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November 7, 2014 Volume 38, Issue 45

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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 2014

Issue#	Rules Due Date	Date of Issue
1	December 23, 2013	January 3, 2014
2	December 30, 2013	January 10, 2013
3	January 6, 2014	January 17, 2014
4	January 13, 2014	January 24, 2014
5	January 21, 2014	January 31, 2014
6	January 27, 2014	February 7, 2014
7	February 3, 2014	February 14, 2014
8	February 10, 2014	February 21, 2014
9	February 18, 2014	February 28, 2014
10	February 24, 2014	March 7, 2014
11	March 3, 2014	March 14, 2014
12	March 10, 2014	March 21, 2014
13	March 17, 2014	March 28, 2014
14	March 24, 2014	April 4, 2014
15	March 31, 2014	April 11, 2014
16	April 7, 2014	April 18, 2014
17	April 14, 2014	April 25, 2014
18	April 21, 2014	May 2, 2014

19	April 28, 2014	May 9, 2014
20	May 5, 2014	May 16, 2014
21	May 12, 2014	May 23, 2014
22	May 19, 2014	May 30, 2014
23	May 27, 2014	June 6, 2014
24	June 2, 2014	June 13, 2014
25	June 9, 2014	June 20, 2014
26	June 16, 2014	June 27, 2014
27	June 23, 2014	July 7, 2014
28	June 30, 2014	July 11, 2014
29	July 7, 2014	July 18, 2014
30	July 14, 2014	July 25, 2014
31	July 21, 2014	August 1, 2014
32	July 28, 2014	August 8, 2014
33	August 4, 2014	August 15, 2014
34	August 11, 2014	August 22, 2014
35	August 18, 2014	August 29, 2014
36	August 25, 2014	September 5, 2014
37	September 2, 2014	September 12, 2014
38	September 8, 2014	September 19, 2014
39	September 15, 2014	September 26, 2014
40	September 22, 2014	October 3, 2014
41	September 29, 2014	October 10, 2014
42	October 6, 2014	October 17, 2014
43	October 14, 2014	October 24, 2014
44	October 20, 2014	October 31, 2014
45	October 27, 2014	November 7, 2014
46	November 3, 2014	November 14, 2014
47	November 10, 2014	November 21, 2014
48	November 17, 2014	December 1, 2014
49	November 24, 2014	December 5, 2014
50	December 1, 2014	December 12, 2014
51	December 8, 2014	December 19, 2014
52	December 15, 2014	December 26, 2014

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, 2014 until January 2, 2015.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities
- 2) Code Citation: 83 Ill. Adm. Code 590
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
590.10	Amendment
590.30	New Section
590.40	New Section
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments would advance the date of the version of the federal rules that Part 590 incorporates by reference, from January 1, 2013, to October 1, 2014, to capture recent revisions to the federal rules. In addition, the rulemaking proposes the adoption of two new Sections, 590.30 and 590.40, to require operators of pipeline facilities to submit, by electronic means in electronic form, copies of plans, procedures, and programs that they are required to file with the agency. Electronic submission of those documents, and of subsequent amendments to them, will help ensure that the most recent versions are on file with the Commission and available to Commission Staff. Among other benefits expected to result from the new requirement, inspection staff will be able to have remote access to the documents whenever and wherever the need arises.
- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.

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NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 14-0691 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
- C) Types of professional skills necessary for compliance: Managerial and accounting skills

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Agendas because: The Commission did not anticipate the need for this rulemaking at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIESPART 590
MINIMUM SAFETY STANDARDS FOR TRANSPORTATION
OF GAS AND FOR GAS PIPELINE FACILITIES

Section

590.10	Standards
590.20	Submission of Federal Reports to the Commission
590.30	Submission of Plans, Procedures and Programs
590.40	External User Accounts

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].

SOURCE: Filed effective November 28, 1977; amended at 3 Ill. Reg. 5, p. 761, effective February 3, 1979; amended at 3 Ill. Reg. 11, p. 25, effective March 17, 1979; amended at 4 Ill. Reg. 1, p. 23, effective January 1, 1980; amended at 5 Ill. Reg. 6778, effective June 16, 1981; rules repealed, new rules adopted and codified at 7 Ill. Reg. 12858, effective September 16, 1983; amended at 8 Ill. Reg. 13195, effective July 16, 1984; amended at 10 Ill. Reg. 19405, effective November 15, 1986; amended at 11 Ill. Reg. 11733, effective July 1, 1987; amended at 12 Ill. Reg. 11707, effective July 15, 1988; recodified from 92 Ill. Adm. Code 1800 at 12 Ill. Reg. 12997; amended at 13 Ill. Reg. 16968, effective November 1, 1989; amended at 14 Ill. Reg. 10018, effective June 15, 1990; amended at 17 Ill. Reg. 12291, effective July 15, 1993; amended at 18 Ill. Reg. 11518, effective July 25, 1994; amended at 19 Ill. Reg. 13549, effective October 1, 1995; amended at 21 Ill. Reg. 8906, effective July 1, 1997; amended at 23 Ill. Reg. 11872, effective October 1, 1999; amended at 25 Ill. Reg. 11355, effective September 1, 2001; amended at 27 Ill. Reg. 12385, effective August 1, 2003; amended at 29 Ill. Reg. 11808, effective August 1, 2005; amended at 31 Ill. Reg. 11562, effective August 1, 2007; amended at 33 Ill. Reg. 12224, effective August 15, 2009; amended at 35 Ill. Reg. 14414, effective August 15, 2011; amended at 37 Ill. Reg. 15336, effective September 10, 2013; amended at 39 Ill. Reg. _____, effective _____.

Section 590.10 Standards

- a) The Illinois Commerce Commission (Commission) adopts the standards contained in 49 CFR 191.1, 191.3, 191.5, 191.7, 191.9, 191.11, 191.12, 191.13,

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

191.15, 191.17, 191.22, 191.23, 191.25, 192, 193 and 199 as of October 1, 2014~~January 1, 2013~~, as its minimum safety standards for the transportation of gas and for gas pipeline facilities.

- b) No later amendment or editions are incorporated by this Part.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 590.30 Submission of Plans, Procedures and Programs

- a) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall file with the Commission any plans, procedures and programs required by or necessary to implement requirements of Section 590.10(a).
- b) Each person identified in subsection (a) shall request an external user account with the Commission.
- c) Each person identified in subsection (a) shall file any revisions to the plans, procedures and programs defined in subsection (a).

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 590.40 External User Accounts

- a) Each person seeking to file electronic documents in the manner prescribed by Section 590.30 must have an active external user account.
- b) The application for an external user account is available on the Commission's website or can be obtained by calling or e-mailing the Chief Clerk's office.
- c) The external user account application requires the following information:
- 1) First name and last name;
 - 2) Primary mailing address and phone number;
 - 3) Preferred user name;

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 4) Password;
 - 5) Challenge question and answer; and
 - 6) Notarized signature.
- d) Applications must be hand delivered or mailed to the Chief Clerk's office.
- e) The user is responsible for keeping confidential the user ID and password. A user ID must be at least four characters in length and must be unique. Passwords must be at least five characters in length. Periodically, passwords will expire and users will be given advance notice and requested to enter a new password. The challenge question and answer will enable the Commission's information technology staff to recover a password for a user who has forgotten his or her password.
- f) Because of the unique user ID and password, an electronic document can be traced to a specific individual as if it were signed. This shall serve as an electronic signature on the filings.

(Source: Added at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Confidentiality Protocols for Request and Receipt of Claim Information by Alternative Means
- 2) Code Citation: 50 Ill. Adm. Code 2028
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2028.5	New Section
2028.10	New Section
2028.20	New Section
2028.30	New Section
2028.40	New Section
- 4) Statutory Authority: Implementing and authorized by Section 355b of the Illinois Insurance Code [215 ILCS 5/355b]
- 5) A Complete Description of the Subjects and Issues Involved: A new rule needs to be developed as required by PA 98-189 to guide companies in guarding against the disclosure of the information protected by the new provisions of 215 ILCS 355b.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
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 proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

James Rundblom, Deputy General Counsel Department of Insurance 320 West Washington, 4th Floor Springfield IL 62767-0001	or	Susan Anders, Rules Coordinator Department of Insurance 320 West Washington, 4th Floor Springfield IL 62767-0001
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217/785-8559
fax: 217/524-9033

217/558-0957

- 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:
Development and implementation of confidentiality protocol
 - C) Types of professional skills necessary for compliance: Insurance
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Agendas because: the Department did not anticipate making these changes during that timeframe.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCE

PART 2028

CONFIDENTIALITY PROTOCOLS FOR REQUEST AND RECEIPT OF
CLAIM INFORMATION BY ALTERNATIVE MEANS

Section	
2028.5	Purpose
2028.10	Applicability
2028.20	Definitions
2028.30	Confidentiality Protocol
2028.40	Notice

AUTHORITY: Implementing and authorized by Section 355b of the Illinois Insurance Code [215 ILCS 5/355b].

SOURCE: Adopted at 39 Ill. Reg. _____, effective _____.

Section 2028.5 Purpose

People experiencing actual or threatened violence frequently establish new addresses and telephone numbers to protect their health and safety. Section 355b of the Code requires the Director to adopt rules to guide companies in guarding against disclosure of information protected pursuant to that Section. This Part establishes requirements for health companies so that they effectively respond to reasonable requests for receipt of claim-related information by alternative means and keep that information confidential in conformance with Section 355b of the Code.

Section 2028.10 Applicability

- a) This Part shall apply to a company that issues, delivers, amends or renews an individual or group policy of accident and health insurance in this State on or after January 1, 2014.
- b) With respect to a company authorized to write other kinds of insurance in addition to accident and health insurance, this Part shall apply only with respect to accident and health insurance coverage.

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Section 2028.20 Definitions

As used in this Part:

"Accident and health insurance" shall have the meaning set forth in Section 4 Class 1(b) and Class 2(a) of the Code and includes those coverages authorized by the Health Maintenance Organization Act [215 ILCS 125], the Limited Health Service Organization Act [215 ILCS 130], and the Voluntary Health Services Plan Act [215 ILCS 165]. With regard to a fraternal benefit society, the term includes coverages authorized by Section 297.1(4) and (5) of the Code.

"Address" means a street address, mailing address or e-mail address.

"Claim related information" means all claim or billing information relating specifically to an insured, subscriber or person covered by an individual or group policy of accident and health insurance issued, delivered, amended or renewed by a company doing business in this State.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Company" means a company, as defined in Section 2 of the Code, that issues, delivers, amends or renews an individual or group policy of accident and health insurance or other insurance providing accident and health insurance benefits.

"Director" means the Director of the Illinois Department of Insurance.

"Fraternal benefit society" shall have the meaning set forth in Section 282.1 of the Code.

"Insured" means a natural person who is, has been or will be covered under an individual or group accident and health policy or a policy including accident and health coverage.

"Person" means a natural person or legal entity, including a partnership, limited liability company, association, trust or corporation.

"Policy" means a policy, contract or certificate of accident and health insurance.

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"Policyholder" means a person to whom a policy has been issued.

"Reasonable request" means:

a statement that disclosure of all or part of the claim related information to which the request pertains could endanger an individual; or

a copy of a valid protective order from a court of competent jurisdiction.

The request shall specify an alternative address, telephone number or other method of contact.

"Requestor" means an insured making a request to receive claim-related information by alternative means, or the insured's legal representative, or, with regard to an insured who is a child, the child's parent or guardian.

