GROUNDHOG) HUNTING

Section

550.10	General Regulations
550.20	Statewide Regulations
550.25	Permit and Tagging Requirements – Bobcat
550.26	Limits on Total Harvest – Bobcat
550.30	Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5].

SOURCE: 5 Ill. Reg. 8833, effective August 25, 1981; codified at 5 Ill. Reg. 10636; emergency amendment at 5 Ill. Reg. 11593, effective October 20, 1981, for a maximum of 150 days; emergency expired March 17, 1982; amended at 6 Ill. Reg. 10714, effective August 20, 1982; amended at 7 Ill. Reg. 10782, effective August 24, 1983; amended at 7 Ill. Reg. 16098, effective November 22, 1983; amended at 8 Ill. Reg. 21593, effective October 23, 1984; amended at 9 Ill. Reg. 16204, effective October 9, 1985; emergency amendment at 9 Ill. Reg. 18151, effective November 12, 1985, for a maximum of 150 days; emergency expired April 11, 1986; amended at 10 Ill. Reg. 16649, effective September 22, 1986; amended at 11 Ill. Reg. 9540, effective May 5, 1987; amended at 12 Ill. Reg. 11730, effective June 30, 1988; amended at 13 Ill. Reg. 10598, effective June 19, 1989; amended at 14 Ill. Reg. 10798, effective June 20, 1990; amended at 15 Ill. Reg. 11598, effective August 2, 1991; amended at 16 Ill. Reg. 11078, effective June 30, 1992; amended at 17 Ill. Reg. 10795, effective July 1, 1993; amended at 18 Ill. Reg. 10090, effective June 21, 1994; amended at 19 Ill. Reg. 11787, effective August 3, 1995; amended at 20 Ill. Reg. 10874, effective August 5, 1996; amended at 21 Ill. Reg. 9077, effective June 26, 1997; amended at 22 Ill. Reg. 14836, effective August 3, 1998; amended at 23 Ill. Reg. 9066, effective July 28, 1999; amended at 24 Ill. Reg. 8938, effective June 19, 2000; amended at 25 Ill. Reg. 9895, effective July 17, 2001; amended at 26 Ill. Reg. 14680, effective September 20, 2002; amended at 28 Ill. Reg. 11873, effective July 27, 2004; amended at 29 Ill. Reg. 12471, effective

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NOTICE OF PROPOSED AMENDMENT

July 28, 2005; amended at 30 Ill. Reg. 12133, effective June 28, 2006; amended at 31 Ill. Reg. 13106, effective August 30, 2007; amended at 32 Ill. Reg. 10093, effective June 30, 2008; amended at 33 Ill. Reg. 9680, effective June 26, 2009; amended at 34 Ill. Reg. 12808, effective August 20, 2010; amended at 35 Ill. Reg. 13137, effective July 26, 2011; amended at 37 Ill. Reg. 20642, effective December 12, 2013; amended at 39 Ill. Reg. 11360, effective August 3, 2015; amended at 40 Ill. Reg. 8549, effective June 13, 2016; amended at 41 Ill. Reg. 8542, effective June 28, 2017; amended at 42 Ill. Reg. _____, effective _____.

Section 550.26 Limits on Total Harvest – Bobcat

- a) Statewide limits on the total number of bobcats that may be hunted or trapped during a season are set forth in Section 2.30 of the Wildlife Code. Bobcats salvaged from roadways in accordance with that statute do not count toward limits established for hunting and trapping.
- b) The Department may close the bobcat season before the closing date set forth in Section 550.20 when it is apparent limits on the total number of bobcats that may be hunted or trapped during a season will be exceeded. Remaining valid permit holders will be contacted by letter and email, if applicable.
- c) Bobcat Hunting and Trapping permits will not be valid after the closing date specified in Section 550.20 or after permittees are notified of early closure of the season, whichever is earlier.

(Source: Added at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver, Bobcat and Woodchuck (Groundhog) Trapping
- 2) Code Citation: 17 Ill. Adm. Code 570
- 3) Section Number: 570.32 Proposed Action: New Section
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to PA 100-524, amendments are needed to identify the process the agency will use to close the Bobcat season, if necessary.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Ronald Fuhr, Legal Counsel
Department of Natural Resources
One Natural Resources Way

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62702-1271

217/524-5468

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the Department did not anticipate the need for this rulemaking at the time the agendas were published.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 570

MUSKRAT, MINK, RACCOON, OPOSSUM, STRIPED SKUNK, WEASEL,
RED FOX, GRAY FOX, COYOTE, BADGER, RIVER OTTER, BEAVER, BOBCAT AND
WOODCHUCK (GROUNDHOG) TRAPPING

Section

570.10	Statewide Zones
570.15	Closed Zone – Bobcat Trapping
570.20	Statewide Season Dates
570.30	Statewide Hours, Daily Limit and Possession Limit
570.31	Permit and Tagging Requirements
570.32	Limits on Total Harvest – Bobcat
570.35	Use of Rifles, Pistols and Airguns by Trappers During Deer Gun Season
570.40	Trapping Regulations on Department-Owned, -Leased or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5].

SOURCE: Adopted at 5 Ill. Reg. 9767, effective September 17, 1981; codified at 5 Ill. Reg. 10637; amended at 6 Ill. Reg. 10709, effective August 20, 1982; amended at 7 Ill. Reg. 10778, effective August 24, 1983; amended at 8 Ill. Reg. 21589, effective October 23, 1984; amended at 9 Ill. Reg. 15864, effective October 7, 1985; amended at 10 Ill. Reg. 16644, effective September 24, 1986; amended at 12 Ill. Reg. 12034, effective July 7, 1988; emergency amendments at 12 Ill. Reg. 16261, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 10589, effective June 15, 1989; amended at 14 Ill. Reg. 14775, effective September 4, 1990; amended at 14 Ill. Reg. 19854, effective December 3, 1990; amended at 15 Ill. Reg. 11586, effective August 2, 1991; amended at 16 Ill. Reg. 11069, effective June 30, 1992; amended at 17 Ill. Reg. 10785, effective July 1, 1993; amended at 17 Ill. Reg. 18796, effective October 19, 1993; amended at 18 Ill. Reg. 10077, effective June 21, 1994; amended at 19 Ill. Reg. 12640, effective August 29, 1995; amended at 20 Ill. Reg. 12351, effective August 30, 1996; amended at 21 Ill. Reg. 9070, effective June 26, 1997; amended at 22 Ill. Reg. 14809, effective August 3, 1998; amended at 23 Ill. Reg. 9055, effective July 28, 1999; amended at 24 Ill. Reg. 8929, effective June 19, 2000; amended at 25 Ill. Reg. 9887, effective

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July 17, 2001; amended at 26 Ill. Reg. 13809, effective September 5, 2002; amended at 27 Ill. Reg. 749, effective January 6, 2003; amended at 28 Ill. Reg. 11883, effective July 27, 2004; amended at 29 Ill. Reg. 9643, effective June 27, 2005; amended at 30 Ill. Reg. 12143, effective June 28, 2006; amended at 31 Ill. Reg. 13117, effective August 30, 2007; amended at 32 Ill. Reg. 10104, effective June 30, 2008; amended at 33 Ill. Reg. 9691, effective June 26, 2009; amended at 34 Ill. Reg. 12820, effective August 20, 2010; amended at 35 Ill. Reg. 13149, effective July 26, 2011; amended at 36 Ill. Reg. 14408, effective September 5, 2012; amended at 37 Ill. Reg. 20659, effective December 12, 2013; amended at 39 Ill. Reg. 11373, effective August 3, 2015; amended at 40 Ill. Reg. 8568, effective June 13, 2016; amended at 41 Ill. Reg. 8558, effective June 28, 2017; amended at 42 Ill. Reg. _____, effective _____.

Section 570.32 Limits on Total Harvest – Bobcat

- a) Statewide limits on the total number of bobcats that may be hunted or trapped during a season are set forth in Section 2.30 of the Wildlife Code. Bobcats salvaged from roadways in accordance with that statute do not count toward limits established for hunting and trapping.
- b) The Department may close the bobcat season before the closing date set forth in Section 570.20 when it is apparent limits on the total number of bobcats that may be hunted or trapped during a season will be exceeded. Remaining valid permit holders will be contacted by letter and email, if applicable.
- c) Bobcat Hunting and Trapping permits will not be valid after the closing date specified in Section 570.20 or after permittees are notified of early closure of the season, whichever is earlier.

(Source: Added at 42 Ill. Reg. _____, effective _____)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Conditions of State of Illinois Grants for Sewage Treatment Works Under the Anti-Pollution Bond Act of 1970
- 2) Code Citation: 35 Ill. Adm. Code 360
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
360.103	Amendment
360.203	Amendment
360.306	Amendment
360.805	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405].
- 5) Effective Date of Rules: October 20, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276 Springfield IL 62794-9276 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 14374; October 28, 2016.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The First Notice version published in the *Illinois Register* included changes made by JCAR. The Illinois EPA's adopted amendments contain some of the grammatical, typographical, and stylistic revisions made by JCAR and published in First Notice. The following changes were made and are not substantive:

360.103 – Replaced "this" with "the" after "of".

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

360.203 – Corrected spelling, amended 360.203(f)(4)(F), for provisions for attaining water quality standards, to consider the alternative of treating combined sewer overflows, amended 360.203(f)(7) to require that "public participation in the facilities planning process be consistent with 40 CFR 25 and one or more public hearings or meetings shall be held within the area to obtain public advice at the beginning of the planning process. All governmental agencies and other parties that are known to be concerned or may have an interest in the plan shall be invited to participate", struck "General Condition", moved 360.203(f)(10) to 360.203(h), updated citations, and corrected punctuation.

360.306 – Replaced "provision" with "Section", added "the grantee's" after "to", struck "its" before "subagreement", replaced "this" with "the", and clarified grammar.

360.805 – Replaced "shall become" with "becomes".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Currently, in the event a grantee becomes eligible for a grant of federal funds or state funds for a project from other than the Anti-Pollution Fund, the grantee must repay the State of Illinois any Anti-Pollution Fund funds received exceeding 75 percent of the approved allowable cost of the project. The State funds are deposited back into the Anti-Pollution Fund. The adopted amendments establish procedures for the Agency to, under the same scenario, have the grantee repay the State of Illinois any funds received exceeding 100 percent of the approved allowable cost of the project. Additionally, the adopted amendments update statutory references, correct typographical errors, and clarify that the collection of grant funds, previously paid or owing when a grantee terminates a project, are not a settlement for collections.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Rex L. Gradeless
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

Springfield IL 62794-9276

217/782-5544

The full text of the Adopted Amendments begins on the next page:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 360

GENERAL CONDITIONS OF STATE OF ILLINOIS GRANTS FOR SEWAGE
TREATMENT WORKS UNDER THE ANTI-POLLUTION BOND ACT OF 1970SUBPART A: LIABILITIES AND REMEDIES FOR FAILURE TO
COMPLY WITH GRANT CONDITIONS

Section

360.101	Noncompliance with Grant Conditions
360.102	Stop-Work Order
360.103	Termination
360.104	Waiver of Conditions

SUBPART B: REQUIREMENTS APPLICABLE TO APPLICATIONS FOR GRANTS

Section

360.201	Contents of Grant Applications
360.202	Sewer System Evaluation and Rehabilitation
360.203	Facilities Planning
360.204	Covenant Against Contingent Fees
360.205	Areawide Waste Treatment Management Planning

SUBPART C: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS OF GRANTEE

Section

360.301	General Conditions for all Subagreements
360.302	Construction Contracts of Grantee
360.303	Contracts for Personal and Professional Services – Consulting Engineering Agreements
360.304	Equal Opportunity
360.305	Compliance With Procurement Requirements
360.306	Disputes
360.307	Indemnity

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: REQUIREMENTS APPLICABLE TO INITIATION, AMENDMENT,
COMPLETION AND OPERATION OF PROJECT

- Section
360.401 Project Initiation
360.402 Project Changes
360.403 Supervision
360.404 Project Sign
360.405 Final Inspection
360.406 Operation and Maintenance

SUBPART E: REQUIREMENTS APPLICABLE TO ACCESS,
AUDITING, AND RECORDS

- Section
360.501 Access
360.502 Audit and Records
360.503 Reports

SUBPART F: REQUIREMENTS FOR SEWER USE ORDINANCE,
USER CHARGES AND FLOOD PLAIN INSURANCE

- Section
360.601 Sewer Use Ordinance
360.602 User Charges
360.603 Flood Plain Insurance

SUBPART G: INCORPORATED REQUIREMENTS

- Section
360.701 Statutory Conditions
360.702 Incorporation of Documents

SUBPART H: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

- Section
360.801 Determination of Allowable Costs
360.802 Amount of Grant-Percentage of Approved Allowable Costs

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

- 360.803 Use of Grant and Payment of Non-Allowable Costs
360.804 Grant Payment Schedule
360.805 Other Federal or State Grants
- 360.APPENDIX A General Conditions of Construction Contract Document (Document No. 11 of the Contract Documents for Construction of Federally Assisted Water and Sewer Projects)
- 360.APPENDIX B Access to Records – Audit (Existing Consulting Engineering Agreement) (applicable to consulting engineering agreements entered into between June 30, 1975 and July 1, 1976)
- 360.APPENDIX C Required Provisions – Consulting Engineering Agreements (Applicable to consulting engineering agreements entered into after July 1, 1976)
- 360.APPENDIX D Procedures for Determination of Indirect Costs and Indirect Cost Rates

AUTHORITY: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405].