Section 2028.30 Confidentiality Protocol

- a) A company shall develop and implement a confidentiality protocol to accommodate a reasonable request by a requestor to receive communications of claim-related information from the company by alternative means or at alternative locations if the requestor clearly states that disclosure of all or part of the information could endanger the insured. The confidentiality protocol shall provide that, except with the express consent of the requestor, the company shall not disclose to the policyholder:
 - 1) the address, telephone number or any other personally identifying information of the insured or child for whose benefit a request was made;
 - 2) the nature of the health care services provided;
 - 3) the name or address of the provider of the health care services; or
 - 4) any other information from which there is a reasonable basis to believe the foregoing information could be obtained.
- b) A company may require that:
 - 1) a requestor making a request do so in writing;

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- 2) the request contain a statement that disclosure of all or part of the claim-related information to which the request pertains could endanger the insured or child; and
 - 3) the request specify an alternative address, telephone number or other method of contact.
- c) The company's confidentiality protocol shall include written procedures to be followed by its employees, agents, representatives or other persons with whom the company contracts and who may have access to the information sought to be kept confidential. The written procedures shall include:
- 1) the procedure by which a requestor may make a reasonable request, provided that the procedure shall not require a justification as part of the reasonable request;
 - 2) the procedure by which the requestor may provide an alternative address, telephone number or other method of contact;
 - 3) the procedure for limiting access to personally identifying information, such as the name, address, telephone number and social security number of an insured and any other information from which there is a reasonable basis to believe the foregoing information could be obtained;
 - 4) the procedure for limiting or removing personal identifiers before information is used or disclosed, when possible;
 - 5) a system of internal control procedures, which the company shall review at least annually, to ensure the confidentiality of:
 - A) addresses, telephone numbers or other methods of contact;
 - B) the fact that a requestor made a reasonable request or that an order of protection was delivered to the company, and any information contained the request or order; and

DEPARTMENT OF INSURANCE

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- C) any other information from which there is a reasonable basis to believe the information specified in subsections (c)(5)(A) and (B) could be obtained; and
- 6) the procedure by which a requestor may revoke a reasonable request; provided, however, that the company may require the requestor to submit a sworn statement revoking the request.
- d) Notification of Company's Protocol
 - 1) A company shall notify its employees, agents, representatives and other persons with whom the company contracts who have access to the information sought to be kept confidential that the company's protocol is to be followed for the specified insured, within three business days after:
 - A) receipt of a reasonable request; or
 - B) receipt of a valid order of protection and an alternative address, telephone number or other method of contact.
 - 2) Upon receipt of a reasonable request or a valid order of protection, a company shall inform the individual who delivered the order of protection or the requestor that the company has up to three business days to implement the requirements of subsection (d)(1).
- e) A company may not require a requestor to provide a justification for the reasonable request.
- f) Notification of Release of Information
 - 1) Prior to releasing any information prohibited to be disclosed under Section 355b of the Code, pursuant to a warrant, subpoena or court order involving the policyholder or another insured covered under the policy, a company shall notify the individual who delivered the order of protection or the requestor, as soon as reasonably practicable, that it intends to release information. The notification shall specify what type of information the company intends to release, unless prohibited by the warrant, subpoena or court order.

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- 2) Upon release of information pursuant to a warrant, subpoena or court order, a company shall advise the person to whom the company is releasing the information that the information is confidential and that the person should continue to maintain the confidentiality of the information to the extent possible.
- g) A company shall comply with Article XL of the Code regarding Insurance Information and Privacy Protection and, if applicable, the federal Health Insurance Portability and Accountability Act of 1996, as amended, with respect to any information submitted pursuant to Section 355b of the Code or this Part.

Section 2028.40 Notice

- a) A company shall post conspicuously on its website and annually provide all its participating health service providers with:
 - 1) a description of Section 355b of the Code;
 - 2) the information required by Section 2028.30(c)(1), (2) and (6); and
 - 3) the phone number for the State of Illinois Domestic Violence Helpline.
- b) A company shall recommend to its participating health service providers that the providers print and post the information in their offices.

ILLINOIS STATE BOARD OF INVESTMENT

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Linsey.Schoemehl@illinois.gov

312/793-1486 (voice)

312/793-2266 (fax)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None that are not already in place
 - C) Types of professional skills necessary for compliance: None that are not already in place
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated when the last 2 agendas were published.

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

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER VII: ILLINOIS STATE BOARD OF INVESTMENT

PART 800
RULES AND REGULATIONS OF THE BOARD

SUBPART A: AUTHORITY

Section
800.5 Authority

SUBPART B: BY-LAWS

Section
800.110 Offices of the Board
800.120 Meetings
800.130 Officers and Their Duties
800.140 Committees

SUBPART C: GENERAL POLICIES

Section
800.210 Functions
800.220 Fiduciary Aspects
800.230 Delegation of Authority
800.240 Budget

SUBPART D: ACCOUNTING

Section
800.310 Investment Account
800.320 Fund Credits
800.330 Fund Charges
800.340 Reserve Balances

SUBPART E: REPORTS

Section
800.410 Fiscal Reporting

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800.420 Audits

SUBPART F: AMENDMENTS

Section
800.510 Amendments

AUTHORITY: Implementing and authorized by Section 22A-110 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Rules and Regulations of the Board, effective March 25, 1971; amended January 8, 1972; amended October 6, 1972; amended February 14, 1975; amended February 9, 1976; amended February 9, 1977; codified at 5 Ill. Reg. 10701; amended at 31 Ill. Reg. 1986, effective January 9, 2007; amended at 32 Ill. Reg. 360, effective December 26, 2007; amended at 35 Ill. Reg. 13915, effective August 1, 2011; amended at 37 Ill. Reg. 2720, effective February 25, 2013; amended at 38 Ill. Reg. 4491, effective January 31, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART C: GENERAL POLICIES

Section 800.210 Functions

- a) The functions of the Board are limited exclusively to investment management and such other duties and responsibilities as are directed or permitted by statute. With respect to investment management more specifically:

To invest, reinvest, exchange and perform all investment functions with regard to reserves, funds, assets, securities and moneys which the Board is authorized to invest, and to preserve and protect such reserves, funds, assets, securities and moneys, including, but not limited to, authority to vote any stocks, bonds or other securities and to give general or special proxies or powers of attorney with or without power of substitution [40 ILCS 5/22A-106].

- 1) The Board shall manage investments by executing procedures that include, but are not limited to:
- A) Performing due diligence on the investment portfolio. (Examples of due diligence include monitoring the performance of current

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investment portfolios, selecting new investment portfolios, determining the asset allocation per portfolio and selecting investment managers to invest portfolio assets.)

- B) Adopting an asset allocation policy to achieve efficiently the Board's long-term investment objective of a ~~7.25~~7.75% compounded rate of return. (Examples of policy considerations include examining all asset classes and their appropriate benchmarks and allocating specific percentages of assets to specific asset classes.)
 - C) Managing Board expenses. (Examples of such management include negotiating competitive asset management fees with investment managers and monitoring the Board's operating budget.)
 - D) Complying with the Illinois Pension Code [40 ILCS 5]. (Examples of compliance include adhering to statutory directives such as the prudent utilization of emerging investment managers in managing assets (see 40 ILCS 5/1-109.1(4)) and refraining from prohibited transactions.)
- 2) The Board's general policy governing investments shall require that, as fiduciaries, the Board discharge its duties, with respect to pension fund assets it manages, solely in the interest of the participants and beneficiaries. (Examples of general investment policy include maintaining an 8.5% compounded rate of return on investments; investing with the care, skill, prudence and diligence that a prudent person would use in the conduct of an enterprise of like character with like aims; and diversifying investments to reduce risk, enhance returns and commit meaningful investment positions.)
- b) State Employees Deferred Compensation Plan (Plan)
- 1) The Board shall be responsible for developing and establishing the Plan (see 40 ILCS 5/24-104).
 - 2) With respect to developing and establishing the Plan, the Board shall:

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- A) Review investment offerings and offer acceptable investment offerings as investment options for the Plan; and
 - B) Supervise the Department of Central Management Services' administration of the Plan.
- 3) Further explanation regarding the Board's responsibilities with respect to the development and establishment of the Plan are found in the following Board regulations: 80 Ill. Adm. Code 2700: Subpart A (Introduction and Purpose of Plan); Subpart B (Definitions); Subpart C (the Board's general supervision of the administration of the Plan); Subpart G (distributions in the event of an unforeseeable emergency); Subpart I (ability to amend or terminate Plan).
- c) These functions shall not encompass any duties or responsibilities related to the operation and administration of the pension funds in any other area than that of investments.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan
- 2) Code Citation: 80 Ill. Adm. Code 2700
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2700.200	Amendment
2700.510	Amendment
2700.680	Amendment
2700.700	Amendment
- 4) Statutory Authority: 40 ILCS 5/22A and section 457 of the Internal Revenue Code
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will clarify the cap for Normal Retirement Age, consistent with the rules set forth under the Internal Revenue Code, and will allow for designated Roth contributions and in-plan rollovers to designated Roth accounts, consistent with recent revisions to the Illinois Pension Code.
- 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 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 proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, explain, or modify their activities.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Illinois State Board of Investment (Board) will consider all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

Linsey Schoemehl
General Counsel/Chief Compliance Officer
Illinois State Board of Investment
180 N. LaSalle Street, Suite 2015
Chicago IL 60610

312/793-1486
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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: New procedures will need to be adopted by the Department of Central Management Services and the Illinois State Board of Investment.
 - C) Types of professional skills necessary for compliance: None that are not already in place
- 14) Regulatory Agenda on which this rulemaking was summarized: None

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

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE H: DEFERRED COMPENSATION
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700

STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section	
2700.100	Establishment of Plan
2700.110	Purpose of Plan
2700.120	Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)
2700.125	Forms

SUBPART B: DEFINITIONS

Section	
2700.200	Definitions

SUBPART C: ADMINISTRATION

Section	
2700.300	Responsibilities of the Department
2700.310	Responsibilities of the Board
2700.311	Standards Governing the Selection of Investment Options
2700.315	Responsibilities of the Recordkeeper
2700.320	Deferred Compensation Hardship Committee
2700.330	Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section	
2700.400	Eligibility
2700.410	Enrollment
2700.415	Designation of Beneficiary
2700.420	Minimum Deferral
2700.430	Basic Annual Limitation

ILLINOIS STATE BOARD OF INVESTMENT

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- 2700.435 Age 50 Catch-up Annual Deferral Contribution
- 2700.440 Special Section 457 Catch-up Limitation
- 2700.450 Revocation of Deferral

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section

- 2700.500 Normal Retirement Age
- 2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section

- 2700.600 Deferred Compensation Accounts
- 2700.610 Allocation of Investment Earnings or Losses
- 2700.620 Investment Option Valuation
- 2700.630 Administrative Costs
- 2700.640 Method of Making Investment Requests
- 2700.650 Participant Statements
- 2700.660 Custodial Account
- 2700.670 Investment Options
- 2700.680 [In-Plan Conversions and Rollovers to the Plan](#)
- 2700.690 Plan-to-Plan Transfers to the Plan

SUBPART G: DISTRIBUTIONS

Section

- 2700.700 Distribution Events
- 2700.710 Beneficiary Election of Method of Distribution
- 2700.720 Election of Delayed Distribution Date (Repealed)
- 2700.730 Election of Method of Distribution
- 2700.735 Distribution for Certain Balances of \$5,000 or Less
- 2700.740 Unforeseeable Emergency
- 2700.745 Plan-to-Plan Transfers from the Plan
- 2700.750 Permissive Service Credit Transfers
- 2700.760 Leave of Absence
- 2700.770 Loans