SOURCE: Adopted August 27, 1976; amended at 6 Ill. Reg. 10941, effective September 15, 1982; codified at 7 Ill. Reg. 9295; amended at 16 Ill. Reg. 5891, effective March 31, 1992; amended at 41 Ill. Reg. 13211, effective October 20, 2017.

SUBPART A: LIABILITIES AND REMEDIES FOR FAILURE TO
COMPLY WITH GRANT CONDITIONS

Section 360.103 Termination

- a) Grant Termination by Agency
The Agency, by written notice and after consultation with the grantee, may terminate the grant, in whole or in part. Cause for termination shall include, but not be limited to: default by the grantee, failure by the grantee to comply with the terms and conditions of the grant, realignment of programs, change in program requirements or priorities, lack of adequate funding, or advancements in the state of the art. Upon ~~such~~ termination, the grantee shall refund to the State of Illinois Anti-Pollution Fund any unexpended grant funds, except ~~that~~~~such~~ portion ~~of those funds thereof~~ as may be required by the grantee to make payment for materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination and further provided that ~~those~~~~such~~ costs are otherwise allowable under the conditions of ~~the~~~~this~~ grant.

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- b) Project Termination by Grantee
The grantee may not terminate a project for which the grant has been awarded, except for good cause. If the Agency finds that there is good cause for the termination of all or any portion of a project for which the grant has been awarded, it shall enter into a termination agreement or unilaterally terminate the grant, effective with the date of termination of the project by the grantee. If the Agency finds that the grantee has terminated the project without good cause, then the grant shall be annulled and all grant funds previously paid or owing to the grantee shall be returned to the State of Illinois Anti-Pollution Fund ~~as final settlement.~~

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

SUBPART B: REQUIREMENTS APPLICABLE TO APPLICATIONS FOR GRANTS

Section 360.203 Facilities Planning

- a) The grantee shall undertake and complete facilities planning ~~that which~~ shall consist of plans and studies ~~that which~~ are directly related to the construction of publicly owned treatment works to comply with the provisions of the Environmental Protection Act [415 ILCS 5] ~~(Ill. Rev. Stat. 1975, ch. 111½, pars. 1001 et seq.)~~ and regulations adopted ~~under the Act thereunder~~ or Sections 301 and 302 of the Federal Water Pollution Control Act (~~33 USC 1311 and 1312 PL 92-500, as amended~~) and regulations adopted ~~under that Act thereunder~~, whichever are more stringent. The grantee shall demonstrate to the satisfaction of the Agency through ~~those such~~ plans and studies the need for ~~those such~~ facilities and, by a systematic evaluation of feasible alternatives, shall also demonstrate that the proposed measures represent the most cost-effective means of meeting applicable effluent limitations and water quality standards and goals, recognizing environmental and social conditions.
- b) If the information required to be furnished as part of a facilities plan has been developed separately, it should be furnished and incorporated by reference in the facilities plan. Planning previously or collaterally accomplished under local, ~~State~~ or federal programs will be utilized (not duplicated).
- c) The completed facilities plan must be submitted by the grantee and approved by

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the Agency. ~~When~~~~Where~~ deficiencies in a facilities plan are discovered, the Agency shall promptly notify the grantee in writing of the nature of ~~those~~~~such~~ deficiencies and of the recommended course of action to correct ~~them~~~~such~~ deficiencies. Approval of a plan of study or a facilities plan will not constitute an obligation of the State of Illinois or the Agency for any Step 2, Step 3, or combination Steps 2 and 3 project.

- d) A facilities plan submitted for approval shall include adopted resolutions or, ~~when~~~~where~~ applicable, executed agreements of the implementing governmental units or management agencies providing for acceptance of the plan, or assurances that it will be carried out, and statements of legal authority necessary for plan implementation.
- e) A facilities plan may include more than one Step 3 project and provide the basis for several subsequent Step 2, Step 2-3, or Step 3 projects. A facilities plan ~~that~~~~which~~ has served as the basis for the award of a grant for a Step 2, Step 2-3, or Step 3 project shall be reviewed prior to the award of any grant for a subsequent project involving Step 2 or Step 3 to determine if substantial changes have occurred. If, in the ~~judgment~~ ~~judgement~~ of the Agency, substantial changes have occurred ~~that~~~~which~~ warrant revision or amendment, the plan shall be revised or amended and submitted for review in the same manner specified in ~~subsection~~ (c) ~~above~~.
- f) Facilities planning must be in accordance with the following requirements, and such other requirements as may be determined to be appropriate by the Agency. ~~The~~~~Such~~ facilities plan shall include:
- 1) A description of the treatment works for which construction drawings and specifications are to be prepared. This description shall include preliminary engineering data, cost estimates for design and construction of the treatment works, and a schedule for completion of design and construction. The preliminary engineering data may include, to the extent appropriate, ~~such~~ information ~~such~~ as a schematic flow diagram, unit processes, design data regarding detention times, flow rates, sizing of units, etc.
 - 2) A description of the selected complete waste treatment ~~system~~~~system(s)~~ of which the proposed treatment works is a part. The description shall cover

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all elements of the system, from the service area and collection sewers, through treatment, to the ultimate discharge of treated wastewaters and disposal of sludge.

- 3) Infiltration/inflow documentation in accordance with ~~General Condition~~ Section 360.202, ~~(Sewer System Evaluation and Rehabilitation)~~ hereof.
- 4) A cost-effective analysis of alternatives for the treatment works and for the waste treatment ~~system~~ ~~system(s)~~ of which the treatment works is a part. The selection of the ~~system~~ ~~system(s)~~ and choice of the treatment works on which construction drawings and specifications are to be based shall reflect the cost-effectiveness analysis. This analysis shall include:
 - A) The relationship of the size and capacity of alternative works to the needs to be served, including reserve capacity;
 - B) An evaluation of alternative flow and waste reduction measures;
 - C) An evaluation of improved effluent quality attainable by upgrading the operation and maintenance and efficiency of existing facilities as an alternative or supplement to construction of new facilities;
 - D) An evaluation of the capability of each alternative to meet applicable effluent limitations. The treatment works design must be based upon meeting the effluent limitations of the Environmental Protection Act ~~[415 ILCS 5](Ill. Rev. Stat. 1975, ch. 111½, pars. 1001 et seq.)~~ and regulations adopted ~~under the Act thereunder~~ or Sections 301 and 302 of the Federal Water Pollution Control Act (~~33 USC 1311 and 1312~~ ~~PL 92-500~~) and regulations adopted ~~under that Act thereunder~~, whichever are more stringent;
 - E) An identification of, and provision for, applying the best practicable waste treatment technology (BPWTT), as defined by the United States Environmental Protection Agency, based upon an evaluation of technologies included under each of the following waste treatment management techniques:

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- i) Biological or physical-chemical treatment and discharge to receiving waters;
 - ii) Treatment and reuse; and
 - iii) Land application techniques;:-
- F) ~~Provisions for attaining water quality standards, which All Step 2, Step 3 or combination Step 2 3 projects for publicly owned treatment works construction from funds authorized for any fiscal year beginning after June 30, 1974, shall be based upon application of BPWTT, as a minimum. Where application of BPWTT would not meet water quality standards, the facilities plan shall provide for attaining such standards. Such provision shall consider the alternative of treating combined sewer overflows, if applicable;~~
- G) An evaluation of the alternative means by which ultimate disposal can be effected for treated wastewater and for sludge materials resulting from the treatment process, and a determination of the means chosen;:-
- H) An adequate assessment of the expected environmental impact of alternatives including sites consistent with the requirements of the National Environmental Policy Act of 1969 (42 ~~USCU.S.C.~~ 4321 et seq.). This assessment shall be revised as necessary to include information developed during subsequent project steps;:-
- 5) An identification of effluent discharge limitations, or ~~whenwhere~~ a permit has been issued, a copy of the permit for the proposed treatment works as required by the National Pollutant Discharge Elimination System;:-
- 6) Required comments or approvals of relevant State, interstate, regional, and local agencies;:-
- 7) A brief summary of any public meeting or hearing held during the planning process including a summary of the views expressed. As applicable, public participation in the facilities planning process shall be consistent with 40 CFR 25. One or more public hearings or meetings shall

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be held within the area to obtain public advice at the beginning of the planning process. All governmental agencies and other parties that are known to be concerned or may have an interest in the plan shall be invited to participate;

- 8) A brief statement demonstrating that the authorities ~~that~~which will be implementing the plan have the necessary legal, financial, institutional, and managerial resources available to insure the construction, operation, and maintenance of the proposed treatment works;~~;~~
- 9) As applicable, public participation in the facilities planning process shall be consistent with 40 CFR 105. One or more public hearings or meetings shall be held within the area to obtain public advice at the beginning of the planning process. All governmental agencies and other parties which are known to be concerned or may have an interest in the plan shall be invited to participate. As a minimum, the following shall be required:
 - A) A public hearing shall be held prior to the adoption of the facilities plan by the implementing governmental units. This public hearing for the facilities plan may satisfy the hearing requirement of (f)(4)(g) above. The Agency may require the grantee to hold additional public hearings, if needed, to more fully discuss the plan and alternatives or to afford concerned interests adequate opportunity to express their views;~~;~~
 - B) The time and place of the public hearing shall be conspicuously and adequately announced, generally at least 30 days in advance. In addition, a description of the water quality problems and the principal alternatives considered in the planning process shall be displayed at a convenient local site sufficiently prior to the hearing (approximately 15 days); ~~and-~~
 - C) Appropriate local and state agencies; state and regional clearinghouses, interested environmental groups and appropriate local public officials should receive written notice of public hearings; ~~and-~~
- 10) ~~Grant assistance for Step 2 or 3 may be awarded prior to approval of a~~

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~~facilities plan for the entire geographic area to be served by the complete waste treatment system of which the proposed treatment works will be an integral part if the Agency determines that applicable minimum requirements have been met (see) (f)(3) and (f)(4)(A), (D), and (G) of this general condition); that the facilities planning relevant to the proposed Step 2 or 3 project has been substantially completed; and that the Step 2 or 3 project for which grant assistance is made will not be significantly affected by the completion of the facilities plan and will be a component part of the complete system: Provided, That the applicant agrees to complete the facilities plan on a schedule which shall be inserted as a special condition of this grant offer.~~

g) Scope

- 1) The scope of each treatment works project defined within the facilities plan as being required for implementation of the plan, and for which Statestate or federal assistance will be requested, shall define:
 - A) Any necessary new treatment works construction; and
 - B) Any rehabilitation work determined by the sewer system evaluation to be necessary for the elimination of excessive infiltration/inflow. However, rehabilitation ~~that~~which should be a part of the grantee's normal operation and maintenance responsibilities shall not be included within the scope of a Step 3 treatment works project.
- 2) Grant assistance for a Step 3 project segment consisting of rehabilitation work may be awarded concurrently with Step 2 work for the design of the new treatment works construction.

h) Grant assistance for Step 2 or 3 may be awarded prior to approval of a facilities plan for the entire geographic area to be served by the complete waste treatment system of which the proposed treatment works will be an integral part if the Agency determines that: applicable minimum requirements provided in subsections (f)(3) and (f)(4)(A), (D), and (G) have been met; the facilities planning relevant to the proposed Step 2 or 3 project has been substantially completed; and the Step 2 or 3 project for which grant assistance is made will not

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be significantly affected by the completion of the facilities plan and will be a component part of the complete system provided that the applicant agrees to complete the facilities plan on a schedule that shall be inserted as a special condition of this grant offer.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

SUBPART C: REQUIREMENTS APPLICABLE TO APPLICATIONS FOR GRANTS

Section 360.306 Disputes

- a) Only the grantee, for its own name and benefit, may appeal to the Agency under this Section provision with respect to the grantee's subagreements under the grant ~~thereunder for its own name and benefit~~. Neither a contractor nor a subcontractor of a grantee may prosecute an appeal under the disputes provision of a grant in its own name or interest.
- b) Any dispute arising under the ~~this~~ grant that ~~which~~ is not disposed of by agreement shall be decided by the Director or the Director's ~~his~~ duly authorized representative, who shall reduce the ~~this~~ decision to writing and mail or otherwise furnish a copy thereof to the applicant. The decision of the Director shall be final and conclusive.
- c) This Section "disputes" clause does not preclude consideration of questions of law in connection with decisions provided for in subsection Section 360.306(b) ~~above~~.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