SUBPART H: MISCELLANEOUS

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Section

2700.800	Nonassignability
2700.810	Payments to Minors and Incompetents
2700.820	Missing Persons
2700.830	Severability
2700.840	Days and Dates
2700.850	Domestic Relations Orders
2700.860	IRS Levy
2700.870	Mistaken Contributions

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section

2700.900	Amendment of Plan
2700.910	Termination of Plan
2700.920	Merger with Prior Plans

2700.APPENDIX A	Administrative Rules (Repealed)
2700.EXHIBIT A	Administrative Rule I (Repealed)
2700.EXHIBIT B	Administrative Rule II (Repealed)
2700.EXHIBIT C	Administrative Rule III (Repealed)
2700.EXHIBIT D	Administrative Rule IV (Repealed)
2700.EXHIBIT E	Administrative Rule V (Repealed)
2700.EXHIBIT F	Administrative Rule VI (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency

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amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days; amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442, effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006; amended at 33 Ill. Reg. 13451, effective September 14, 2009; amended at 35 Ill. Reg. 13928, effective August 1, 2011; amended at 36 Ill. Reg. 17518, effective January 1, 2013; amended at 37 Ill. Reg. 14184, effective August 23, 2013; amended at 39 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 2700.200 Definitions

- a) Whenever used in the Plan, the following terms shall have the meanings set forth in this Section unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Investment Option (net of Investment Option expenses) allocable to the Participant, any transfers for the Participant's benefit, any distribution made to the Participant or the Participant's Beneficiary, the value of any outstanding Participant Loans and as adjusted for Loan repayments and as otherwise provided in the Plan. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any ~~subaccount~~ ~~account~~ established for rollover contributions, Roth rollover contributions, Roth Contributions, and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Internal Revenue Code).

"ACH Debit" or "Automated Clearing House Debit" means an electronic system that allows a payee, with approval of the payer, to initiate a debit from the payer's bank account.

"Alternate Retirement System" means this Plan, which is described in section 457 of the Internal Revenue Code, when used for purposes of section 3121(b)(7)(F) of

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the Code to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under section 457(e)(15) of the Code.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code (26 USC 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash Compensation for services to the State, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a Compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code.

"Custodial Account" means the fund created under and subject to the Custodial Agreement.

"Custodial Agreement" means the written agreement made by and between the State and the Custodian under which the Custodial Account is maintained.

"Custodian" means a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section 408(a)(2) of the Code relating to the use of non-bank trustees.

"Deferred Compensation" means that portion of the Participant's Compensation that the Participant defers under this Plan [through either Pre-Tax Contributions and/or Roth Contributions](#).

ILLINOIS STATE BOARD OF INVESTMENT

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"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 ~~of this Part, including any subaccounts under the Deferred Compensation Account.~~

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account.

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving Compensation from the State for personal services rendered, including salaried persons* [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve.

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; ~~and~~ administrative units or corporate outgrowths of the State government that are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; and all administrative units and corporate outgrowths of these entities~~the above~~ as may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740, as well as determining Loan claims appeals as provided under Section 2700.770.

"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in section 457(e)(5) of the Code.

"Investment Option" means any and all investment vehicles established by the Board for the investment of Deferred Compensation.

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"Loan" means a Participant loan described in Section 2700.770.

"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Minority Option" means an Investment Option with a minority-owned firm that has documented State certification.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days after the Participant's Severance of Employment as provided in Section 2700.510 ~~of this Part~~. A Participant's Normal Retirement Age determines:

the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age); and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 ~~of this Part~~.

For purposes of clarification: Normal Retirement Age for purposes of the catch-up provision of Section 2700.440 can be no later than age 70½, and benefits must commence no later than the time prescribed in section 401(a)(9) of the Code (notwithstanding the election of any alternative retirement age to the contrary).

"Participant" means any Employee who has enrolled in this Plan as provided in Section 2700.410 of this Part and has not had a complete distribution of his or her Deferred Compensation Account.

"Pay Period" means an accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly, bi-weekly or another period determined by the Employer.

"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in this Part, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll purposes.

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"Pre-Tax Contributions" means a Participant's Deferred Compensation that is not includible in the Participant's gross income at the time deferred. A Participant's Pre-Tax Contributions will be separately accounted for, including gain or loss attributable to those Pre-Tax Contributions.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

"Recordkeeper" means the non-fiduciary, non-discretionary entity that, under contract with the Board, performs functions as directed by the Board or Department, as appropriate, as described in this Part, in its contract with the Board, and as described in any other written agreements with the Board and/or the Department.

"Roth Contributions" means a Participant's Deferred Compensation that is includible in the Participant's gross income at the time deferred. A Participant's Roth Contributions will be separately accounted for, including gain or loss attributable to those Roth Contributions.

"Severance from Employment" means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

ILLINOIS STATE BOARD OF INVESTMENT

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nonreelection; or

other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

For the purposes of this definition, neither a break in State service for a period of less than 30 days nor transfers among various branches of State Government shall be considered a Severance from Employment.

An independent contractor is considered to sever service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment Option is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Options until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

- b) Except when otherwise indicated by context, any masculine terminology shall also include the feminine and neuter and vice-versa, and the definition of any terms in the singular may also include the plural.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

ILLINOIS STATE BOARD OF INVESTMENT

NOTICE OF PROPOSED AMENDMENTS

Section 2700.510 Alternative Normal Retirement Age

- a) A Participant may elect an alternative Normal Retirement Age. Such an election shall be in writing and shall be submitted to the Department.
- b) A Participant's alternative Normal Retirement Age shall not be earlier than the earliest date that the Participant will become eligible to retire and receive unreduced retirement benefits under one of the following retirement systems of which the Employee is a member:
 - 1) General Assembly Retirement System;
 - 2) State Employees' Retirement System of Illinois;
 - 3) State Universities Retirement System;
 - 4) Teachers' Retirement System of the State of Illinois; or ~~the~~
 - 5) Judges Retirement System of Illinois.
- c) If the Participant is not eligible to receive benefits under a basic retirement plan maintained by the State, the Participant's alternative Normal Retirement Age may not be earlier than the attainment of age 50.
- d) The alternative Normal Retirement Age may not be later than the date the Participant attains the age of 70½ ~~unless the Participant continues employment with the State.~~
- e) ~~If the Participant continues employment after attaining age 70½, and has not elected an alternative Normal Retirement Age, the Participant's alternative Normal Retirement Age shall not be later than the age at which the Participant actually separates from the service of the State.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section 2700.680 In-Plan Conversions and Rollovers to the Plan

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- a) A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan.
- b) The Department may require documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that the plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.
- c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include:
 - 1) any installment payment for a period of 10 years or more;
 - 2) any distribution made as a result of an Unforeseeable Emergency or other distribution that is made to a Participant;
 - 3) any amount constituting a security interest for an outstanding Loan under the eligible retirement plan; or
 - 4) for any other distribution, the portion, if any, of that distribution that is a required minimum distribution under section 401(a)(9) of the Code. Section 401(a)(9) of the Code outlines required distributions and the manner in which those distributions must be made.
- d) In addition, an eligible retirement plan means an individual retirement account described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code that accepts the eligible rollover distribution.
- e) The Plan will not accept an eligible rollover distribution that includes an outstanding Loan as an asset from an eligible retirement plan.
- f) The Recordkeeper, at the direction of the Department, shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental

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plan under section 457(b) of the Code.

- g) In addition, the Recordkeeper, at the direction of the Department, shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under section 457(b) of the Code.
- h) Notwithstanding any provision of this Part to the contrary, the Plan may accept a rollover contribution that consists of designated Roth Contributions from an applicable retirement plan described in Code section 402A(e)(1), but only to the extent the rollover is permitted under Code section 402(c). Additionally, a direct rollover of a distribution from a Roth Contributions Account may only be made to another Roth contribution account under an applicable retirement plan described in Code section 402A(e)(1) or to a Roth IRA described in Code section 408A, and only to the extent the rollover is permitted under Code section 402(c).
- i) The Plan may allow in-plan Roth conversions. To the extent permitted by applicable law, Participants may, at their discretion, elect to convert all or a portion of their existing Pre-Tax Contributions to Roth Contributions at any time, and this conversion will not be considered a distribution under the Plan.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART G: DISTRIBUTIONS

Section 2700.700 Distribution Events

- a) Distributions under this Plan shall be made in accordance with section 401(a)(9) of the Code (including, but not limited to, the Plan provisions described in Sections 2700.315 and 2700.740) and Treasury Regulations issued under section 401(a)(9), including the minimum distribution incidental benefit requirement of Code section 401(a)(9)(G) and Treasury Regulations 1.401(a)(9)-2 through 1.401(a)(9)-9 (26 CFR 1.401(a)(9)-2 through (a)(9)-9) (2012)). However, these provisions of the Code and Treasury Regulations shall override the other distribution provisions of the Plan only to the extent that the other Plan provisions provide for a distribution that is less rapid than is required under the provisions of the Code and the Treasury Regulations. In accordance with the suspension, under the Worker, Retiree and Employer Recovery Act of 2008, of required minimum distributions for calendar year 2009 only, the Plan will not make required

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minimum distributions to Plan Participants who otherwise would be required to take a required minimum distribution for calendar year 2009.

- b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events:
 - 1) Severance from Employment;
 - 2) Death; or
 - 3) Delayed Distribution Date.
- c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency.
- d) A Participant, with \$5,000 or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735 ~~of this Part~~.
- e) No distributions shall be made to a Participant who is employed as an independent contractor before a date that is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution shall be started on the projected distribution date. If the contractor has attained age 70½ at the time the contract is terminated, the 12-month waiting period is waived.
- f) Participants are responsible for notifying the Department of their Severance from Employment.
- g) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.
- h) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70½ or separates, if he or she works past age 70½, shall receive at least 2 taxable distributions in the same year.

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- i) If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.
- j) An alternate payee, pursuant to the terms of a qualified domestic relations order, may at any time elect to receive a distribution of all or any portion of the amount held and maintained on behalf of the alternate payee upon the proper execution and designation under the qualified domestic relations order. An alternate payee is not eligible to apply for a Loan pursuant to Section 2700.770.
- k) If a Participant has an outstanding Loan, the Participant's or Beneficiary's accrued benefit shall be subject to offset or other adjustment upon distribution, in satisfaction of any outstanding Loan balance.
- l) Notwithstanding any provision in this Part to the contrary, for a Participant's Roth Contributions only, a distribution shall not be a "qualified distribution" unless it meets the requirements of section 402A(d) of the Code.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Chief Procurement Officer for General Services Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1.5	Amendment
1.10	Amendment
1.12	New Section
1.13	New Section
1.15	Amendment
1.525	Amendment
1.1005	Amendment
1.1040	Amendment
1.1060	Amendment
1.1501	Amendment
1.1510	Repeal
1.1525	Amendment
1.1535	New Section
1.1570	Amendment
1.2005	Amendment
1.2010	Amendment
1.2012	Amendment
1.2013	Amendment
1.2015	Amendment
1.2020	Amendment
1.2025	Amendment
1.2030	Amendment
1.2035	Amendment
1.2036	Amendment
1.2038	Amendment
1.2039	Amendment
1.2040	Amendment
1.2043	Amendment
1.2044	Amendment
1.2045	Amendment
1.2046	Amendment
1.2050	Amendment
1.2055	Amendment

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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1.2060	Amendment
1.2067	New Section
1.2080	Amendment
1.2084	Amendment
1.2086	Amendment
1.3005	Amendment
1.4020	Amendment
1.4530	Amendment
1.4535	Amendment
1.4540	Amendment
1.4545	Amendment
1.5002	Amendment
1.5005	Amendment
1.5010	Amendment
1.5011	Amendment
1.5012	Amendment
1.5013	Amendment
1.5014	Amendment
1.5020	Amendment
1.5021	Amendment
1.5035	Amendment
1.5037	Amendment
1.5039	Amendment
1.5060	Amendment
1.5550	Amendment
1.5560	Amendment
1.5620	Amendment
1.5730	Amendment
1.5740	Amendment
1.7015	Amendment
1.8010	Amendment
1.8020	Repeal
1.8025	Amendment

- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500], the Governmental Joint Purchasing Act [30 ILCS 525], the Transportation Sustainability Procurement Program Act [30 ILCS 530], and the Illinois Lottery Law [20 ILCS 1605]
- 5) Effective Date of Rule: October 31, 2014

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- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 10327; May 16, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Several grammatical corrections and clarifications were made at recommendation of state agencies and stakeholders. Additionally, Section 1.15 Definitions of Terms deletes the definition of letting.