SUBPART H: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

Section 360.805 Other Federal or State Grants

If the grantee becomes ~~shall become~~ eligible for a grant of federal funds or State ~~state~~ funds for this project from other than the Anti-Pollution Fund, the grantee shall repay to the State of Illinois, for deposit in the Anti-Pollution Fund, any funds received exceeding 100% ~~exceed 75 percent~~ of the approved allowable cost of the project, as defined by the Agency in accordance with the conditions of this grant. The grantee shall take any and all actions as may be directed by the Agency to perfect and preserve such ~~eligibility and to obtain such grant of for~~ federal funds

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or ~~State~~ funds from other than the Anti-Pollution Fund or to reimburse to the Anti-Pollution Fund ~~such~~ amounts ~~that would~~ ~~as might~~ have been returned to it under this condition but for failure of the grantee to take timely action as directed.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

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- 1) Heading of the Part: Procedure for Issuing Grants from the Anti-Pollution Bond Act and the Build Illinois Act for Sewage Treatment Works
- 2) Code Citation: 35 Ill. Adm. Code 363
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
363.101	Amendment
363.102	Amendment
363.201	Amendment
363.202	Amendment
363.203	Amendment
363.204	Amendment
363.205	Amendment
363.206	Amendment
363.207	Amendment
363.301	Amendment
363.501	Amendment
363.601	Repealed
363.602	Repealed
363.603	Repealed
363.702	Amendment
363.703	Repealed
363.704	Repealed
363.705	Amendment
363.801	Amendment
363.803	Repealed
363.804	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405/4], Section 1-3 of the Build Illinois Act [30 ILCS 750/1-3] and Section 4 of the Environmental Protection Act [415 ILCS 5/4].
- 5) Effective Date of Rules: October 20, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

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- 8) A copy of the adopted rules, including all material incorporated by reference, is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL 62794-9276 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 14386; October 28, 2016.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The First Notice version published in the *Illinois Register* included changes made by JCAR. The Illinois EPA's adopted amendments contain some of the grammatical, typographical, and stylistic revisions made by JCAR and published in First Notice. The following changes were made and are not substantive:
- 363.102 – Corrected typographical and punctuation errors and added reference to the Department of Juvenile Justice.
- 363.201 – Reinstated "or more" after "100%".
- 363.204 – Replaced "which" with "that".
- 363.205 – Updated citation to CFRs.
- 363.207 – Corrected punctuation.
- 363.301 – Replaced "under" with "by".
- 363.501 – Added three commas.
- 363.702 – Corrected two commas.
- 363.801 – Deleted "of this Part".
- 363.804 – Added commas after "sources" and "loans".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted amendments provide that the combination of assistance provided under the Bond Act, Title II, and any other state or federal assistance shall not, instead of 75 percent, exceed 100 percent of the eligible project costs. The adopted amendments also provide that Bond Act grants, or supplemental Bond Act grants, may be available, instead of up to 75 percent, for up to 100 percent of the eligible project costs. Additionally, and instead of 70 percent, eligible projects not receiving a Title II or a Build Illinois Bond Fund grant may be issued a Bond Act grant if the State share does not exceed 100 percent of the eligible project costs. Next, the adopted amendments raise the maximum level of financial assistance, from all sources including grants and loans, from 85 percent to 100 percent, or less, the eligible project costs. Finally, the adopted amendments repeal outdated sections, correct typographical errors, and update statutory references.
- 16) Information and questions regarding these adopted rules shall be directed to:

Rex L. Gradeless
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544

The full text of the Adopted Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 363

PROCEDURE FOR ISSUING GRANTS FROM THE ANTI-POLLUTION
BOND ACT AND THE BUILD ILLINOIS ACT FOR SEWAGE TREATMENT WORKS

SUBPART A: INTRODUCTION

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363.101	Purpose
363.102	Definitions

SUBPART B: GENERAL CRITERIA

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363.202	Reimbursement
363.203	Allocation of Grant Funds
363.204	Supplemental Grants
363.205	Required Content and Filing of Applications for Bond Act Grants
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363.207	State Owned Facilities

SUBPART C: STANDARD PRIORITY PROJECT GRANTS

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363.301	Project Priority Requirement
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SUBPART D: HEALTH RISK GRANTS

Section	
363.401	Determination of Health Risk
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363.501	Availability of Funding
363.502	Priorities for Issuance

SUBPART F: BACKLOG PROJECT GRANTS

Section	
363.601	Availability of Funding (Repealed)
363.602	State/Federal Piggyback Grants (Repealed)
363.603	State Reimbursement Grants (Repealed)

SUBPART G: BUILD ILLINOIS BOND FUND GRANTS

Section	
363.701	Availability of Funding
363.702	Build Illinois Bond Fund Grants
363.703	Supplemental State/Federal Piggyback Grants (Repealed)
363.704	Supplemental State Reimbursement Grants (Repealed)
363.705	Supplemental Build Illinois Bond Fund Grants

SUBPART H: UNSEWERED COMMUNITIES GRANTS

Section	
363.801	Applicability
363.802	Eligibility
363.803	Grant Percentage and Design Grants (Repealed)
363.804	Limitations

AUTHORITY: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405/4], Section 1-3 of the Build Illinois Act [30 ILCS 750/1-3] and Section 4 of the Environmental Protection Act [415 ILCS 5/4].

SOURCE: Adopted and codified at 8 Ill. Reg. 15914, effective August 17, 1984; amended at 9 Ill. Reg. 3951, effective March 15, 1985; amended at 10 Ill. Reg. 216, effective December 20, 1985; amended at 27 Ill. Reg. 13421, effective July 25, 2003; amended at 41 Ill. Reg. 13225, effective October 20, 2017.

SUBPART A: INTRODUCTION

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Section 363.101 Purpose

- a) The Anti-Pollution Bond Act [\[30 ILCS 405\]](#), (~~Ill. Rev. Stat. 1983, ch. 127, pars. 451-464~~) provides that the State of Illinois may issue grants to units of local government for the planning, financing, and construction of sewage treatment works. ~~These~~ [Such](#) grants are made under the direction of the ~~Illinois Environmental Protection~~ Agency. ("Agency")
- b) ~~This Part sets~~ [These rules set](#) forth the procedures used by the Agency in the issuance of grants to units of local government for the planning, financing, and construction of sewage treatment works.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.102 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act and the federal Clean Water Act (33 ~~USCU.S.C.~~ [1251-et seq.](#)) and regulations promulgated under those Acts ~~40 CFR 30, 33, and 35 (1983). No incorporation by reference in this Part, other than the Illinois Revised Statutes or the United States Code includes any later amendment or addition.~~
- b) For purposes of [this Part](#), ~~these rules~~ the following definitions apply:

["Agency"](#) means the Illinois Environmental Protection Agency.

"Bond Act" means the Anti-Pollution Bond Act [\[30 ILCS 405\]](#), (~~Ill. Rev. Stat. 1983, ch. 127, pars. 451-464~~).

["Build Illinois Bond Act"](#) means the Build Illinois Act [\[30 ILCS 750\]](#).

"Title II" means Title II of the federal Clean Water Act, (33 ~~USCU.S.C.~~ [1281-et seq.](#)).

"State Owned Facilities" means mental health or developmental centers or institutions for which the Department [of Human Services-Division](#) of Mental Health ~~and Development Disabilities~~ exercises executive and administrative supervision under [20 ILCS 1705/4](#) ~~Ill. Rev. Stat. 1983, ch. 91½, par. 100-4~~, and

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correctional institutions or facilities for which the Department of Corrections or the Department of Juvenile Justice maintains and administers control under the State Penitentiary System in accordance with 730 ILCS 5/3-2-2~~Ill. Rev. Stat. 1983, ch. 38, par. 1003-2-2.~~

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

SUBPART B: GENERAL CRITERIA

Section 363.201 Relationship to Other Grant Programs~~Title II Grants~~

- a) Subject to Section 363.207, no recipient shall receive a grant or any other assistance~~no grant shall be issued~~ under the Bond Act for the planning, financing or construction of sewage treatment works if a grant has been offered under Title II ~~that~~which would provide 100%~~75%~~ or more of the eligible project costs.
- b) The combination of assistance provided under the Bond Act, Title II and any other State or federal assistance shall not exceed 100% of the eligible project costs.~~Subject to Section 363.207, no recipient shall receive any assistance under the Bond Act if the combination of assistance under the Bond Act and Title II equals or exceeds 75% of the eligible project costs; except as provided in Section 363.602 for Backlog Project Grants. The previous sentence shall not apply if an existing Bond Act grant offer, issued prior to January 1, 1973, specifies that the combination of assistance may not exceed 80% of the eligible project cost; in such case the recipient may not receive any assistance under the Bond Act if the combination of assistance under the Bond Act and Title II equals or exceeds 80% of the eligible project cost.~~
- c) Assistance under this Part may be reduced if required by the Clean Water Act.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.202 Reimbursement

If the recipient of a Bond Act grant is at any time offered any State, federal or local~~Title II~~ grant, or any other funding source, to assist in the payment of expenses for which a Bond Act grant has been issued, the recipient shall reimburse the State of Illinois for any Bond Act grant funds used to pay expenses paid or offered to be paid under another grant or funding source~~the Title II grant.~~

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(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.203 Allocation of Grant Funds

- a) Grant funds available under the Bond Act ~~and Title II~~ will be subject to an equal division of total grant funds available to the State between the service area of the Metropolitan ~~Water Reclamation Sanitary~~ District of Greater Chicago and the area which is comprised of the geographical balance of the ~~State~~state, to the extent that projects in either area in any grant year have qualified to receive Bond Act ~~or Title II~~ grant funds and the Agency has determined that the projects are ready to proceed in accordance with the criteria for grant award.
- b) If insufficient projects in either area are ready to proceed in any grant year to permit an equal division of the total grant funds available to the State, grants will be made to those projects in either area ~~that which~~ are ready to proceed to the extent that funds are available.
- c) Any imbalance in the division of the total grant funds available to the State shall be carried forward from year to year and shall be applied as projects are ready to proceed to achieve an accumulatively equal distribution, if possible within the constraints of this Part, to both areas of the total of the grant funds available to the State.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.204 Supplemental Grants

A unit of local government ~~that which~~ has received a ~~State~~state grant offer shall be eligible for a supplemental ~~State~~state grant not to exceed ~~100% the appropriate percentage~~ of eligible costs of the project. The issuance of a supplemental grant will be based on the availability of Bond Act funds.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.205 Required Content and Filing of Applications for Bond Act Grants

- a) All projects receiving grants pursuant to this Part must comply with the requirements of 35 Ill. Adm. Code 360.

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- b) ~~Bond Act grants will be made only for the funding of eligible project costs that which comply with the requirements of 40 CFR 35, subpart I appendices Subpart I Appendix A and B (2017)(1984), as published on February 17, 1984, in the Federal Register (as amended at 55 Fed. Reg. 27098, June 29, 1990). No later editions are included in the incorporation.~~
- b) ~~Any of the requirements of 40 CFR 35 Subpart I (1984), except facilities planning, sewer system evaluation, user charges, sewer use ordinance, and initiation of construction may be waived in writing by the Agency, in whole or in part, if the purpose of the requirement has been accomplished or if the requirement waived is not considered by the Agency to be necessary to assure that the project attains pollution control goals in a cost effective manner.~~
- e) ~~Bond Act grants will not be offered for any project unless a complete application for the project is filed prior to the filing deadline and unless the Agency has entered the project on the priority list for the fiscal year in which the grant is requested as determined by Agency Rules entitled "Procedures and Requirements for Determining Construction Grant Priorities for Municipal Sewage Treatment Works Needs." (35 Ill. Adm. Code 364).~~
- d) ~~Any of the requirements of Subpart H of this Part, except Sections 363.802(e), 363.803(a), and 363.803(b)(2) and any provisions of Part 360 or Part 365 (as applicable) that may not be waived pursuant to those Parts, may be waived in writing by the Agency, in whole or in part, if the purpose of the requirement has been accomplished or if the requirement is not considered by the Agency to be necessary to assure that the project attains the goals of the Unsewered Communities Grant Program.~~

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.206 Limitations Upon Grants for Collection Systems

The facilities that convey wastewater from individual structures or from private property to the public lateral sewer are not eligible for grant funding, with the exception of pumping units and pressurized lines for individual structures or groups of structures when those units are cost effective and owned and maintained by the grant recipient.

- a) ~~Bond Act grants that may be used for planning, financing and construction of~~

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~~sewage collection systems will be limited as follows:~~

- ~~1) The area within which the system will be constructed must have been within the incorporated boundaries of the grant recipient on October 18, 1972;~~
 - ~~2) Design capacity for the sewer system will not exceed one hundred fifty percent (150%) of the wastewater flows originating from the community as it existed on October 18, 1972. This limitation will be applied sewer line by sewer line; and~~
 - ~~3) The facilities which convey wastewater from individual structures or from private property to the public lateral sewer are not eligible for grant funding, with the exception of pumping units and pressurized lines for individual structures or groups of structures when such units are cost effective and then only if such units are owned and maintained by the grant recipient.~~
- b) ~~Eligible for grant funding are the common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities.~~

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.207 State Owned Facilities

- a) Bond Act grants for that portion of the local share of eligible project costs attributable to ~~State~~ owned facilities shall not be awarded unless the following conditions are met:
 - 1) The grant is in conjunction with and in addition to a Title II grant or a Bond Act grant under ~~Subpart Subparts~~ C, D or E awarded to an eligible unit of local government;
 - 2) The proposed treatment works project must provide service to residential, industrial and commercial users within the boundaries of the unit of local government in addition to providing service to the ~~State~~ owned

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facility;

- 3) The proposed sewage treatment works must be owned and operated by a unit of local government and must be located on property ~~that~~^{which} is also owned by the unit of local government;
 - 4) Grants to the applicant for a share of the local cost attributable to the ~~State~~^{state} owned facility must be awarded to the unit of local government at the time that the Step 3 grant is awarded and prior to initiation of construction of the sewage treatment works;
 - 5) The grant for the share of the local cost attributable to the ~~State~~^{state} owned facility shall not be awarded unless the Agency has approved a cost effective analysis of the treatment works configuration in facility planning; ~~and~~;
 - 6) The grant for the share of the local cost attributable to the ~~State~~^{state} owned facility shall not exceed 100% of the ~~State~~^{state} share of eligible ~~project~~^{projects} costs, as determined ~~by~~^{pursuant to} a signed written service agreement between the applicant and the ~~State~~^{state} agency ~~that~~^{which} operates the ~~State~~^{state} owned ~~facility that~~^{facilities which} is to be served by the treatment works.
- b) No grant under this ~~Section~~^{section} may be made if the ~~State~~^{state} owned facility is eligible and has been approved by the Capital Development Board for securing its share of the local funding under the Capital Development Bond Act of 1972 [30 ILCS 420]~~(Ill. Rev. Stat. 1983, ch. 127, pars. 751 et seq.)~~ or any other bonding program of the State of Illinois.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

SUBPART C: STANDARD PRIORITY PROJECT GRANTS

Section 363.301 Project Priority Requirement

- a) Bond Act grants to units of local government under this Section shall be made in accordance with the grant applicant's priority as established ~~by~~^{under} ~~Agency rules entitled "Procedures and Requirements for Determining Construction Grant Priorities for Municipal Sewage Treatment Works Needs."~~ (35 Ill. Adm. Code

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364).

- b) Except as set forth in ~~Subparts~~~~Subtitles~~ D and E, the Director of the Agency shall not approve a project for funding under this Subpart unless the priority of the project is within the range of project priorities for which grant funding from combined ~~State~~~~state~~ and federal resources is available.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

SUBPART E: REGIONALIZATION PROJECT GRANTS

Section 363.501 Availability of Funding

- a) Notwithstanding Subpart C, the Agency may provide grant assistance under this Subpart, to units of local government ~~that~~~~which~~ are entirely or partially unsewered, for the planning, financing and construction of interceptor or collector sewers if the following requirements are met:
- 1) The proposed sewer system is included in an area of regionalization in which ~~State~~~~state~~ or federal funds have been or will be obligated to construct a regional treatment facility; and
 - 2) The regional treatment facility has been planned to accommodate, and designed with capacity to treat, sewage to be conveyed by the proposed sewer system.
- b) Bond Act grants may be available to fund up to ~~100%~~~~75%~~ of the eligible project costs for planning, design and construction of interceptor or collector sewers.
- c) The following projects and project costs are not eligible for funding under this Subpart:
- 1) Projects of which federal or ~~State~~~~state~~ standard priority construction grant funds are expected to be available;
 - 2) Projects costs for systems designed to intercept, store, or treat wet weather overflows; and
 - 3) Projects ~~that~~~~which~~ consist of sewer systems for partially sewerred

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communities ~~that~~^{which} are tributary to single-municipal treatment facilities.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

SUBPART F: BACKLOG PROJECT GRANTS

Section 363.601 Availability of Funding (Repealed)

~~Eligible backlog projects include those projects listed in P.A. 83-1231 (effective July 20, 1984).~~

(Source: Repealed at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.602 State/Federal Piggyback Grants (Repealed)

~~For those backlog projects receiving a Title II grant after September 30, 1984, a Bond Act grant may also be issued under this Section provided that:~~

- ~~a) the total percentage of the grant funding does not exceed 70 percent.~~
- ~~b) the State share of design will be an allowance in accordance with the criteria set forth in 35 Ill. Adm. Code 363.205.~~

(Source: Repealed at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.603 State Reimbursement Grants (Repealed)

~~For those backlog projects not receiving a Title II grant, a Bond Act grant may be issued provided the State share does not exceed 70 percent. The State grant shall be issued in increments based on cash flow limitations relating to the sales of bonds.~~

(Source: Repealed at 41 Ill. Reg. 13225, effective October 20, 2017)

SUBPART G: BUILD ILLINOIS BOND FUND GRANTS

Section 363.702 Build Illinois Bond Fund Grants

For those projects not receiving a Title II grant, a Build Illinois Bond Fund grant may be issued provided:

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- a) the State share does not exceed ~~100%;70 percent,~~
- b) the State share of either planning or design, or both, will be an allowance in accordance with the criteria set forth in ~~Section 35 Ill. Adm. Code~~ 363.205.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.703 Supplemental State/Federal Piggyback Grants (Repealed)

~~For those projects which receive a State/Federal piggyback grant after September 30, 1984, as set forth in Section 363.602, a supplemental Build Illinois Bond Fund grant may be issued provided that the total percentage of State/Federal grant funding does not exceed 70 percent.~~

(Source: Repealed at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.704 Supplemental State Reimbursement Grants (Repealed)

~~For those backlog projects not receiving a Title II grant, a supplemental Build Illinois Bond Fund grant may be issued provided that the State share does not exceed 70 percent. The State grant shall be issued in increments based on cash flow limitations relating to the sale of bonds.~~

(Source: Repealed at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.705 Supplemental Build Illinois Bond Fund Grants

To the extent that Build Illinois Bond Funds are available, a supplemental Build Illinois Bond Fund grant may be issued under this Section for those projects ~~that~~which received a Bond Act grant on or before September 30, 1984, and ~~that~~which did not receive full ~~100%75 percent~~ funding of eligible project costs provided that:

- a) the Agency has received construction bids on the project, and
- b) the State share does not exceed ~~100%75 percent~~ of the total eligible project cost.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

SUBPART H: UNSEWERED COMMUNITIES GRANTS

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Section 363.801 Applicability

- a) All projects receiving unsewered communities grants pursuant to this Subpart must comply with the requirements of 35 Ill. Adm. Code 360 ~~(General Conditions of State of Illinois Grants under the Anti-Pollution Bond Act of 1970).~~
- b) For projects receiving unsewered communities grants pursuant to this Subpart that also receive a Water Pollution Control Loan Program loan, compliance with 35 Ill. Adm. Code 365 ~~(Procedures for Issuing Loans from the Water Pollution Control Loan Program)~~ will satisfy the requirements of 35 Ill. Adm. Code Part 360.
- c) Except Section 363.802(c), any of the requirements of Subpart H may be waived if the purpose of the requirement has been accomplished or if the requirement is not considered by the Agency to be necessary to assure that the project attains the goals of the Unsewered Communities Grant Program.

(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.803 Grant Percentage and Design Grants (Repealed)

- a) **Grant Percentage**
~~Communities receiving grants under the unsewered communities grant program will be eligible to receive grants of between 10 and 70% of eligible project costs depending on the relationship between the community's median household income (MHI) to the statewide MHI based on the latest census as incorporated by reference at 35 Ill. Adm. Code 366.103. The following table lists the percentage of eligible project costs that may be provided to an applicant based on the applicant's MHI percentage above or below the statewide MHI:~~

State MHI	Grant Percentage
80% and below	70%
81%	69%
82%	68%
83%	67%
84%	66%
85%	65%
86%	64%

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87%	63%
88%	62%
89%	61%
90%	60%
91%	59%
92%	58%
93%	57%
94%	56%
95%	55%
96%	54%
97%	53%
98%	52%
99%	51%
100%	50%
101%	49%
102%	48%
103%	47%
104%	46%
105%	45%
106%	44%
107%	43%
108%	42%
109%	41%
110%	40%
111%	39%
112%	38%
113%	37%
114%	36%
115%	35%
116%	34%
117%	33%
118%	32%
119%	31%
120%	30%
121%	29%
122%	28%
123%	27%
124%	26%
125%	25%

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126%	24%
127%	23%
128%	22%
129%	21%
130%	20%
131%	19%
132%	18%
133%	17%
134%	16%
135%	15%
136%	14%
137%	13%
138%	12%
139%	11%
140% or above	10%

b) Design Grants

- ~~1) Design grants may be made upon submission of an approved facilities plan pursuant to 35 Ill. Adm. Code 365 and an architectural/engineering agreement for design services.~~
- ~~2) An applicant will be eligible for a design grant of between 10 and 70% of the architectural/engineering agreement for design services depending on the relationship between the community's MHI and the state-wide MHI as provided in subsection (a) of this Section.~~
- ~~3) An applicant may elect to receive a design grant prior to the start of design or as a reimbursement at the start of construction.~~

(Source: Repealed at 41 Ill. Reg. 13225, effective October 20, 2017)

Section 363.804 Limitations

~~a) Grant participation for sewers shall be limited to sewers necessary to cost effectively serve buildings in existence on July 1, 2001. b) The maximum amount of grant assistance is \$5 million for any one applicant on a cumulative basis. c) The maximum percentage of grant assistance from all available sources is 85% of eligible project costs. The maximum financial assistance from all sources, including grants and loans, cannot exceed 100% of eligible project costs.~~

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(Source: Amended at 41 Ill. Reg. 13225, effective October 20, 2017)

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- 1) Heading of the Part: General Conditions of Grants for the Financing and Construction of Public Water Supply Facilities
- 2) Code Citation: 35 Ill. Adm. Code 661
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
661.101	Amendment
661.102	Amendment
661.201	Amendment
661.203	Amendment
661.302	Amendment
661.303	Amendment
661.305	Amendment
661.306	Amendment
661.307	Amendment
661.407	Amendment
661.502	Amendment
661.601	Amendment
661.705	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4(k) and 4(x)(1) of the Illinois Environmental Protection Act [415 ILCS 5/4(k) and 415 ILCS 5/4(x)(1)].
- 5) Effective Date of Rules: October 20, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any incorporated by reference, is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL 62794-9276 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 14404; October 28, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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- 11) Differences between Proposal and Final Version: The First Notice version published in the *Illinois Register* included changes made by JCAR. The Illinois EPA's adopted amendments contain some of the grammatical, typographical, and stylistic revisions made by JCAR and published in First Notice. The following changes were made and are not substantive:
- 661.101 – Replaced "authorizes" with "authorize".
- 661.102 – Removed strikethrough of "," after "brochures", replaced "show" with "shows", replaced "have" with "has", and clarified definitions of generally accepted accounting standards and generally accepted auditing principals.
- 661.203 – Replaced "this" with "the".
- 661.302 – Replaced "advantages" with "advantageous" and corrected grammar and punctuation.
- 661.303 – Corrected gender-natural grammar.
- 661.502 – Removed "the" after "under".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted amendments contain updates consistent with the Illinois Environmental Protection Act ("Act") at 415 ILCS 5/4(k) and 415 ILCS 5/4(x)(1). As required by the Act, the adopted amendments provide that the State's share of grant funding is subject to local matching requirements of the Act. Additionally, the adopted amendments reflect provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705] concerning grant funds within the State of Illinois.
- 16) Information and questions regarding these adopted rules shall be directed to:

Rex L. Gradeless
Illinois Environmental Protection Agency

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1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544

The full text of the Adopted Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 661

GENERAL CONDITIONS OF GRANTS FOR THE FINANCING AND
CONSTRUCTION OF PUBLIC WATER SUPPLY FACILITIES

SUBPART A: INTRODUCTION

Section	Purpose
661.101	Purpose
661.102	Definitions
661.103	Severability

SUBPART B: LIABILITIES AND REMEDIES FOR FAILURE
TO COMPLY WITH GRANT CONDITIONS

Section	Purpose
661.201	Noncompliance with Grant Conditions
661.202	Stop-Work Order
661.203	Termination
661.204	Waiver of Conditions
661.205	Covenant Against Contingent Fees

SUBPART C: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS OF GRANTEE

Section	Purpose
661.301	General Conditions for all Subagreements
661.302	Construction Contracts of Grantee
661.303	Contracts for Personal and Professional Services – Consulting Engineering Agreements
661.304	Equal Opportunity
661.305	Compliance with Procurement Requirements
661.306	Disputes
661.307	Indemnity

SUBPART D: REQUIREMENTS APPLICABLE TO INITIATION,
AMENDMENT, COMPLETION AND OPERATION OF PROJECT

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Section	
661.401	Project Initiation
661.402	Project Changes
661.403	Supervision
661.404	Project Sign
661.405	Final Inspection
661.406	Operation and Maintenance
661.407	User Charges
661.408	Flood Plain Insurance

SUBPART E: REQUIREMENTS APPLICABLE TO
ACCESS, AUDITING, AND RECORDS

Section	
661.501	Access
661.502	Audit and Records

SUBPART F: INCORPORATED REQUIREMENTS

Section	
661.601	Statutory Conditions
661.602	Incorporation of Documents

SUBPART G: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

Section	
661.701	Determination of Allowable Costs
661.702	Amount of Grant-Percentage of Approved Allowable Costs
661.703	Use of Grant and Payment of Non-Allowable Costs
661.704	Grant Payment Schedule
661.705	Maximum Grant Share

661.APPENDIX A	General Conditions of Construction Contract Document
661.APPENDIX B	Required Provisions (Engineering Agreements)
661.APPENDIX C	Procedures for Determination of Design Allowance

AUTHORITY: Implementing and authorized by Sections 4(k), 4(x)(1), and 4(x)(2) of the Illinois Environmental Protection Act [415 ILCS 5/4(k), 415 ILCS 5/4(x)(1), and 415 ILCS

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5/4(x)(2)].