Section 1.2010(f)(6) now reads:

- A) Other than information that was recorded, read and made publicly available at the opening of bids, the State agency conducting the procurement shall not disclose any information contained in any bid outside of contracting officers, identified State agency personnel or others specifically authorized by the CPO-GS or SPO until after the award of the proposed contract has been posted to the Illinois Procurement Bulletin. This does not restrict the disclosure of information to, or receipt by, State agency personnel identified by the State agency head or the chief executive officer of a board or commission to receive the information. The SPO may require confidentiality and conflict statements from those persons identified by the agency head or chief executive officer to receive the information.
- B) The agency head or the chief executive officer may identify:
 - State employees who have primary responsibility for the procurement;
 - State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibility;

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

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State employees who exercise oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.

Section 1.2015(e)(2) now reads:

Only State personnel and contractual agents authorized by the SPO may review proposals prior to award. Other than information that was recorded, read and made publicly available at the opening of proposals, the State agency conducting the procurement shall not disclose any information contained in the offer outside of contracting officers, identified State agency personnel or others specifically authorized by the CPO-GS or SPO until after the award of the proposed contract has been posted to the Illinois Procurement Bulletin. This does not restrict the disclosure of information to, or receipt by, State agency personnel identified by the State agency head or the chief executive officer of a board or commission to receive the information. The SPO may require confidentiality and conflict statements from those persons identified by the agency head or chief executive officer to receive the information.

The agency head or the chief executive officer may identify:

State employees who have primary responsibility for the procurement;

State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibility;

State employees who exercise oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.

Section 1.2015(f)(2) now reads:

Evaluation Committee. Evaluation members shall be determined by the State agency tailored to the particular solicitation, and include as appropriate technical or other personnel with expertise to ensure a comprehensive evaluation of offers. Evaluation Committee members must not have any conflicts of interest or apparent conflicts of interest and must commit to the time to complete all evaluations and attend any necessary evaluation meetings. The Evaluation

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Committee members may be removed by the SPO for good cause, such as failure to comply with instructions or directions of the SPO or to ensure the integrity of the procurement. The SPO shall state in writing his or her reasons for removing a Committee member.

Section 1.2035(h)(2) now reads:

Only State personnel and contractual agents authorized by the SPO may review proposals prior to award. Other than information that was recorded, read and made publicly available at the opening of proposals, the State agency conducting the procurement shall not disclose any information contained in the offer outside of contracting officers, identified State agency personnel or others specifically authorized by the CPO-GS or SPO until after the award of the proposed contract has been posted to the Illinois Procurement Bulletin. This does not restrict the disclosure of information to, or receipt by, State agency personnel identified by the State agency head or the chief executive officer of a board or commission to receive the information. The SPO may require confidentiality and conflict statements from those persons identified by the agency head or chief executive officer to receive the information. The agency head or the chief executive officer may identify:

State employees who have primary responsibility for the procurement;

State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibility;

State employees who exercise oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.

Section 1.2067(b)(3) now reads:

A change order shall be executed by the State agency and vendor evidencing the change. All changes that require a written determination as provided in subsection (b)(2) shall be approved by the SPO. Change orders that increase the cost of a contract or an estimated contract by a total of \$10,000 or more or the time for completion by more than 30 days shall be published on the Illinois Procurement Bulletin, pursuant to Section 15-25 of the Code and documented

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pursuant to Section 33E-9 of the criminal Code of 2012, in advance of execution of the change order. Although use of emergency contracting is discouraged, if exigent circumstances require contract execution prior to publication on the Procurement Bulletin (e.g., emergency salt purchases on a holiday). Emergency contracting is permitted pursuant to Section 20-30 of the Code.

Section 1.2084 now reads:

Retention of Bulletin Information. Information published in the Bulletin shall be disposed of in accordance with the State Records Act [5 ILCS 160], providing all audits have been completed and no litigation is pending or anticipated.

Books and records that relate to the performance of a State agency contract and that support amounts shall be maintained:

by a vendor, for 3 years from the date of final payment under the prime contract; and for such longer period of time as is necessary to complete ongoing or announced audits or to comply with federal requirements.

by a subcontractor for 3 years from the later of the date of final payment under the subcontract or completion of the subcontract; and for such longer period of time as is necessary to complete ongoing or announced audits.

Section 1.4570 struck the proposed addition of "Each State agency is responsible for establishing goals or taking other action in furtherance of the Act" at the request of the Department of Central Management Services.

Section 1.5560(h) now reads:

The CPO-GS shall maintain a master list of all suspensions and debarments. The mater list shall retain information concerning suspension and debarments as public records. The public information may be considered in determining responsibility.

- 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 an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: In PA 97-895, the Illinois Procurement Code was amended, following up on and clarifying issues from PA 96-795 (SB 51), which transferred oversight for procurement to independent Chief Procurement Officers appointed by the Executive Ethics Commission.

The amendments implement the changes of PA 97-895 for the Chief Procurement Office for General Services (CPO-GS), further defining terms, the structure and procurement authority oversight of the CPO-GS and SPO, and providing direction to State agencies on procurement matters. The amendments allow for CPO-GS access to records to determine if a contract or expenditure is subject to the provisions of the Procurement Code, provides for exemption from the Illinois Procurement Code for certain artistic and musical services held at a venue operated or leased by a State agency, and provides exemption for certain contracts entered into by the Illinois Finance Authority. The amendments increase from \$25,000 to \$50,000 the disclosure requirements of subcontractors and clarify vendors' responsibilities when there is a change of a subcontractor. The amendments provide direction on publication requirements for renegotiated contracts and change orders, provide instruction on how to receive bids and offers in order to maintain confidentiality, specify the requirements for evaluation committees, specify what discussions may occur with apparent awardees prior to notice of award, provide guidance on the use of contracts with qualified not-for-profit agencies for persons with severe disabilities, and allow for the use of electronic signatures by vendors. The amendments clarify notice and hearing requirements for sole source contracts and for alleged conflicts of interest, clarify a SPO's obligation to approve (and not sign) contracts by State agencies, provide for the CPO-GS to be responsible for and publish the Illinois Procurement Bulletin, provide guidance on the establishment of a vendor portal, implement publication requirements for awards to other than low bidder, and clarify that procurement files shall not include trade secrets or other sensitive, confidential or proprietary information. The amendments define criteria for contracts with Illinois small businesses and provide for the CPO-GS to verify a business entity is in compliance with requirements to register with the State Board of Elections and allows opportunity for contractors to terminate subcontractors who provide false certifications. The amendments clarify when vendors may be prohibited bidders and contractors, specify when state employees are required to report conversations with potential vendors, and provides for due process when suspected prohibited political contributions are made by vendors.

The amendments provide for the authority of the CPO-GS under the Governmental Joint Purchasing Act and implement the requirements of the Transportation Sustainability Procurement Program Act. The amendments update rules for the selection process of a private manager for the Illinois Lottery.

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- 16) Information and questions regarding these adopted amendments shall be directed to:

Margaret L. van Dijk
Senior Policy Advisor
Chief Procurement Office for General Services
712 Stratton Office Building
Springfield IL 62706

217/558-2228
Margaret.vanDijk@illinois.gov

- 17) Does this rule require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? Yes. A certificate of no objection was issued July 10, 2014.

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

PART 1

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES
STANDARD PROCUREMENT

SUBPART A: GENERAL

Section

1.1	Title
1.3	Authority
1.5	Policy
1.8	Implementation of This Part
1.10	Application
1.12	Additional Exemptions Applicable to Artistic and Musical Services
1.13	Additional Exemptions Applicable to Illinois Finance Authority
1.15	Definition of Terms Used in This Part
1.25	Property Rights
1.30	Constitutional Officers, and Legislative and Judicial Branches (Repealed)

SUBPART B: PROCUREMENT RULES, POLICIES AND PROCEDURES

Section

1.525	Rules
1.530	Policies and Procedures

SUBPART C: PROCUREMENT AUTHORITY

Section

1.1005	Procurement Authority
1.1010	Appointment of State Purchasing Officer (Repealed)
1.1040	Central Procurement Authority of the CPO-GS
1.1050	Procurement Authority of the SPO; Limitations (Repealed)
1.1060	Delegation
1.1070	Toll Highway Authority
1.1075	Department of Natural Resources (Repealed)

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1.1080 Illinois Mathematics and Science Academy (Repealed)

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section

1.1501 Illinois Procurement Bulletin
1.1510 Publication of Illinois Procurement Bulletin ([Repealed](#))
1.1515 Registration
1.1525 Bulletin Content
[1.1535 Vendor Portal](#)
1.1550 Official State Newspaper (Repealed)
1.1560 Alternate and Supplemental Notice
1.1570 Error in Notice
1.1580 Direct Solicitation
1.1585 Notice Time
1.1590 Retention of Bulletin Information (Repealed)
1.1595 Availability of Solicitation Document

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section

1.2005 General Provisions
1.2010 Competitive Sealed Bidding
1.2012 Multi-Step Sealed Bidding
1.2013 Reverse Auctions
1.2015 Competitive Sealed Proposals
1.2020 Small Purchase Limits
1.2025 Sole [Source or Sole](#) Economically Feasible Source Procurement
1.2030 Emergency Procurements
1.2035 Competitive Selection Procedures for Professional and Artistic Services
1.2036 Other Methods of Source Selection
1.2037 Tie Bids and Proposals
1.2038 Modification or Withdrawal of Bids or Proposals
1.2039 Mistakes
1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

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- 1.2043 Suppliers
- 1.2044 Vendor List
- 1.2045 Vendor Prequalification
- 1.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

- Section 1.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

- Section 1.2050 Specifications and Samples

SUBPART I: CONTRACTS

- Section 1.2055 Types of Contracts
- 1.2060 Duration of Contracts – General
- 1.2065 Cancellation of Contracts
- [1.2067 Contract Amendments and Change Orders](#)

SUBPART J: PROCUREMENT FILES

- Section 1.2080 Public Procurement File
- 1.2084 Record Retention
- 1.2086 Filing with the Comptroller

SUBPART K: WORKING CONDITIONS

- Section 1.2560 Prevailing Wage
- 1.2570 Equal Employment Opportunity; Affirmative Action
- 1.2575 Subcontractors (Repealed)

SUBPART L: CONTRACT PRICING

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Section
1.2800 All Costs Included (Repealed)

SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section
1.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
1.4005 Real Property Leases and Capital Improvement Leases
1.4010 Authority
1.4015 Method of Source Selection
1.4020 Request for Information – Real Property and Capital Improvement Leases
1.4025 Lease Requirements
1.4030 Purchase Option
1.4035 Rent Without Occupancy
1.4040 Local Site Preferences
1.4042 Historic Area Preferences
1.4044 Emergency Lease Procurement

SUBPART O: PREFERENCES

Section
1.4505 Procurement Preferences
1.4510 Resident Vendor Preference
1.4515 Soybean Oil-Based Ink
1.4520 Recycled Materials
1.4525 Recyclable Paper
1.4526 Environmentally Preferable Procurement
1.4530 Correctional Industries
1.4535 Qualified Not-for-Profit Agencies for Persons with Severe Disabilities
1.4540 Gas Mileage and Flex-Fuel Requirements
1.4545 Small Business
1.4550 Illinois Agricultural Products
1.4555 Corn-Based Plastic Products
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- 1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities
- 1.4575 Domestic Products
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SUBPART P: ETHICS

Section

- 1.5002 Continuing Disclosure; False Certification
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- 1.5010 Felons
- 1.5011 Debt Delinquency
- 1.5012 Collection and Remittance of Illinois Use Tax
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- 1.5020 Exemptions
- 1.5021 Bond Issuances
- 1.5023 Other Conflicts of Interest
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- 1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
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- 1.5037 Vendor Registration, Certification and Prohibition on Political Contributions
- 1.5038 Lobbying Restrictions
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- 1.5055 Supply Inventory
- 1.5060 Prohibited Bidders and Contractors
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Section

- 1.5310 Concessions

SUBPART R: COOPERATIVE PURCHASING

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- 1.5400 General

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1.5420	Governmental Joint Purchasing Act Contracts
1.5440	Non-Governmental Joint Purchasing
1.5460	No Agency Relationship
1.5510	Complaints Against Vendors (Repealed)
1.5520	Suspension (Repealed)
1.5530	Resolution of Contract Controversies (Repealed)
1.5540	Violation of Law or Rule (Repealed)

SUBPART S: PROTESTS

Section	
1.5550	Protests

SUBPART T: SUSPENSION AND DEBARMENT

Section	
1.5560	Suspension and Debarment

SUBPART U: VIOLATION OF STATUTE OR RULE

Section	
1.5620	Violation of Statute or Rule

SUBPART V: HEARING PROCEDURES

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1.5700	General
1.5710	Informal Process
1.5720	Hearing Officers
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1.5740	Written Comments and Oral Testimony
1.6010	Supply Management and Dispositions (Repealed)
1.6500	General (Repealed)
1.6510	No Agency Relationship (Repealed)
1.6520	Obligations of Participating Governmental Units (Repealed)
1.6530	Centralized Contracts – Estimated Quantities (Repealed)
1.6535	Centralized Contracts – Definite Quantities (Repealed)

SUBPART W: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

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1.7000	Severability
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1.7020	Taxes, Licenses, Assessments and Royalties
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1.7030	No Waiver of Sovereign Immunity

SUBPART X: SELECTION OF A SUCCESSOR ILLINOIS LOTTERY
PRIVATE MANAGER IF A PRIVATE MANAGEMENT
AGREEMENT HAS BEEN TERMINATED

Section

1.8000	Authority
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1.8010	Selection Process
1.8015	Lottery Advisors
1.8020	Public Hearing (Repealed)
1.8025	Award
1.8030	Action to Contest Selection

AUTHORITY: The Illinois Procurement Code [30 ILCS 500] and the Illinois Lottery Law [20 ILCS 1605].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, effective July 1, 1998, for a maximum of 150 days, and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20875, effective November 25, 1998; emergency amendment at 23 Ill. Reg. 2812, effective February 16, 1999, for a maximum of 150 days;

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emergency expired on July 15, 1999; emergency amendment at 23 Ill. Reg. 5869, effective April 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7075, effective June 7, 1999; amended at 24 Ill. Reg. 1900, effective January 21, 2000; amended at 26 Ill. Reg. 13189, effective August 23, 2002; emergency amendment at 29 Ill. Reg. 20540, effective December 2, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 5673, effective March 7, 2006, for the balance of the 150 days; emergency expired August 3, 2006; amended at 30 Ill. Reg. 138, effective December 22, 2005; amended at 30 Ill. Reg. 13378, effective July 25, 2006; amended at 30 Ill. Reg. 17305, effective October 20, 2006; amended at 30 Ill. Reg. 18635, effective November 17, 2006; emergency amendment at 33 Ill. Reg. 3205, effective January 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 9607, effective June 25, 2009; recodified, pursuant to PA 96-795, from Department of Central Management Services to Chief Procurement Officer for General Services at 35 Ill. Reg. 10143; amended at 36 Ill. Reg. 10729, effective August 6, 2012; amended at 36 Ill. Reg. 16319, effective November 1, 2012; emergency amendment at 37 Ill. Reg. 1319, effective January 22, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 8123, effective June 5, 2013; amended at 38 Ill. Reg. 20884, effective October 31, 2014.

SUBPART A: GENERAL

Section 1.5 Policy

The principles of competitive bidding and economical procurement practices shall apply to all purchases and contracts by and for the State Agencies, except as otherwise provided by law, this Part and other applicable rules. It is the policy of the CPO-GS that all activities of the [State Purchasing Officers \(SPOs\)](#) and other designees related to the procurement process maximize the value of the expenditure of public funds in procuring contracts, and that those appointed and designated act in a manner that maintains public trust in the integrity of the process.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.10 Application

- a) The Code and this Part do not apply to:
 - 1) *contracts between the State and its political subdivisions or other governments, or between State governmental bodies, except as specifically provided in the Code.* (For purposes of this subsection (a)(1), "governmental bodies" includes the State universities and their governing boards, community colleges and their governing boards and school

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districts. This provision applies to contracts between governmental entities; it does not apply to State agencies use of contracts established by other governmental entities.);

- 2) *grants (except for the filing requirements of Section 20-80 of the Code);*
- 3) *purchase of care;*
- 4) *hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;*
- 5) *collective bargaining contracts;*
- 6) *purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 7 days after the deed is recorded in the county of jurisdiction. This applies to purchases whether outright or by means of an installment purchase. The exercise of an option to purchase in a real estate lease is exempt, but the underlying lease is not exempt from this Part. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract;*
- 7) *contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to the Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor. Anticipated litigation is that which a State agency may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, the retention of counsel, investigators, expert witnesses and court reporters. This Section is applicable to equipment or services necessary in the furtherance of covert activities lawfully conducted by a State agency;*
- 8) *Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience,*

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and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university;

- 9) *Procurement expenditures by the Illinois Conservation Foundation when only private funds are used;*
- 10) *Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants;*
- 11) *Public-private agreements entered into according to the procurement requirements of Section 20 of the Public-Private Partnerships for Transportation Act [630 ILCS 5] and design-build agreements entered into according to the procurement requirements of Section 25 of the Public-Private Partnerships for Transportation Act. [30 ILCS 500/1-10(b)]*
- b) *This Part does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act [20 ILCS 3855] and Section 16-111.5 of the Public Utilities Act [220 ILCS 5]. [30 ILCS 500/1-10(c)]*
- c) *Except for Section 20-160 and Article 50 of the Code, and as expressly required by Section 9.1 of the Illinois Lottery Law [20 ILCS 1605], the provisions of the Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law. [30 ILCS 500/1-10(d)]*
- d) *This Part does not apply to the process used by the ~~Capital~~ Capitol Development Board to retain a person or entity to assist the ~~Capital~~ Capitol Development Board with its duties related to the determination of costs of clean coal SNG brownfield facility, as defined by Section 1-10 of the Illinois Power Agency Act, as required in Section 9-220(h-3) of the Public Utilities Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction. [30 ILCS 500/1-10(e)]*
- e) *This Part does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate sourcing agreement disputes between gas utilities and the clean coal SNG brownfield facility, as defined in Section 1-10 of the*

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Illinois Power Agency Act, as required under Section 9-220(h-1) of the Public Utilities Act. [30 ILCS 500/1-10(f)]

- f) *The Code does not apply to the processes used by the Illinois Power Agency to retain a mediator to mediate contract disputes between gas utilities and the clean coal SNG facility and to retain an expert to assist in the review of contracts under Section 9-220(h) of the Public Utilities Act. The Code does not apply to the process used by the Illinois Commerce Commission to retain an expert to assist in determining the actual incurred costs of the clean coal SNG facility and the reasonableness of those costs as required under Section 9-220(h) of the Public Utilities Act. [30 ILCS 500/1-10(g)]*
- g) *The Code does not apply to the process to procure or contracts entered into in accordance with Sections 11-5.2 and 11-5.3 of the Illinois Public Aid Code [305 ILCS 5]. [30 ILCS 500/1-10(h)]*
- h) *The Code does not apply to the process used by the Capital Development Board to retain an artist or work or works of art as required in Section 14 of the Capital Development Board Act [20 ILCS 105]. [30 ILCS 500/1-10(j)]*
- i) *Unless a record is subject to attorney-client privilege, the CPO-GS may access any records necessary to review whether a contract, purchase or other expenditure is exempt under Section 1-10 of the Code.*

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.12 Additional Exemptions Applicable to Artistic and Musical Services

- a) *Except as provided in this Section, the Code shall not apply to procurements made by or on behalf of State agencies for procurement expenditures necessary to provide artistic or musical services or theatrical productions held at a venue operated or leased by a State agency. [30 ILCS 500/1-12(a)]*
- b) *In a manner prescribed by the CPO-GS, contracts entered into under this Section shall be published in the Procurement Bulletin within 14 days after contract execution. [30 ILCS 500/1-12(b)]*
- c) *In a manner prescribed by the CPO-GS, each State agency shall, on a monthly basis, provide the CPO-GS a report of all contracts that are related to the*

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procurement of supplies and services identified in this Section. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. A copy of any or all of these contracts shall be made available to the CPO-GS immediately upon request. [30 ILCS 500/1-12(b)]

- d) The CPO-GS shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the CPO-GS. [30 ILCS 500/1-12(b)]

(Source: Added at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.13 Additional Exemptions Applicable to Illinois Finance Authority

- a) Except as provided in this Section, the Code shall not apply to contracts for legal, financial, and other professional and artistic services entered into on or before December 31, 2018 by the Illinois Finance Authority (IFA) in which the State is not obligated.
- b) In a manner prescribed by the CPO-GS, contracts entered into under this Section shall be published in the Procurement Bulletin within 14 days after contract execution.
- c) In a manner prescribed by the CPO-GS, IFA shall, on a monthly basis, provide the CPO-GS a report of all contracts that are related to the procurement of supplies and services identified in this Section. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. A copy of any or all of these contracts shall be made available to the CPO-GS immediately upon request.
- d) The CPO-GS shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the CPO-GS. [30 ILCS 500/1-10(b)(12)]

(Source: Added at 38 Ill. Reg. 20884, effective October 31, 2014)

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Section 1.15 Definition of Terms Used in This Part

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined in this Section, and each term listed in this Section shall have the meaning set forth 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. An amendment may memorialize an action authorized by specific language in the contract (e.g., exercise of an option or showing price decrease or increase based on CPI), or may memorialize non-material changes (e.g., change in names of notice contacts or number of periodic status meetings). A "change order" is an amendment, but an amendment is not always a "change order". ~~provision, as permitted by the original contract. These modifications shall alter the performance and completion of the contract, including, but not limited to, such matters as extra work and increases or decreases in quantities of goods not included within the scope of 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" – Any person who submits a bid. A person or entity (other than an individual acting as a sole proprietor) may qualify as a bidder only if the person or entity is a legal entity authorized to do business in Illinois prior to submitting the bid.