SOURCE: Emergency rules adopted at 11 Ill. Reg. 19709, effective November 20, 1987, for a maximum of 150 days; adopted at 12 Ill. Reg. 8926, effective May 17, 1988; amended at 14 Ill. Reg. 2055, effective January 18, 1990; amended at 41 Ill. Reg. 13243, effective October 20, 2017.

SUBPART A: INTRODUCTION

Section 661.101 Purposes

- a) ~~Sections 4(k), 4(x)(1), and 4(x)(2)~~Section 4(v) of the Environmental Protection Act ~~[415 ILCS 5/4(k), 415 ILCS 5/4(x)(1), 415 ILCS 5/4(x)(2)]~~(Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 1004(v), as added by P.A. 85-288, effective September 8, 1987) ~~authorize~~ authorizes the Illinois Environmental Protection Agency ("Agency") *to distribute grants, subject to appropriation by the general assembly, to units of local government for financing and construction of public water supply facilities. With respect to all monies appropriated from the ~~Build~~ build Illinois ~~Bond Fund~~ bond fund or the ~~Build~~ build Illinois ~~Purposes Fund~~ purposes fund for public water supply grants, such grants shall be made in accordance with rules promulgated by the Agency.*
- b) The rules set forth in this Part constitute conditions ~~that~~which apply to any grant to units of local government for financing and construction of public water supply facilities.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

Section 661.102 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act.
- b) For purposes of this Part and 35 Ill. Adm. Code 660, the following definitions apply:

"Act" means the Environmental Protection Act ~~[(415 ILCS 5)]~~(Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1001 et seq., as amended).

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"Addenda" means written or graphic instruments issued prior to the execution of the agreement ~~that~~ which modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications, or corrections.

"Agency" means the Illinois Environmental Protection Agency.

"Applicant" means grant applicant.

"Bid" means the offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.

"Bidder" means any person, firm or corporation submitting a bid for the work.

"Change order" means a written order to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

"Construction" means any one or more of the following: surveys, designs, plans, working drawings, specifications, erection, building, acquisition (of equipment, supplies, or components), alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

"Contract documents" means the contract, including advertisement for bid, information for bidders, bid, bid bond, agreements, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications, and addenda.

"Contract price" means the total monies payable to the contractor under the terms and conditions of the contract documents.

"Contract time" means the number of calendar days stated in the contract documents for the completion of all the work including punch list items.

"Contractor" means the person, firm or corporation with whom the owner has executed a subagreement.

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"Director" means the Director of the Illinois Environmental Protection Agency.

"Drawings" means the part of the contract documents that shows which show the characteristics and scope of the work to be performed and that has which have been prepared by or approved by the engineer based upon the engineer's professional judgment~~judgement as defined in this subsection.~~

"Engineer" means the person, firm or corporation named as such in the contract documents.

"Field order" means a written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the engineer to the contractor during construction.

"Force account work" means work performed or a purchase made by a grantee in lieu of such work being performed or purchase being made by a person other than the grantee.

"Generally accepted accounting principles" or "GAAP" has the meaning provided in accounting standards issued by the Government Accounting Standards Board and the Financial Accounting Standards Board.~~means procedures adopted by the Financial Accounting Standards Board (High Ridge Park, Stamford, Connecticut; June 1, 1987). (This incorporation contains no further amendments or editions.)~~

"Generally accepted auditing standards" means generally accepted government auditing standards issued by the Comptroller General of the United States that are applicable to financial audits.~~procedures adopted by the Auditing Standards Board (Codification of Statements on Auditing Standards; 1211 Avenue of the Americas, New York City, New York; January 1986) (This incorporation contains no further amendments or editions).~~

"Grant" means a grant under Section 4(x)(1)~~4(v)~~ of the Act.

"Grant agreement" means the written agreement between the Agency and

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a grant recipient (applicant) in which the terms and conditions governing the grant are stated and agreed to by both parties.

"Grant applicant" means the unit of local government which has applied for a grant under Section ~~4(x)(1)~~4(v) of the Act.

"Grantee" or "Owner" means the unit of local government which has received a grant under Section ~~4(x)(1)~~4(v) of the Act.

"Grant procedures" means the procedures for issuing grants under Section ~~4(x)(1)~~4(v) of the Act.

"Initiation of operation" means the date specified by the grant recipient on which use of the project begins for the purposes that it was planned, designed, and built.

"Notice of award" means the written notice of the acceptance of the bid from the owner to the successful bidder.

"Notice to proceed" means written communications issued by the owner to the contractor authorizing him to proceed with the work and establishing the date of commencement of the work.

"Professional ~~judgment~~judgement" means the use of those engineering principles and practices used by engineers when fulfilling their requirements and duties consistent with the specific requirements of this Part and as certified by a Professional Engineer licensed under the Illinois Professional Engineering Act (~~225 ILCS 325~~Ill. Rev. Stat. 1985, ch. 111, par. 5101 et seq.).

"Project" means the undertaking to be performed as provided in the grant agreement.

"Resident project representative" means the authorized representative of the owner who is assigned to the project site or any part ~~of the project~~site thereof.

"Responsible bidder" means a bidder who meets all of the criteria for responsibility established by the grantee or contractor in the invitation for

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bid or proposal and, in addition, meets all of the criteria set forth in Section 661.301(j)(1).

"Responsive bidder" means a bidder who complies with the invitation for bid or proposal in all material respects as to the method, substance, and timeliness of submission.

"Shop drawings" means all drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the contractor, subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the work shall be fabricated or installed.

"Specifications" means a part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

"Subagreement" means a written agreement between the grant recipient and another party and any ~~tier of~~ agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including contracts for personal and professional services and purchase orders.

"Subcontractor" means an individual, firm, or corporation having a direct contract with the contractor or with any other subcontractor for the performance of a part of the work.

"Substantial completion" means the date ~~as~~ certified by the engineer when the construction of the project or a specified part ~~of the project~~ thereof is sufficiently completed, in accordance with the contract documents, so that the project or specified part can be utilized for the purpose for which it is intended.

"Supplier" means any person or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site.

"Unit of local government" means a county, municipality, township, municipal or county water or utility authority, municipal public water district, improvement authority ~~or~~ municipal subdivision whose primary

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purpose is to construct, operate and maintain public water supply facilities.

"Work" means all labor necessary to produce the construction required by the contract documents, and all materials and equipment incorporated or to be incorporated in the project.

"Written notice" means any notice to any party of the agreement relative to any part of this agreement in writing. Written notice shall be considered delivered and the service ~~of that notice~~~~thereof~~ completed, when posted by certified or registered mail to the said party at ~~his or her~~~~his~~ last given address, or delivered in person to said party or ~~his or her~~~~his~~ authorized representative on the work.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

SUBPART B: LIABILITIES AND REMEDIES FOR FAILURE
TO COMPLY WITH GRANT CONDITIONS**Section 661.201 Noncompliance with Grant Conditions**

- a) In the event of noncompliance with any condition imposed pursuant to a grant, the Director shall take one or more of the following actions:
 - 1) Commence legal action in a court of competent jurisdiction (e.g., to obtain an injunction or to recover in fraud);
 - 2) Annul the grant and recover all grant funds pursuant to the Illinois Grant Funds Recovery Act (~~[30 ILCS 705]~~~~Ill. Rev. Stat. 1985, ch. 127, par. 2301 et seq.~~);
 - 3) Terminate the grant pursuant to Section 661.203;
 - 4) Suspend all or part of the project work pursuant to Section 661.202; or
 - 5) Take ~~such~~ other action as provided by law, including, but not limited to, reducing the amount of the grant by the amount of misused funds or disallow costs in accordance with Section 661.701.
- b) No action shall be taken under this general condition without prior consultation

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with the applicant.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

Section 661.203 Termination

- a) **Grant Termination by Agency**
The Agency, by written notice and after consultation with the grantee, may terminate the grant. Cause for termination shall include, but not be limited to: default (inability or unwillingness to perform under this Part) by the grantee, failure by the grantee to comply with the terms and conditions of the grant, lack of adequate funding, or advancements in the state of the art. Upon ~~such~~ termination, the grantee shall refund to the State of Illinois any unexpended grant funds, except ~~thatsuch~~ portion ~~thereof as may be~~ required by the grantee to make payment for materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination and further provided that ~~thosesuch~~ costs are otherwise allowable under Section 661.701 and under the conditions of ~~the this~~ grant.
- b) **Project Termination by Grantee**
The grantee may not terminate a project for which the grant has been awarded, except for good cause. Good cause for termination shall include, but not be limited to, realignment of programs, change in program requirements or priorities, lack of adequate funding, or advancement in the state of the art. If the Agency finds that there is good cause for the termination of all or any portion of a project for which the grant has been awarded, it shall enter into a termination agreement or unilaterally terminate the grant, effective with the date of termination of the project by the grantee. Any termination agreement shall include special conditions for the termination of the grant. If the Agency finds that the grantee has terminated the project without good cause, then the grant shall be annulled and all grant funds previously paid or owing to the grantee shall be returned to the State of Illinois ~~as final settlement~~.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

SUBPART C: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS OF GRANTEE

Section 661.302 Construction Contracts of Grantee

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- a) This Section shall apply to construction contracts (subagreements) awarded by the grantee.
- b) The project work shall be performed under one or more contracts awarded by the grantee to private firms, except for force account work authorized by the Agency under Section 661.301(i).
- c) Each contract shall be either a fixed-price (lump-sum) contract or fixed-rate (unit price) contract, or a combination of the two, unless the Agency gives advance written approval (based upon the Agency's professional judgment as defined in Section 661.102(b)) for the grantee to use some other acceptable type of contract (such as, but not limited to, per diem contracts as discussed under Section 661.303(b)(5)). The cost-plus-a-percentage-of-cost type of contract shall not be used.
- d) For each construction contract to be awarded by the grantee, the grantee shall require a:
 - 1) Bid bond for 5% of the bid price;
 - 2) Performance bond for 100% of the contract price; and
 - 3) Payment bond for 100% of the contract price.
- e) The grantee must obtain written Agency approval prior to formal advertising. The Agency shall provide ~~such~~ approval if the grantee has complied with this Part and the conditions of the grant. Each contract shall be awarded after formal advertising, unless negotiation is permitted in accordance with Section 661.301(1). Formal advertising shall be in accordance with the following:
 - 1) Adequate public notice
The applicant will cause adequate notice to be given of the solicitation by publication in newspapers or journals of general circulation statewide, inviting bids on the project work, and stating the method by which bidding documents may be obtained and examined. ~~When~~~~Where~~ the estimated prospective cost of construction is ten million dollars or more, ~~the~~~~such~~ notice must be published in trade journals of nationwide distribution. The applicant must in addition solicit bids directly from bidders, if it maintains a bidders list.

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- 2) Adequate time for preparing bids
Not less than 30 days must be allowed between the date when public notice pursuant to subsection (e)(1) is first published and the date by which bids must be submitted. Bidding documents (including specifications and drawings) shall be available to prospective bidders from the date when ~~the~~ notice is first published.
- 3) Adequate bidding documents
Bidding documents (invitations for bid) shall be prepared by the grantee and shall be furnished upon request on a first-come, first-served basis. A complete set of bidding documents shall be maintained by the grantee and shall be available for inspection and copying by any party. ~~The~~ bidding documents shall include:
 - A) A complete statement of the work to be performed, including necessary drawings and specifications, and a completion schedule. Drawings and specifications may be made available for inspection instead of being furnished;
 - B) The terms and conditions of the contract to be awarded;
 - C) A clear explanation of the method of bidding and the method of evaluation of bid prices, and the basis and method for award of the contract;
 - D) A copy of all the general conditions, special conditions, assurances, agreements, and terms of the grant;
 - E) Responsibility requirements or criteria ~~that~~ will be employed in evaluating bidders; provided, that an experience requirement may not be utilized unless justified under Section 661.301(h)(4);
 - F) The following statement:

"Any contract awarded under this Invitation for Bids is expected to be funded in part by a grant from the State of Illinois. Neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to

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this Invitation for Bids or any resulting contract.";

- G) A copy of subsection (e)(3)(H) shall be in the proposal form to be used by bidders and shall constitute a representation and certification to be considered part of the bid. The grantee shall not award any contract to a bidder who has deleted or modified the language contained in subsection (e)(3)(H), as set forth in the proposal form;
- H) By submission of the bid, each bidder certifies, and in the case of a joint bid each party thereto certifies as to his or her own organization, that in connection with the bid:
- i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to ~~thesueh~~ prices with any other bidder or with any competitor;
 - ii) Unless otherwise required by law, the prices ~~that~~which have been quoted in the bid have not knowingly been disclosed by the bidder, prior to opening, directly or indirectly to any other bidder or to any competitor; and
 - iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition; and
- I) Each person signing the bid shall certify that:
- i) He or she is the person in the bidder's organization responsible within that organization for the decision as to the prices being bid and that he or she has not participated, and will not participate, in any action contrary to subsection (e)(3)(H); or
 - ii) He or she is not the person in the bidder's organization responsible within that organization for the decision as to the prices being bid, but that he or she has been authorized

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to act as agent for the persons responsible for ~~thesuch~~ decision in certifying that ~~theysuch persons~~ have not participated, and will not participate, in any action contrary to subsection (e)(3)(H), and as their agent shall so certify; and shall also certify that he ~~or she~~ has not participated, and will not participate, in any action contrary to subsection (e)(3)(H).

- 4) **Sealed Bids**
The grantee shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening.
- 5) **Amendments to bidding documents**
If the grantee desires to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the amendments shall be communicated in writing to all firms who have obtained bidding documents in time to be considered prior to the bid opening time. The period for submission of bids shall be extended when necessary to assure fair and open competition.
- 6) **Bid modifications**
A firm ~~thatwhich~~ has submitted a bid shall be allowed to modify or withdraw its bid prior to the time of bid opening.
- 7) **Public opening of bids**
The grantee shall provide for a public opening of bids at the place, date and time announced in the bidding documents.
- 8) **Award to the low responsive, responsible bidder.**
 - A) After bids are opened, they shall be evaluated by the grantee in accordance with the methods and criteria set forth in the bidding documents.
 - B) The grantee may reserve the right to reject all bids. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the grantee. The Agency's approval shall be based

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upon a review of the bidding documents, and the grantee's recommendation, for compliance with the grant conditions and this Part.

- C) If award is intended to be made to a firm ~~that~~which did not submit the lowest bid, a written statement shall be prepared prior to any award and retained by the grantee explaining why each lower bidder was deemed not responsive or not responsible.
 - D) Local laws, ordinances, regulations or procedures ~~that~~which are designed or operate to give local or in-state bidders preference over other bidders shall not be employed in evaluating bids.
- f) Negotiations of contract amendments (change orders)
- 1) Grantee responsibility
The grantee is responsible for negotiation of construction contract change orders. This function may be performed by the grantee directly or by the consulting engineer, if authorized by the grantee.
 - A) During negotiations the grantee shall:
 - i) Provide the contractor with a detailed description of the scope and extent of work to be performed;
 - ii) Require the contractor to demonstrate that he or she will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and
 - iii) Require a fair and reasonable price for the work.
 - B) For each change order the grantee shall maintain a written summary of all negotiations and an independent cost estimate prepared by the grantee's consulting engineer.
 - 2) Changes in contract price or time
The contract price or time may be changed only by a change order. Negotiations shall be conducted in accordance with this subsection (f).

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The value of any work covered by a change order, or the value of claim for increases or decreases in the contract price, shall be determined by whichever method set forth in this subsection (f)(2) below is the most advantageous to the grantee:

- A) Unit prices
 - i) Original bid items: Unit prices set forth in the original bid are acceptable for pricing change orders. However, when changes in quantities exceed 15% ~~percent~~ of the original bid quantity, the unit price shall be reviewed by the grantee to determine if a new unit price should be negotiated.
 - ii) New items: Unit prices of new items shall be negotiated.
 - B) A lump sum to be negotiated.
 - C) Cost reimbursement

The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work plus an amount to be agreed upon to cover the cost of general overhead and profit to be negotiated.
- 3) For each change order, the contractor shall submit to the grantee cost and pricing data to enable the grantee to determine if the costs are fair and reasonable. The Such data shall include:
- A) As a minimum, proposed change order costs shall be presented in summary format as prescribed by the Agency and shall be supported by a certification executed by the contractor that proposed costs reflect complete, current and accurate cost and pricing data applicable to the data of the change order.
 - B) In addition to the specific elements of cost, the estimated amount of profit shall be set forth separately in the cost summary for fixed price change orders and a specific total dollar amount of profit will be set forth separately in the cost summary for cost reimbursement change orders.

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- C) More detailed cost data than that set forth by the summary format may be required to enable the grantee to determine if the costs are fair and reasonable.
 - D) For costs under cost reimbursement change orders, the contractor shall have an accounting system ~~that~~~~which~~ accounts for ~~thesueh~~ costs in accordance with ~~GAAP~~~~generally accepted accounting principles~~. This system shall provide for the identification, accumulation, and segregation of allowable and unallowable change orders. The contractor shall propose and account for allowable change order costs in a manner consistent with ~~thesesueh~~ accounting procedures.
 - E) Change orders awarded on the basis of review of a cost element summary and a certification of complete, current, and accurate cost pricing data shall be subject to downward renegotiation or recoupment of funds ~~when~~~~where~~ subsequent audit pursuant to this Part substantiates that ~~thesueh~~ certification was not based on complete, current and accurate cost and pricing data and on costs allowable under these regulations at the time of the change order execution.
- 4) Agency review
For any change order, the grantee shall submit the following to the Agency for review to determine compliance with this Part:
- A) The cost and pricing data submitted by the contractor;
 - B) A certification of review and acceptance of the contractor's cost or price; and
 - C) A copy of the change order with a justification describing the need and reasonableness of the change order.
- 5) Profit
For the purpose of negotiated change orders to construction contracts under Agency grants, profit is defined as the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. The estimate of profit is to be reviewed by the grantee as are all other elements

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of price.

- 6) Allowability
Allowability of costs for change orders shall be determined in accordance with Section 661.701.
- g) Progress payments to contractors
 - 1) Policy
Except as may be otherwise required by law, prompt progress payments shall be made by grantees to prime contractors and by prime contractors to subcontractors and suppliers for eligible construction, material, and equipment costs, including those of undelivered specifically manufactured equipment, incurred under a contract under an Agency construction grant.
 - 2) Protection of progress payments made for specifically manufactured equipment
The grantee shall assure protection of the State's interest in progress payments made for specifically manufactured equipment. This protection must be in a manner or form acceptable to the grantee and shall take the form of recordation under the Uniform Commercial Code (~~810 ILCS 5~~[Ill. Rev. Stat. 1987, ch. 26, pars. 1-101 et seq., as amended](#)), adequate to protect the interest of the grantee and the State.
 - 3) Limitations on progress payments
In no case may progress payments for undelivered equipment or items be made in any amount greater than ~~75% seventy-five percent~~ of the cumulative incurred costs allocable to contract performance with respect to the undelivered equipment or items. Submission of a request for any ~~such~~ progress payments shall be accompanied by a certification furnished by the fabricator of the equipment or item that the amount of progress payment claimed constitutes not more than ~~75% seventy-five percent~~ of cumulative incurred costs allocable to contract performance, and in addition, in the case of the first progress payment request, a certification that the amount claimed does not exceed ~~15% percent~~ of the contract or item price quoted by the fabricator.
 - 4) A subcontractor or supplier ~~that~~[which](#) is determined by the Agency to have frustrated the intent of the provisions regarding progress payments

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for major equipment or specifically manufactured equipment through failure to deliver the equipment shall be determined nonresponsible.

- 5) Contract provisions
Appropriate provisions regarding progress payments must be included in each contract and subcontract.
 - 6) The foregoing progress payments policy shall be implemented in invitations for bids under construction grants.
- h) Retention from progress payments
- 1) The grantee may retain a portion of the amount otherwise due the contractor. Except as provided in subsection (h)(1)(D), the amount retained by the grantee shall be limited to the following:
 - A) The withheld amounts shall be not more than 10% ~~percent~~ of the payment claimed until the work is 50% ~~percent~~ complete.
 - B) When work is 50% ~~percent~~ complete, the withheld amount shall be reduced to 50% ~~percent~~ of the dollar value of all work satisfactorily completed to date if the contractor is making satisfactory progress and there is no specific cause for greater withholding (as determined by the grantee).
 - C) When the work is substantially complete (operational or beneficial occupancy), the withheld amount shall be further reduced below 5% ~~percent~~ to only the amount necessary to assure completion.
 - D) The grantee may reinstate up to 10% ~~percent~~ withholding if the grantee determines, at its discretion, that the contractor is not making satisfactory progress or there is other specific cause for withholding (as determined by the grantee).
 - 2) The foregoing retention policy shall be implemented with respect to all construction projects for which plans and specifications are approved. Appropriate provision to assure compliance with this policy shall be included in the bid documents for such projects initially or by addendum prior to the bid submission date, and as a special condition in the grant

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agreement or in a grant amendment.

- 3) A grantee who delays disbursement of grant funds shall be required to credit to the State all interest earned on those funds.
- i) Required construction contract provisions
Each construction contract shall include the "General Conditions of Construction Contract Document" as set forth in Appendix A. In addition, each construction contract shall include the following provisions:
 - 1) Audit; access to records:
 - A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on grant work under this agreement in accordance with generally accepted accounting principles and with American Institute of Certified Public Accountants' Professional Standards (666 Fifth Avenue, New York City, New York 10019; June 1, 1987). (This incorporation contains no later amendments or editions.). The Contractor shall also maintain the financial information and data used by the Contractor in the preparation or support of any cost submissions required under subsection (f) ~~of this Section~~ and a copy of the cost summary submitted to the owner. The Auditor General, the owner, the Agency, or any of their duly authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The contractor will provide proper facilities for such access and inspection.
 - B) If this contract is a formally advertised, competitively awarded, fixed price contract, the contractor agrees to include the language set forth in subsection (i)(1) in all contract amendments or negotiated change orders in excess of \$10,000, which affect the contract price. In the case of all other prime contracts, the contractor agrees to include language set forth in Section 661.303(i)(1) in all his or her contracts and all tier subcontracts or change orders ~~thereto~~ directly related to project performance thatwhich are in excess of \$10,000.
 - C) Audits conducted pursuant to this provision shall be in accordance

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with generally accepted auditing standards.

- D) The contractor agrees to the disclosure of all information and reports resulting from access to records pursuant to subsection (i)(1)(A). ~~When~~Where the audit concerns the contractor, the auditing agency will afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.
- E) Records under subsection (i)(1)(A) shall be maintained and made available pursuant to Section 661.501 during performance on Agency grant work under this agreement and until three years from the date of final grant payment for the project. In addition, those records ~~that~~which relate to any dispute or litigation or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of ~~that~~such dispute, appeal, litigation, claim, or exception.
- 2) Price reduction for defective cost or pricing data-
- A) This clause is applicable only to:
- i) any negotiated prime contract in excess of \$10,000;
 - ii) negotiated contract amendments or change orders affecting the price of a formally advertised, competitively awarded, fixed price contract; or
 - iii) any subcontract or purchase order under a prime contract other than a formally advertised, competitively awarded, fixed price contract.
- B) This clause is not applicable for contracts or subcontracts to the extent that they are awarded on the basis of effective price competition.