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

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

"Building Services" – Repairs to or maintenance of the structure, but does not include janitorial or window washing services.

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"Bulletin" – The volume of the Illinois Procurement Bulletin under the authority of assigned to the CPO-GS, unless the context clearly means the volume of another CPO or the Illinois Procurement Bulletin generally.

"Change Order" – A change in a contract term, other than as specifically provided for in the contract, that authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion. [720 ILCS 5/33E-2(c)] As used in this Part, "a change in a contract term" includes increases or decreases to estimated contracts, even if the change does not require modification to the contract.

"Chief Procurement Officer" or "CPO-GS" – The Chief Procurement Officer for General Services, as created by Section 10-20(4) of the Code or a designee.

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

"Concession" – The right granted by a license, lease or other agreement to use State property, and sell directly or indirectly to the public, whether tangible or intangible. Also includes the right to engage in a certain activity on the lessor's property (e.g., a refreshment or parking concession).

"Construction Agency" – The Capital Development Board for construction or remodeling of State-owned facilities; the Illinois Department of Transportation for construction or maintenance of roads, highways, bridges, and airports; the Illinois Toll Highway Authority for construction or maintenance of toll highways; the Illinois Power Agency for construction, maintenance, and expansion of Agency-owned facilities, as defined in Section 1-10 of the Illinois Power Agency Act; and any other State agency entering into construction contracts as authorized by law or by delegation from the appropriate Chief Procurement Officer. [30 ILCS 500/1-15.25]

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist ~~a State~~ an agency 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 the Code and this Part.

"Contract" – *All types of State agreements, including change orders and renewals,*

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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, whether the State is lessor or lessee, or capital improvements, and including 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" includes, but is not limited to, purchase, installment purchase, lease and rental contracts. The term contract, as used in the Code and 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, bond or contracts related to bonds issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency.

"Contract Award" – Except as otherwise defined in this Part for specific categories of procurements, the determination that a particular vendor has been selected from among other potential vendors to receive a contract, subject to the successful completion of final negotiations. Contract award is evidenced by the posting of a Notice to Award or a Notice of Intent to Award to the respective Illinois Procurement Bulletin after all State agency-required and SPO approvals have been obtained.

"Contractor" or "Vendor" – Any person having a contract with a State agency to furnish goods, services or construction for an agreed upon price. The terms contractor and vendor are used interchangeably for purposes of the Code and this Part. The term 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, as applicable, in which event the period shall run to the end of the next business day.

"Designee" – A person or category of persons identified by the CPO-GS or an SPO, in writing, to exercise procurement authority or to assist with the procurement process. A designee acts under procurement authority of the CPO-GS or SPO and has the responsibility for taking procurement actions in accordance with applicable laws, rules and policies, as limited by the terms of the delegation.

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"Domestic Product" – A product that meets the requirements of the Procurement of Domestic Products Act [30 ILCS 5/7].

"Emergency Affidavit" – The affidavit filed with the Procurement Policy Board and the Auditor General setting forth the actual or estimated amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement.

"Emergency Contract Award" – For purposes of an emergency contract, an emergency contract is awarded on the earlier of the date a State agency communicates to a vendor to start work, publication on the Illinois Procurement Bulletin identifying the vendor of the required supplies or services, or the date the contract is signed by both parties.

"Estimated Cost" – The amount expected to be paid by the State for a procurement transaction. It is representative of all known work, and may include potential and expected unscheduled work arising out of the requirements, i.e., the total estimated contract value, but is not considered the maximum cost.

"Evaluation Criteria" – The requirements for the selection process, which may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.

"Germane" – Closely or significantly related to, arising out of, or directly incidental to the original contract. Additional work or materials that are a substantial departure from the nature, scope or scale of the original contract are not germane.

"Grant" – The furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to the Code. [30 ILCS 500/1-15.42] When a grantor provides a grant to a State agency with a stipulation that the State agency issue subgrants to named persons, the subgrant or subcontract award is also a grant and the subgrantee or subcontractor is made an agent of the grantor.

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"Grounds Services" – Lawn care, landscaping and snow and ice removal services.

"Invitation for Bids" or "IFB" – *The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.* [30 ILCS 500/1-15.45] [Also referred to as Competitive Sealed Bidding.](#)

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

"Natural Resources Services" – These are services provided to the Department of Natural Resources or the Historic Preservation Agency. Services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not needing special expertise, training or education. These services include, but are not limited to, assisting in the operation of tree nurseries, fish hatcheries, game farms and sanctuaries; cleaning and maintenance of specialized facilities; repairing fences and building cages; mowing; and trail and ancillary facility repair.

"Offer" or "Proposal" – The response to a Request for Proposal or Request for Information for real estate or capital improvement leases.

"Offeror" or "Respondent" – A person who responds to a Request for Proposals or Request for Information for real estate or capital improvement leases. A person or entity (other than an individual acting as a sole proprietor) may qualify as an offeror only if the person or entity is a legal entity authorized to do business in Illinois prior to submitting the offer.

"Person" – *Any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity.* [30 ILCS 500/1-15.55]

"Procurement Compliance Monitor" or "PCM" – Person appointed by the Executive Ethics Commission (EEC) under Section ~~10-151-50~~ of the Code [to oversee and review procurement processes.](#)

"Procurement Officer" – The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who is responsible for the particular procurement.

"Procurement Policy Board" or "PPB" – The body created by Section 5-5 of the

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Code.

"Proposal" or "Offer" – The response to a Request for Proposal or Request for Information for real estate or capital improvement leases.

"Protest Review Office" – The office of the person designated in the solicitation document to whom protests must be directed. This person will respond to or coordinate the response to the protest.

"Purchase of Care" – *A contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitation, social, or human services directly to a recipient of a State aid program. [30 ILCS 500/1-15.68] Purchase of care includes the furnishing of services directly to recipients of State aid programs or applicants for a State aid program. Purchase of care contracts may include some services that are administrative in nature, as long as the contract primarily provides direct care to recipients of State aid programs. ~~includes services provided or arranged to be provided by the vendor in conjunction with the purchase of care. Such services may include administrative services of patient recordkeeping and management services, enrollment, health education, grievance procedures, case management, utilization review, quality assurance, peer review, or marketing. Recipient of a State aid program includes applicants for a State aid program. Examples of purchase of care contracts include, but are not limited to, contracts related to care coordination programs under Title XIX of the Social Security Act, including contracts with managed care organizations; primary care case management services; prepaid ambulatory health plans; prepaid inpatient health plans and direct care services provided under the Children and Family Services Act [20 ILCS 505]. Contracts that do not pertain to direct services to State aid recipients or that are primarily administrative in nature exceed the scope of the definition of a purchase of care contract and are not exempt from the requirements of the Code.~~*

"Purchasing Agency" – *A State agency that enters into a contract at the direction of a State purchasing officer authorized by a Chief Procurement Officer or the direction of a Chief Procurement Officer. [30 ILCS 500/1-15.70]*

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

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"Renewal" – Except for real property and capital improvement leases, an agreement between the parties to a contract to authorize an additional contract period under the terms and conditions of the renewal provision in the original contract.

"Request for Information" or "RFI" – The process of requesting information from interested parties to aid the State in decision making. This type of RFI is not a procurement method and will not result in a participant receiving a contract.

"Request for Information for Real Property or Capital Improvement Leases" or "RFI-Real Property Leases" – The process of seeking proposals for leases of real property or capital improvements as outlined under Article 40 of the Code.

"Request for Proposals" or "RFP" – *The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.* [30 ILCS 500/1-15.75]

"Requesting Agency" – The agency that requests that the CPO or SPO conduct a procurement for its use. All procurements reserved to the CPO that have not been delegated must be initiated by a purchase request.

"Responsible Bidder" or "Offeror" – *A person who has the capability in all respects to perform fully the contract requirements and who 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 or proposal is submitted for a State contract.* [30 ILCS 500/1-15.80]

"Responsive Bidder" – *A person who has submitted a bid that conforms in all material respects to the Invitation for Bids.* [30 ILCS 500/1-15.85]

"Responsive Offeror" – A person who has submitted an offer that conforms in all material respects to the Request for Proposals.

"Scoring Tool" – The document used to record the method used by the individuals evaluating the responses to a solicitation to judge qualifications or otherwise show whether or how well the responses met requirements set forth in the solicitation.

"Services" – *The furnishing of labor, time, or effort by a contractor, not involving*

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the delivery of a specific end product other than reports or supplies that are incidental to the required performance and financing. [30 ILCS 500/1-15.90]

"Site Technician Services" – These are services provided to the Department of Natural Resources or the Historic Preservation Agency. These services consist of non-supervisory activities of a routine, repetitive, non-discretionary nature not needing special expertise, training or education. These services include, but are not limited to, the maintenance of the site, including operating small farm-type equipment and trucks that do not require a Class C or D driver's license.

"Solicitation" – The document (e.g., IFB, RFP or RFI-real property lease) posted to the Bulletin requesting interested parties to submit a response for evaluation by the State. A request for information to determine if there is any interest on the part of a State agency in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.

"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]*

"State" – The State of Illinois, a State agency as defined in this Section, and all officers and employees of the foregoing, as appropriate, collectively or individually.

"State Agency" – Generally the term "State agency" *includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code [40 ILCS 5] or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community*

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College Act [110 ILCS 805], and the *Illinois Comprehensive Health Insurance Board*. [30 ILCS 500/1-15.100] For purposes of this Part, however, only those State agencies that are under the jurisdiction of the CPO-GS are encompassed by the term State agency.

"State Purchasing Officer" or "SPO" – A person appointed by the CPO-GS pursuant to Section 10-10 of the Code and assigned to exercise procurement authority at the direction of the CPO-GS. ~~A person as defined in Section 1-15.105 of the Code.~~

"State Witness" – An employee of the State, designated by the CPO or SPO of the procuring agency, to observe the opening of bids or sealed proposals.

"Subcontract" – *A contract between a person and another person who has ~~or is~~ seeking a contract subject to the Code, pursuant to which the subcontractor provides to the contractor, or another subcontractor, some or all of the 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.* [30 ILCS 500/1-15.107]

"Subcontractor" – *A person or entity who enters into a contractual agreement with a total value of ~~\$50,000~~\$25,000 or more with a person or entity who has ~~or is~~ seeking a contract subject to the Code pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract.* [30 ILCS 500/1-15.108]

"Subfactor" – A subset of a main evaluation factor. Main evaluation factors are identified in the solicitation. Subfactors that are separately evaluated within a factor are also identified in the solicitation.

"Supplies" – *All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.* [30 ILCS 500/1-15.110]

"Unsolicited Bid" or "Unsolicited Offer" or "Unsolicited Proposal" – Any bid, offer or proposal other than one submitted in response to a solicitation.