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- C) If the Agency determines that any price (including profit) negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant sums because the contractor or any subcontractor furnished incomplete or inaccurate costs or pricing data or data not current as certified in his or her certification of current cost or pricing data, then ~~that such~~ price or cost or profit shall be reduced accordingly and the contract shall be modified in writing to reflect ~~the such~~ reduction.
- D) Failure to agree on a reduction shall be subject to 35 Ill. Adm. Code 661.Appendix A, Article 30.
- 3) Covenant against contingent fees
The contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty the owner shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of ~~the such~~ commission, percentage, brokerage, or contingent fee.
- 4) Gratuities
- A) The owner shall, by written notice to the contractor, terminate the right of the contractor to proceed under this contract if it is found, after notice and hearing, by the owner that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the contractor or any agent or representative of the contractor, to any official or employee of the owner or of the State of Illinois with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this contract: ~~provided~~Provided, that, if the existence of the facts upon which the owner makes such findings are in issue, they shall be reviewed in proceedings pursuant to 35 Ill. Adm. Code 661.Appendix A, Article 30.
- B) In the event this contract is terminated as provided in subsection

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(i)(4)(A) the owner shall be entitled to pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor.

C) The rights and remedies of the owner provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.

j) Subcontracts under construction contracts
The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by ~~the~~ prime contractor in awarding or executing ~~such~~ subcontracts shall comply with all provisions of federal, State and local law, including but not limited to all provisions set forth in this Part relating to:

- 1) Fraud and other corrupt practices; and
- 2) Access to facilities and records, and audit of records.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

Section 661.303 Contracts for Personal and Professional Services - Consulting Engineering Agreements

- a) Scope of Application
The provisions of subsections (a) through (i) apply to all subagreements of grantees for architectural or engineering services ~~in which~~ where the aggregate amount of services involved is expected to exceed \$10,000. When \$10,000 or less of services (e.g., for consultant or consultant subcontract service) is required, the provisions of Section 661.301(m) shall apply.
- b) Type of Contract (Subagreement)
 - 1) General
Cost reimbursement, fixed price or per diem types of contracts or combinations ~~of those contracts~~ thereof may be negotiated for architectural or engineering services.
 - 2) Contracts prohibited

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The cost-plus-percentage-of-cost and the percentage-of-construction-cost types of contract are prohibited.

- 3) Fixed price contracts
A fixed price contract is one ~~that~~ which established a guaranteed maximum price ~~that~~ which may not be increased except to the extent that a contract amendment increases the scope of work. A fixed price contract may be used only if the scope and extent of work to be performed are clearly defined.
- 4) Cost reimbursement contracts
Each cost reimbursement contract must clearly establish a cost ceiling ~~that~~ which the engineer may not exceed without formally amending the contract and a fixed dollar profit ~~that~~ which may not be increased except in case of a contract amendment which increases the scope of the work.
- 5) Per diem contracts
Per diem agreements should be used only when the first task under the grant involves establishing the scope and cost of succeeding tasks, or for incidental services, such as expert testimony or other intermittent or professional services. Resident engineer and resident inspection services shall be compensated under a fixed price contract or a cost reimbursement contract as described in subsections (b)(3) and (b)(4), respectively.
- 6) Compensation procedures
If, under either a cost reimbursement or fixed price contract, the grantee desires to utilize a multiplier type of compensation, all of the following must apply:
 - A) The multiplier and the portions of the multiplier allocable to overhead and allocable to profit have been specifically negotiated;
 - B) The portion of the multiplier allocable to overhead includes only allowable items of cost under the cost principles set forth in Section 661.701;
 - C) The portions of the multiplier allocable to profit and allocable to overhead have been separately identified in the contract; and

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- D) The fixed price contract includes a guaranteed maximum price for completion of the specifically defined scope of work: the cost reimbursement contract includes a fixed dollar profit ~~that~~^{which} may not be increased except in a case of a contract amendment ~~that~~^{which} increases the scope of work.
- c) Negotiation
- 1) Grantees are responsible for negotiation of their contracts for architectural or engineering services. Contract procurement including negotiation may be performed by the grantee directly or by another non-state governmental body, person or firm retained for the purpose.
 - 2) Negotiation shall be conducted in accordance with State and local laws. If State laws conflict with this Part, State laws shall take precedence over this Part. This Part shall have precedence over local ordinances.
 - 3) The object of negotiations with any candidate shall be to reach agreement on the provisions of the proceed contract. The grantee and the candidate shall discuss, at a minimum:
 - A) The scope and extent of work;
 - B) Identification of the personnel and facilities to accomplish the work within the required time, including where needed, employment of additional personnel, subcontracting, joint ventures, etc;
 - C) Provision of the required technical services in accordance with regulations and criteria established for the project; and
 - D) A fair and reasonable price for the required work, to be determined in accordance with the cost and profit considerations set forth in subsections (d) and (e), and payment provisions.
- d) Cost and Price Considerations:
- 1) General
It is the policy of the Agency that the cost and price of all subagreements

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and amendments ~~to those subagreements thereto~~ must be considered. For each subagreement in excess of \$10,000, but not greater than \$100,000, grantees shall use the procedures described in subsection (g)(3) or an equivalent process.

- 2) Subagreements over \$100,000
For each subagreement expected to exceed \$100,000, or for two subagreements ~~that which~~ aggregate more than \$100,000 awarded to an engineer for work on one project, or ~~when the~~ ~~where~~ renegotiation or amendment itself is in excess of \$100,000, the provisions of this subsection (d)(2) shall apply.
 - A) The ~~candidate~~ ~~candidate(s)~~ selected for negotiation shall submit to the grantee cost and pricing data described in subsection (d)(3) to enable the grantee to determine if the costs are fair and reasonable.
 - B) The grantee shall submit to the Agency for review:
 - i) The cost and pricing data submitted by the selected engineer;
 - ii) A certification of review and acceptance of the selected engineer's cost or price; and
 - iii) A copy of the proposed subagreement document.
 - C) The Agency will review the complete subagreement action and approve the grantee's compliance with this Part prior to the award of the subagreement. The grantee shall be notified upon completion of the review.
- 3) Cost Review
 - A) A review of proposed subagreement costs shall be made by the grantee.
 - B) As a minimum, proposed subagreement costs shall be presented in summary format prescribed by the Agency and shall be supported by a certification executed by the selected engineer that proposed

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costs reflect complete, current and accurate cost and pricing data applicable to the date of anticipated subagreement award.

- C) In addition to the specific elements of cost, the estimated amount of profit shall be set forth separately in the cost summary for fixed price contracts and a maximum total dollar amount of profit shall be set forth separately in the cost summary for cost reimbursement contracts.
 - D) More detailed cost data than that set forth in the summary format may be required to enable the grantee to determine if the costs are fair and reasonable.
 - E) The engineer's actual costs, direct and indirect, allowable for State participation shall be determined in accordance with the terms and conditions of the subagreement and in accordance with this Part.
 - F) The engineer shall have an accounting system which accounts for costs in accordance with GAAP generally accepted accounting principles. This system shall provide for the identification, accumulation and segregation of allowable and unallowable project costs among projects in accordance with Section 661.701. The engineer must propose and account for costs in a manner consistent with his or her normal accounting procedures.
 - G) Subagreements awarded on the basis of review of a cost element summary and a certification of complete, current and accurate cost, and pricing data shall be subject to downward renegotiation or recoupment of funds where the Agency determines that the such certification was not based on complete, current and accurate cost and pricing data at the time of award.
- e) Profit
- The objective of negotiations shall be the determination of a fair and reasonable profit as defined in Section 661.301(c). For the purpose of subagreements under State grants, profit is defined as the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. Where cost review is performed, the estimate of profit should be reviewed by the grantee as are all other elements of price.

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- f) Award of Subagreement
After the close of negotiations and after review and approval by the Agency if required pursuant to subsection (d)(2), the grantee may award the contract. Unsuccessful candidates should be notified promptly.
- g) Required Solicitation and Subagreement Provisions:
- 1) Required solicitation statement
 - A) Requests for qualification or proposals must include the following statement, as well as the proposed terms of the subagreement.

"Any contract or contracts awarded under this request for (qualifications/professional proposals) are expected to be funded in part by a grant from the Illinois Environmental Protection Agency. This procurement will be subject to the requirements of the grant offer."
 - B) Neither the State of Illinois nor the Illinois Environmental Protection Agency is nor will be a party to this request for (qualifications/professional proposals) or any resulting contract.
 - 2) Content of subagreement
 - A) Each subagreement must define:
 - i) The scope and extent of project work;
 - ii) The time for performance and completion of the contract work, and dates for completion of significant project tasks;
 - iii) Personnel and facilities necessary to accomplish the work within the required time;
 - iv) The extent of subcontracting and consultant agreements.
 - B) If any of these elements cannot be defined adequately for later tasks at the time of contract execution, the subsequent tasks or

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steps shall be included in the contract at a time specified in the contract.

- 3) Required subagreement provisions
Each consulting engineering contract must include the provisions set forth in Appendix B. The grant will not be awarded unless each consulting engineering contract includes the provision set forth in Appendix B.
- h) Subagreement Payments – Architectural or Engineering Services:
 - 1) Grantee payments to consulting engineers for work done during construction will be made periodically throughout the construction period.
 - 2) Upon satisfactory completion by the engineer of the work called for under the terms of a contract, and upon acceptance of ~~that~~ work by the grantee, with the concurrence of the Agency based upon the Agency's professional judgment as defined in Section 661.102(b), the engineer will be paid the unpaid balance of any money due for ~~that~~ work, including any retained percentages relating to this portion of the work.
 - 3) Payment may not be withheld for professional services, except as provided in the contract for professional services. Any withholding should be limited to only that amount necessary to assure contract compliance.
- i) Subcontracts under subagreements for architectural or engineering services
 - 1) The award or execution of subcontracts under a prime contract for architectural or engineering services awarded to an engineer by a grantee, and the procurement and negotiation procedures used by the engineer in awarding ~~such~~ subcontracts are not required to comply with any of the provisions selection procedures, policies or principles set forth in Section 661.301 or Section 661.303, except those specifically stated in subsection (i)(2).
 - 2) The award or execution of subcontracts in excess of \$10,000 under a prime contract for architectural or engineering services and the procurement procedures used by the engineer in awarding such subcontracts must comply with the following:

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- A) Section 661.301(a); (Local preference);
- B) Section 661.303(d); (Cost and Price Considerations); and
- C) Section 661.303(e); (Profit).

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

Section 661.305 Compliance with Procurement Requirements

- a) **Grantee responsibility**

The grantee is responsible for selecting the low, responsive, and responsible bidder or other contractor in accordance with ~~State~~ or local laws or ordinances, and the grant agreement directly affecting procurement, and for the initial resolution of complaints based upon alleged violations. The grantee shall promptly determine each ~~such~~ complaint upon its merits permitting the complaining party as well as any other interested party who may be adversely affected to state in writing or at a conference the basis for his ~~or her~~ views concerning the proposed procurement. The grantee must promptly furnish to the complaining party and to other affected parties, by certified mail, a written summary of its determination, substantiated by an engineering and legal opinion, providing a justification for its determination.
- b) **Arbitration**

Disputes between the grantee and any party adversely affected by the determination of the grantee made pursuant to subsection (a) shall be resolved by binding arbitration by a single arbitrator, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (140 W. 51st Street, N.Y., N.Y., 10020, 1986). (This incorporation contains no further amendments or editions.) This agreement to arbitrate shall be specifically enforceable under the Uniform Arbitration Act (~~[710 ILCS 5]Ill. Rev. Stat. 1985, ch. 10, par. 101 et seq.~~). The award rendered by the arbitrator shall be final, and ~~judgment~~ may be entered upon it in any court having jurisdiction thereof. A copy of the arbitration award shall be provided to the Agency immediately upon its issuance.
- c) **Time limitations**

Complaints under subsection (a) shall should made in writing to the grantee, with a copy to the Agency, as early as possible during the procurement process,

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preferably prior to issuance of an invitation for bids to avoid disruption of the procurement process. A complaint authorized by subsection (a) must be mailed by certified mail (return receipt requested), or delivered, to the grantee, with a copy to the Agency, no later than five working days after the bid opening. A request for arbitration pursuant to subsection (b) must be made to the American Arbitration Association within one week after the complaining party received the grantee's adverse determination.

- d) Deferral of procurement action
~~When~~Where the grantee has received a written complaint pursuant to subsection (a), it must defer issuance of its solicitation or award or notice to proceed under the contract (as appropriate) for ten days after mailing or delivery of any written adverse determination. If a determination is made by either the grantee or the arbitrator ~~that~~which is favorable to the complainant, the terms of the solicitation must be revised or the contract must be awarded (as appropriate) in accordance with ~~this~~such determination.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

Section 661.306 Disputes

- a) Only the grantee may appeal to the Agency under this provision with respect to its subagreements ~~thereunder~~ for its own name and benefit. Neither a contractor nor a subcontractor of a grantee may prosecute an appeal under the disputes provision of a grant in its own name or interest.
- b) Any dispute arising under this grant ~~that~~which is not disposed of by agreement shall be decided by the Director or ~~the Director's~~his duly authorized representative, who shall reduce his ~~or her~~ decision to writing and mail or otherwise furnish a copy ~~thereof~~ to the applicant. The decision of the Director shall be based upon the application of State law and this Part to the fact presented by the Agency and the grantee. The decision of the Director shall be final and conclusive.
- c) This ~~Section "disputes" clause~~ does not preclude consideration of questions of law in connection with decisions provided for in subsection (b).

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

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Section 661.307 Indemnity

The grantee shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency or third persons, and any injury to or death of any persons (including employees of the grantee) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, ~~hold~~save harmless and defend the State of Illinois and the Agency from all claims for any ~~such~~ loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of the Construction Contract Indemnification for Negligence Act [740 ILCS 35]"AN ACT in relation to indemnity in certain contracts" (Ill. Rev. Stat. 1985, ch. 29, par. 61 et seq.). The grantee shall require that any and all contractors or subcontractors engaged by the grantee shall agree in writing that they shall look solely to the grantee for performance of ~~the~~such contract or satisfaction of any and all claims arising under the contract~~thereunder~~.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

SUBPART D: REQUIREMENTS APPLICABLE TO INITIATION,
AMENDMENT, COMPLETION AND OPERATION OF PROJECT**Section 661.407 User Charges**

- a) Each applicant must develop a system of user charges prior to grant approval. The system of user charges must be enacted and enforced prior to initiation of operation of the project for which the grant was awarded.
- b) The user charge system shall be consistent with the following criteria:
 - 1) The user charge system must generate sufficient revenue to offset the cost of all public water supply operation, maintenance and replacement of all equipment with a replacement life of less than 20 years required to be provided by the grantee.
 - 2) The user charge system must be enacted into law.
 - 3) For the first year of operation of new facilities, operation, maintenance, and replacement costs shall be based upon experience for the existing public water supply or shall be based upon a cost estimate provided by the grantee's engineer.

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- 4) The grantee shall review user charges annually and revise the rates periodically to reflect actual public water supply operation, maintenance, and replacement costs.
- c) Upon a written determination by the Agency that the grantee's system of user charges complies with the conditions of the grant and this Part, the implementation and maintenance of the approved system and the implementation schedules ~~therefore~~ shall become a condition of the grant subject to the provisions of Section 661.201.
- d) The grantee must maintain such records as are necessary to document ~~such~~ compliance. The grantee shall maintain ~~such~~ records in accordance with the provisions of the Local Records Act (~~[50 ILCS 205]Ill. Rev. Stat. 1985, ch. 116, pars. 43-101 et seq.~~), except that no ~~such~~ records may be destroyed for a period of 30 years unless microfilm reproduction ~~is~~ made.
- e) The Agency or any authorized representative shall have access to any books, documents, papers, and records of the grantee ~~that~~ which are applicable to the grantee's systems of user charges for the purpose of making audit, examination, excerpts, and transcriptions ~~thereof~~ to ensure compliance with the provisions of subsection (b).

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

SUBPART E: REQUIREMENTS APPLICABLE TO
ACCESS, AUDITING, AND RECORDS**Section 661.502 Audit and Records**

- a) The grantee shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices that conform to GAAP~~generally accepted accounting principles~~ to properly account for:
 - 1) The receipt and disposition by the grantee of all assistance received for the project, including both State assistance and any matching share or cost sharing; and
 - 2) The costs charged to the project, including all direct and indirect costs of

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whatever nature incurred for the performance of the project for which the grant has been awarded. The foregoing ~~constitute~~constitute "records" for the purposes of this condition.

- b) The grantee's facilities, or ~~such~~ facilities as may be engaged in the performance of the project for which grant has been awarded, and the grantee's records shall be subject to inspection and audit by the Agency or any authorized representative at the times specified in Section 661.501.
- c) The grantee shall preserve and make his or her records available to the Agency or any authorized representative:
 - 1) Until expiration of 3 years from the date of final payment under this grant, and
 - 2) For such longer period, if any, as is required by applicable statute or lawful requirement, or by subsections (d) or (e).
- d) If this grant is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement.
- e) Records ~~that~~which relate to appeals under ~~the~~ Section 661.306, litigation or the settlement of claims arising out of the performance of the project for which this grant was awarded, or costs and expenses of the project as to which exception has been taken by the Agency or any of its duly authorized representatives, shall be retained until all~~such~~ appeals, litigation, claims, or exceptions have been disposed.
- f) Any failure by the grantee or any contractor or subcontractor of the grantee to make records available to the Agency as required by this Section after 10 days' written notice from the Agency, shall be cause for termination of the grant, pursuant to Section 661.203, and refund to the State of Illinois of any unexpended grant funds in the hands of the grantee, and in addition ~~thereto~~, refund of any grant funds previously expended by the grantee, contractor or subcontractor found in noncompliance with this Section.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

SUBPART F: INCORPORATED REQUIREMENTS

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Section 661.601 Statutory Conditions

- a) All grants are awarded subject to State law, including but not limited to the requirements of the following Illinois statutes:
- 1) The Illinois Architecture Act of 1989 (~~[225 ILCS 305]~~~~Ill. Rev. Stat. 1985, ch. 111, par. 1201 et seq.~~) relating to the practice of architecture.
 - 2) The Adjacent Landowner Excavation Protection Act [765 ILCS 140]~~"AN ACT to prescribe the duty of an owner or occupant of lands upon which excavations are made in reference to the furnishing of lateral and subjacent support to adjoining lands and structures thereon"~~ (Ill. Rev. Stat. 1985, ch. 111 1/2, Par. 3301 et seq.) relating to the duty of an owner or occupant of land upon which excavations are made in reference to the furnishing of lateral and subjacent support to adjoining lands and structures on those lands~~thereon~~.
 - 3) Section 18f of the Rivers, Lakes, and Streams Act [615 ILCS 5/18f]~~"AN ACT in relation to the regulation of the rivers, lakes and streams of the State of Illinois"~~ (Ill. Rev. Stat. 1985, ch. 19, par. 65f) relating to flood plains.
 - 4) The Public Construction Bond Act [30 ILCS 550]~~"AN ACT in relation to bonds of contractors entering into contracts for public construction"~~ (Ill. Rev. Stat. 1985, ch. 29, par. 15 et seq.) relating to bonds of contractors entering into contracts for public construction.
 - 5) The Public Works Employment Discrimination Act [775 ILCS 10]~~"AN ACT to prohibit discrimination and intimidation on account of race, creed, color, sex, religion, physical or mental handicap unrelated to ability, or national origin in employment under contracts for public buildings or public works"~~ (Ill. Rev. Stat. 1985, ch. 29, par. 17 et seq.) relating to the prohibition of discrimination and intimidation on account of race, creed, color, sex or national origin in employment under Contracts for Public Works.
 - 6) The Prevailing Wage Act [820 ILCS 130]~~"AN ACT regulating wages of laborers, mechanics and other workers employed in any public works by~~

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~~the State, county, city or any public body or any political subdivision or by any one under contract for public works" (Ill. Rev. Stat. 1985, ch. 48, par. 39s.1 et seq.)~~ relating to the regulation of laborers, mechanics and other workmen employed in any public works by the State, county, city or any public body or any political subdivision or by anyone under contract for public works.

- 7) The Health and Safety Act (~~{~~[\[820 ILCS 225\]](#)~~}~~~~Ill. Rev. Stat. 1985, ch. 48, par. 137.1 et seq.)~~ relating to the health and safety of persons employed and vesting in the [Workers' Compensation Commission](#)~~industrial commission~~ power to make reasonable rules relating [to health and safety](#)~~thereto~~.
- 8) The Workers' Compensation Act (~~{~~[\[820 ILCS 305\]](#)~~}~~~~Ill. Rev. Stat. 1985, ch. 48, par. 138.1 et seq.)~~ relating to providing compensation for accidental injuries or death suffered in the course of employment within this State, and ~~outside~~~~without~~ the State ~~when~~~~where~~ the contract of employment is made within this State.
- 9) ~~The Medical Examination of Employees Act [820 ILCS 235]"AN ACT forbidding employers to require employees or applicants for employment to pay the cost of medical examinations required as a condition of employment" (Ill. Rev. Stat. 1985, ch. 48, par. 172d et seq.)~~ relating to forbidding employers to require employees or applicants for employment to pay the cost of medical examinations required as a condition of employment.
- 10) The Workers' Occupational Diseases Act (~~{~~[\[820 ILCS 310\]](#)~~}~~~~Ill. Rev. Stat. 1985, ch. 48, par. 172.36 et seq.)~~ relating to providing remedies for injuries suffered or death resulting from occupational diseases incurred in the course of employment.
- 11) ~~The Employment of Illinois Workers on Public Works Act [30 ILCS 570]"AN ACT concerning the distribution of certain federal grants and the employment of Illinois workers" (Ill. Rev. Stat. 1985, ch. 48, par. 2201 et seq.)~~ relating to employment of Illinois laborers only during periods of excessive unemployment in Illinois.
- 12) ~~The~~~~Illinois~~ Professional Engineering [Practice Act of 1989](#) (~~{~~[\[225 ILCS](#)

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~~325]Ill. Rev. Stat. 1985, ch. 111, par. 5101 et seq.)~~ relating to the practices of professional engineering.

- 13) ~~The Notice By Publication Act [715 ILCS 5]"AN ACT to revise the law in relation to notices" (Ill. Rev. Stat. 1985, ch. 100, par. 1 et seq.)~~ relating to publication of notices.
- 14) Sections 3 and 4 of ~~the Public Officer Prohibited Activities Act [50 ILCS 105/3 and 50 ILCS 105/4]"AN ACT to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers" (Ill. Rev. Stat. 1985, ch. 102, pars. 3 and 4)~~ relating to the prevention of fraudulent and corrupt practices in the making or accepting of contracts by public officers.
- 15) The Open Meetings Act (~~[5 ILCS 120]Ill. Rev. Stat. 1985, ch. 102, par. 41 et seq.)~~ relating to meetings.
- 16) The Environmental Protection Act (~~[415 ILCS 5]Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1001 et seq.)~~ and regulations thereunder.
- 17) The ~~Illinois~~-Structural Engineering Practice Act of 1989 (~~[225 ILCS 340]Ill. Rev. Stat. 1985, ch. 111, par. 6501 et seq.)~~ relating to the practice of structural engineering.
- 18) The Illinois Grant Funds Recovery Act [30 ILCS 705] concerning grant funds in the State of Illinois.

- b) The grantee is solely responsible for assuring compliance with all applicable federal and ~~State~~ statutory and regulatory requirements.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

SUBPART G: REQUIREMENTS APPLICABLE TO PAYMENT OF GRANTS

Section 661.705 Maximum Grant Share

- a) ~~The~~Except as provided in subsection (b), the total percentage of State grant funding for allowable project costs, as described in Section ~~661.701~~660.701, is subject to any local match requirements set forth in the ~~Act~~will not exceed 70

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percent.

- b) If the monies appropriated for the grant are from a source other than the Build Illinois Fund or the Build Illinois Purposes Fund, and ~~that such~~ appropriation expressly states a specific percentage of State grant funding for the project, the percentage set forth in the appropriation shall be the percentage of grant funding for allowable project costs as described in Section 661.701.
- c) The State share of project design costs shall be an allowance in accordance with the provisions of Appendix C of this Part.

(Source: Amended at 41 Ill. Reg. 13243, effective October 20, 2017)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of October 10, 2017 through October 16, 2017. These rulemakings are scheduled for review at the Committee's November 7, 2017 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
11/24/17	<u>Department of Children and Family Services</u> , Services Delivered by the Department of Children and Family Services (89 Ill. Adm. Code 302)	3/3/17 41 Ill. Reg. 2709	11/7/17
11/24/17	<u>Department of Children and Family Services</u> , Appeal of Child Abuse and Neglect Investigation Findings (89 Ill. Adm. Code 336)	12/9/16 40 Ill. Reg. 16013	11/7/17
11/25/17	<u>Illinois Board of Higher Education</u> , Dual Credit Courses (23 Ill. Adm. Code 1009)	6/30/17 41 Ill. Reg. 7259	11/7/17
11/25/17	<u>Illinois Board of Higher Education</u> , Program Review (Private Colleges and Universities) (23 Ill. Adm. Code 1030)	6/30/17 41 Ill. Reg. 7266	11/7/17
11/25/17	<u>Illinois Board of Higher Education</u> , Approval of New Units of Instruction, Research and Public Service at Public Institutions (23 Ill. Adm. Code 1050)	6/30/17 41 Ill. Reg. 7319	11/7/17

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 41, Issue 43 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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