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(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART B: PROCUREMENT RULES, POLICIES AND PROCEDURES

Section 1.525 Rules

- a) Procurement under the jurisdiction of the CPO-GS or an appointed SPO shall be conducted in accordance with the Code and this Part, except as provided in this Section.
- b) If legislation or court decision invalidates any Section of this Part or requires a different interpretation, the rules will be implemented in accordance with the legislation or court decision.
- c) ~~A State~~ Agency that has procurement needs not adequately addressed by this Part may provide a written request to the CPO-GS to address those procurement needs. The request shall include a statement explaining that the particular program needs of the State agency require a rule different from or in addition to this Part. The CPO-GS may elect to meet the State agency's need by issuing a CPO-GS Notice or amending this Part. All proposed rules will be submitted to the Procurement Policy Board (PPB) before or during the public comment period established under the Illinois Administrative Procedure Act [5 ILCS 100]. Rulemaking, except for emergency rulemaking, shall be scheduled to allow the PPB at least 30 days to provide comments.
- d) Emergency rules will be submitted to the PPB for review and comment with as much notice as is reasonably possible. A copy of the adopted emergency rules shall be provided to the PPB. The PPB shall be given opportunity to comment on rules proposed to replace the emergency rules.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART C: PROCUREMENT AUTHORITY

Section 1.1005 Procurement Authority

- a) The Chief Procurement Officers appointed by the Executive Ethics Commission will exercise the procurement authority created by the Code for the benefit of the State of Illinois and the State agencies under the jurisdiction of each CPO. The

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Executive Ethics Commission may appoint a temporary acting CPO to act in the absence of any CPO, such as during illness, vacation or other extended leave.

- b) The CPO-GS's procurement authority extends to supplies, services, construction not under the jurisdiction of the ~~Capital~~ Capitol Development Board or the Department of Transportation, real estate leases and all other categories of need subject to the Code. The authority extends to all aspects of the procurement process, including, but not limited to, pre-solicitation activities, solicitation preparation, source selection, evaluation, award, contracts, dispute resolution and records subsequent to identification of need, except as otherwise provided for in the Code.
- c) Any reference in the Code or this Part directing or authorizing a State agency to take procurement action is subject to the ~~overall~~ general procurement authority of the CPO-GS and SPO as set forth in the Code and this Part.
- d) The CPO-GS exercises procurement authority through one or more SPOs or temporary acting SPOs and other ~~State~~ agency staff assigned to the procurement function. Those assigned to assist shall recognize the role and authority of the CPO-GS. The CPO-GS may assign a SPO to one or more State agencies or may make assignments on a functional basis. The CPO-GS may appoint a temporary acting SPO with limited authority to act with an appointed SPO. In the absence of an appointed SPO, the CPO-GS may exercise the procurement authority of an SPO or may appoint a temporary acting SPO. Unless the Code or this Part prohibits a designee from performing a procurement action, the CPO-GS may delegate procurement action to an SPO or a State agency, subject to the approval of the appropriate State Agency Head. The CPO-GS may reserve certain procurement activities to the CPO-GS and reserves the right to review and modify or overturn any action of an SPO, or any other designee.
- e) An SPO will exercise procurement authority in accordance with direction and limitations established by the CPO-GS. The SPO will act primarily to review, authorize and approve State agency procurement activities and, to that end, exercises procurement authority with the assistance of the State agency procurement staff. The CPO-GS and SPO will determine and identify, in writing, procurement activities that must be conducted by the CPO-GS or SPO and those that may be delegated to State agencies. Activities not ~~reserved to the CPO-GS or SPO may so identified will~~ be conducted by the State agency staff with CPO-GS/SPO oversight, subject to the approval of the appropriate State Agency Head.

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- f) Each State agency shall determine and provide an appropriate number of qualified staff and related resources to assist the SPO in meeting the procurement needs of the State agency. State agency staffs, while acting to assist the SPO, remain State agency employees.
- g) The State agency is responsible for determining need, and upon direction or request to provide a rationale to the SPO for the proposed transaction or activity before the procurement may commence. Additional justification may be required by the SPO at later stages of the procurement process. The SPO may require that the justification include a statement that the proposed activity or transaction meets legal requirements and State agency policies and is in the best interests of the State of Illinois and the State agency.
- h) State agency procurement staff are responsible:
- 1) for ensuring that all procurement activities, including those submitted to the SPO or CPO-GS for review, authorization or approval are in accordance with the Code, this Part, other applicable laws and rules, the internal policies of the State, the internal policies of the State agency; and
 - 2) for obtaining all State and State agency approvals applicable to the particular stage of the procurement process.
- i) The CPO-GS has the authority to approve or reject~~enter into~~ contracts for a State agency. In addition to this authority, the CPO-GS may direct an SPO to approve or reject~~enter into~~ contracts for a State agency, authorize an SPO to further authorize a State agency to enter into contracts, or authorize a State agency to enter into contracts. The State agency has the authority to sign and enter into a contract once an SPO provides written approval of the contract.
- 1) ~~The CPO-GS shall determine in writing which contracts, if any, must be signed by the CPO-GS. The CPO-GS shall determine in writing which contracts may be signed by an SPO or State agency. These signature authorities may be modified or revoked at any time by the CPO-GS or the SPO, when appropriate. In the absence of written direction, the State agency shall enter into contracts for its needs.~~

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- 12) Any written determination regarding signature authorization shall be maintained by the CPO-GS and distributed to the SPO, State Agency Head~~agency head~~, agency purchasing director and the State Comptroller.
- 23) If the CPO-GS or SPO approve~~signs~~ a contract, the State agency must also sign the contract in order for the contract to be legally binding on the State agency. The State agency may decline to sign a contract even if signed and approved by the CPO-GS or SPO.
- 34) If the CPO-GS and SPO approve~~does sign~~ a contract for a State agency, in no event shall the CPO-GS or SPO assume any responsibility or obligation under the contract, financial or otherwise, to any party or person.
- j) Procurement Compliance Monitors (PCMs)
- 1) PCMs have roles and responsibilities established in Section 10-15 of the Code. This includes overseeing and reviewing the procurement processes, having access to records and systems, and attending any procurement meeting.
 - 2) Each State agency shall recognize these statutory roles and shall cooperate with PCMs in the conduct of their actions. Cooperation includes notice of, and access to, procurement meetings, and access to all procurement related records in whatever format they may exist, including documents, databases and systems. Failure to cooperate and resolve issues may be reported to the chief executive officer of the State agency and in certain cases may require reporting to the Office of the Executive Inspector General for the agencies of the Illinois Governor.
 - 3) Should a PCM request review of a contract before final execution, the State agency shall not execute the contract until approval by the SPO.
- k) Expedited Response
Any offeror, respondent, SPO, State agency, subcontractor or person may contact the CPO-GS at cpo@illinois.gov concerning any procurement matter and obtain information concerning the procurement process or a pending procurement, particularly in an effort to meet the objectives of Section 1-5 of the Code and Section 1.5 of this Part. The CPO-GS shall take all measures within its means and resources, in conformity with the Code and this Part, to address any inquiries in

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order to effectuate the aims of the Code and this Part. All contracts shall be placed in the procurement file in compliance with Section 50-39 of the Code.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.1040 Central Procurement Authority of the CPO-GS

- a) The CPO-GS may establish, or may delegate to a State agency the right to establish, master, scheduled or open-ended contracts for any item, and those contracts shall be utilized by State agencies in accordance with the terms of those contracts.
- b) Any delegation for the establishment of master, scheduled or open-ended contracts by the CPO-GS to a State agency shall be in writing and agreed to in writing by the State Agency Head. The CPO-GS shall authorize an appropriate SPO to procure the following items. These items may be procured by an SPO only as provided in this Subpart or in a letter of delegation from the CPO-GS authorizing the procurement activity.
- 1) Supplies. The CPO-GS or authorized SPO shall procure all supplies exceeding the small purchase threshold. In addition, the CPO-GS or authorized SPO shall procure:
- A) printing exceeding \$10,000; and
- B) regardless of price:
- i) Employee benefits authorized under the State Employees Group Insurance Act or the Personnel Code;
- ii) Financing of any procurement;
- iii) Paper, stationery, envelopes;
- iv) Postage stamps;
- v) Property, casualty, liability and other insurance, and bonds;
- vi) All telecommunications material, equipment, software and

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~~related goods. (Equipment used to provide data communications internal to a building is considered to be Local Area Network equipment and is therefore excluded from this provision.);~~

- ~~vii) Utilities for buildings owned and operated by the State;~~
- ~~viii) Vehicles.~~

- 2) ~~Services. The CPO-GS or authorized SPO shall procure the following services:~~
 - A) ~~Electronic data processing services including, but not limited to, consulting and professional and artistic services, exceeding the small purchase threshold;~~
 - B) ~~Regardless of price, all telecommunications related services including, but not limited to:~~
 - i) ~~voice, data, video, and internet working services delivered from private and or public network services, dedicated and/or virtual networking. Wide Area Networking and/or Metropolitan Area Networking, local exchange services, long distance services, radio frequency derived communications services (e.g., cellular, PCS, land mobile, microwave, etc., service);~~
 - ii) ~~repairs, additions, relocations, or related changes to telecommunication services;~~
 - iii) ~~consulting, professional and artistic services relating to telecommunications issues;~~
 - C) ~~Vehicles related services, including but not limited to, fleet management and repairs, regardless of price.~~
- 3) ~~Real Estate. The CPO-GS shall procure all leases of real estate and any capital improvements to the leased real estate for the use of State agencies, regardless of price.~~

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- c) Central Procurement Procedures
- 1) Purchase Requests
~~Each State~~ For purchases that are reserved to the CPO-GS, each agency must initiate the procurement process through submission of a purchase request to the CPO-GS. The CPO-GS shall designate the format and requirements for submission through a CPO Notice to the agencies.
 - 2) Chief Procurement Officer's Authority to Reject
When the CPO-GS, after consultation with the requesting agency, decides that processing the requested procurement is clearly not in the best interest of the State, or that further review is needed, the CPO-GS shall return ~~the such purchase~~ request to the requesting agency. A written statement of the reasons for its return shall accompany the returned request.
 - 3) Determination of Contractual Terms and Conditions
The CPO-GS has authority to determine the terms and conditions of solicitations and contracts. The CPO-GS will consult with the requesting agency if the agency requests special terms and conditions.
- d) The CPO-GS may, after consultation with and notice to any affected SPO, use central procurement procedures ~~for items in addition to those listed in this Section~~ upon ~~the CPO-GS's~~ determination that ~~those such~~ procedures are likely to result in significant efficiencies or economies.
- e) The CPO-GS and the CPOs of the construction agencies will determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.
- f) The CPO-GS has additional duties and responsibilities established in statute apart from the Code, and nothing in this Part shall be interpreted to limit those other statutory duties and responsibilities.
- g) ~~Expedited Response~~
~~Any offeror, respondent, SPO, State agency, subcontractor or person may contact the CPO-GS at cpo@illinois.gov concerning any procurement matter and obtain information concerning the procurement process or a pending procurement, particularly in an effort to meet the objectives of Section 1-5 of the Code and~~

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~~Section 1.5 of this Part. The CPO-GS shall take all measures within its means and resources, in conformity with the Code and this Part, to address any inquiries in order to effectuate the aims of the Code and this Part. All contacts shall be placed in the procurement file in compliance with Section 50-39 of the Code.~~

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.1060 Delegation

- a) The CPO-GS may delegate to any SPO or, in consultation with a State Agency Head, to a State agency authority to conduct certain named activities or functions. The CPO-GS may also delegate to any SPO the CPO-GS's authority to conduct on behalf of the CPO-GS specific procurements or classes of procurements for multiple agency use. An SPO may request that the CPO-GS delegate authority to that SPO. The State agency delegated authority shall remain subject to CPO-GS and SPO authority. All such delegations shall be acknowledged and agreed to in writing by the State Agency Head.
- b) Any exercise of delegated authority shall be in accordance with the Code and this Part.
- c) Delegations shall be in writing and shall specify:
 - 1) the activity or function authorized;
 - 2) any limits or restrictions on the exercise of the delegated authority;
 - 3) whether the authority may be further delegated;
 - 4) the duration of the delegation; and
 - 5) any reporting requirements.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 1.1501 Illinois Procurement Bulletin

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- a) The Illinois Procurement Bulletin consists of four Bulletins, one for each of the Chief Procurement Officers designated in the Code. Each Bulletin will contain information relating to procurements under the authority of the appropriate CPO. References in this Part to Bulletin means the General Services volume, unless the context indicates a different meaning.
- b) The CPO-GS shall have all rights in and to his or her volume of the Bulletin and shall determine the content, form, function, organization and structure and shall make revisions as necessary or desirable.
- c) The Bulletin shall be published in electronic, web accessible form. The Bulletin can be found at <http://www.purchase.state.il.us>. In addition, the Bulletin may be available in print.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.1510 Publication of Illinois Procurement Bulletin (Repealed)

~~At the direction of the CPO-GS, Central Management Services, at least one time per month, will publish the Illinois Procurement Bulletin in electronic form and will update the Bulletin as needed. Central Management Services may publish the Bulletin in print. The Bulletin can be found at <http://www.purchase.state.il.us>.~~

(Source: Repealed at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.1525 Bulletin Content

- a) The Bulletin will contain all content required by the Code. The Bulletin may include reference information of general interest (e.g., how to access the other volumes of the Illinois Procurement Bulletin, notice of new legislation, announcements and determinations) and may serve as the CPO-GS's official website. SPOs shall publish all notices to the Bulletin.
- b) Notice of each procurement shall contain at least the following information:
 - 1) the name of the purchasing agency (and using agency, if different);
 - 2) a brief ~~purchase~~ description of the supplies or services sought in the particular solicitation;

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- 3) a procurement reference number, if used;
 - 4) the date the procurement is first offered (procurements that require notice shall not be distributed to vendors prior to the date the notice is first published in the Bulletin);
 - 5) the date, time, and location for making submissions;
 - 6) the method of source selection;
 - 7) the name of the State Purchasing Officer in charge and the name of the State agency person assigned to the procurement;
 - 8) instructions on how to obtain a comprehensive purchase description and any disclosure and contract forms;
 - 9) encouragement to prospective vendors to hire qualified veterans; and
 - 10) encouragement to prospective vendors to hire qualified Illinois minorities, women, persons with disabilities and residents discharged from any Illinois adult correctional center.
- c) Notice of ~~the award each contract let~~ that was the subject of a notice in subsection (b) shall be issued electronically on the day of the award ~~be placed in the Bulletin and shall be immediately issued electronically to the successful responsible bidder or offeror.~~ those bidders or offerors submitting responses to the solicitation. ~~Once notice of award is posted, the State agency shall also email the notice to all bidders. Bidders and offerors must register (see Section 1.515) and sign up for email notices. Should the Bulletin or State agency fail to send notice to bidders or offerors submitting responses to the solicitation, the time for filing a bid protest will be extended up to 5 business days.~~
- d) The SPO shall publish the notice of award to the Bulletin for 14 days, unless a shorter time is authorized by the Code or this Part. This notice shall contain at least the following information:
- 1) the information published in ~~subsection~~ subsection (b)(1) through (7);

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- 2) the contract price and the name of the vendor selected for award;
 - 3) ~~the contract price;~~
 - 34) the number of unsuccessful responsive vendors;
 - 45) for each responsive vendor:
 - A) The vendor's name;
 - B) For IFBs, the amount bid by each vendor;
 - C) If applicable, the percentage of business to be performed by a certified Business Enterprise Program vendor as reflected in the utilization plan;
 - D) If applicable, the percentage of business to be performed by a certified Service Disabled Veteran Owned Small Business or certified Veteran Owned Small Business as reflected in the utilization plan; and the bid's percentage of disadvantaged business utilization plan;
 - 6) ~~the bid's percentage of business enterprise program utilization plan;~~
 - 7) ~~the total number of veteran owned small businesses and the number of service disabled veteran owned small businesses who submitted bids for contracts; and~~
 - 58) other disclosures required to be published in the Bulletin.
- d) ~~Notice of each contract awarded that was subject of a notice in subsection (b) shall be placed in the Bulletin and shall be issued electronically to those offerors submitting responses to the solicitation. Once notice of award is posted, the State agency shall also email the notice to all offerors. Offerors must register (see Section 1.515) and sign up for email notices. Should the Bulletin or State agency fail to send notice to offerors submitting responses to the solicitation, the time for filing a protest will be extended up to 5 business days. This notice shall contain at least the following information:~~

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- 1) ~~the information published in subsection (b);~~
 - 2) ~~the name of the vendor selected for award;~~
 - 3) ~~the contract price;~~
 - 4) ~~the number of unsuccessful responsive vendors;~~
 - 5) ~~the proposal's percentage of disadvantaged business utilization plan;~~
 - 6) ~~the proposal's percentage of business enterprise program utilization plan;~~
 - 7) ~~the total number of veteran owned small businesses and the number of service disabled veteran owned small businesses who submitted offers for contracts; and~~
 - 8) ~~other disclosures required to be published in the Bulletin.~~
- e) In addition to the notice requirements of subsection (d):
- 1) For an IFB, the State agency shall post notice of the apparent low bidder's award and all other bids (bid tabulation showing name of each bidder and the prices bid) from bidders responding to the solicitation to its website no later than the next business day after the award is posted to the Bulletin or may include a link to the Bulletin for the detailed information of the award. ~~subsections (c) and (d), the name and price submitted by the apparent low bidder and all other bids from bidders responding to solicitations shall be posted on the agency's website the next day and may include a link to the Bulletin for the detailed information. In addition to the notice requirements of subsection (d), the notice of award shall be posted on the agency's website the next business day.~~
 - 2) For an RFP, the State agency shall post notice of each contract that is awarded on the State agency's website no later than the next business day after the award is posted to the Bulletin or may include a link to the Bulletin for the detailed information of the award.
- f) If an award to other than the lowest responsive and responsible bidder results pursuant to Section 20-10(g), an SPO must post in the Bulletin a written

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explanation with the notice of award. The written explanation must also be filed by the SPO with the Legislative Audit Commission and must include:

- 1) a description of the State agency's needs;
 - 2) a determination that the anticipated cost will be fair and reasonable;
 - 3) a listing of all responsible and responsive bidders; and
 - 4) the name of the bidder selected, the total contract price, and the reasons for selecting that bidder.
- gf) Notice of each contract renewal shall be posted in the Bulletin within 10 days after the determination by the purchasing agency to renew the contract. The date of determination to renew shall be the date of the last approval required by the State agency to move forward with the renewal. Each State agency shall identify the renewal approval process and shall ensure the renewal notice contains the required information and is posted to the Bulletin within the prescribed time. The notice shall require all of the information required under subsection (b) or shall reference this information electronically, which may include attachment of or reference to the original Bulletin notice.
- h) Notice of renegotiated contracts and change orders that increase the cost of a contract by more than \$10,000 or the time of completion by a total of 30 days or more shall be posted on the Bulletin for 14 days. The State agency shall post notice of the renegotiated contract and change order to its website the next business day after notice is posted to the Bulletin, which may be a link to the Bulletin for the detailed information of the renegotiated contract or change order.
- ig) The following information regarding emergency procurements shall be published in the Bulletin within 3 business days after emergency contract award~~commencement of performance under the emergency contract~~:
- 1) name of the procuring agency (and using agency, if different);
 - 2) name of the vendor selected for award;
 - 3) brief description of what services or supplies the vendor intends to provide;

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- 4) total price (if only an estimate is known, it shall be published, but a subsequent notice repeating all required information shall be published when the final amount is known);
 - 5) reasons for using the emergency method of source selection;
 - 6) name of the SPO and the name of the State agency person in charge of the procurement;
 - 7) name of the State agency person who authorized the emergency contract action; and
 - 8) affidavit of emergency procurement, if available, and, if not available, to be filed as an amendment to the notice within 10 days after the emergency procurement.
- j) In addition to the requirements of subsection (ig), the notice of hearing to extend an emergency contract must be published~~posted~~ electronically in the Bulletin at least 14 days prior to hearing. A completed emergency extension justification form as prescribed by the CPO-GS shall be published as part of the notice of hearing.
- k) The following information in regard to sole source procurements shall be published in the Bulletin at least 14 days prior to entering into the contract with the designated sole source vendor:
- 1) name of the purchasing agency (or using agency, if different);
 - 2) name of the intended sole source vendor;
 - 3) a description of what services or supplies the vendor intends to provide;
 - 4) name of the SPO and the name of the State agency person in charge of the procurement;
 - 5) the date, time and location of the scheduled public hearing with an explanation that the hearing will be cancelled if no hearing request is received; and

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- 6) a completed sole source justification form as prescribed by the PPB.
- lj) Each purchasing agency shall post in the Bulletin a copy of its annual report of utilization of businesses owned by minorities, females and persons with disabilities. Posting is due within 10 days after the purchasing agency submits its report to the Business Enterprise Council pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].
- mk) Other notices shall be published on the Bulletin as provided by the Code, including notices related to suspensions and debarment, Business Enterprise Program and Small Business Set-Aside waivers, and other matters of public interest.
- nl) The CPO-GS may allow another CPO or another governmental entity to publish procurement related notices and other matters of public interest to the Bulletin.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.1535 Vendor Portal

- a) In consultation with the PPB and State agencies, the CPO-GS may operate a vendor portal, use another CPO's vendor portal, or jointly operate a vendor portal with other Chief Procurement Officers if a single portal better serves the needs of State agencies and the vendor community. A vendor portal shall allow prospective vendors to:
- 1) Provide certifications, disclosures, registrations and other documentation needed to do business with the State in advance of a particular procurement;
 - 2) Submit the vendor's registration number, with a confirmation the portal information is current, as part of the vendor's response to a competitive solicitation or a contracting process.
- b) The CPO-GS may accept the registration of a vendor from another CPO's vendor portal provided the portal information is current, in lieu of certifications,

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disclosures, registrations and other documentation needed to do business with the State in advance of a particular procurement.

(Source: Added at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.1570 Error in Notice

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin within a reasonable time after the original publication. A correction that results in a change of procurement method or a material change in the requirements set forth in a solicitation may require extension of the time to respond to the original solicitation as set forth in the correction at the discretion of the SPO, taking into consideration impact on the State as well as on vendors.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 1.2005 General Provisions

- a) Solicitation Response
- A solicitation may contain forms that must be returned or may require compliance in a prescribed format. If a form or format is prescribed, prospective vendors shall submit those forms as instructed.
- 1) All bids/offers received shall be date- and time-stamped, recorded in a log and stored in a secure manner (e.g., locked file cabinet, safe, locked room or other secure location) by the person responsible for receiving the bids/offers.
 - 2) The SPO shall maintain the confidentiality of the bid/offer submittals. No information within bids/offers received shall be disclosed to anyone prior to opening. State personnel may confirm receipt of the bid or offer to the bidder or offeror.
 - 3) If a bid/offer is opened for identification purposes or in error, the procurement file shall include a signed statement explaining the reason for the mistake or error, including the name of every person involved. The

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bid/offer shall be resealed until the time set for the opening of the solicitation.

- b) Late Bids or Proposals, Late Withdrawals and Late Modifications
- 1) Any bid or proposal (including any modification, withdrawal or other procurement-related submission) received after the time and date for receipt, or at other than the specified location, is late. A submission that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered. State employees shall not be responsible for ensuring subsequent delivery of misdelivered items. Delivery at the specified location and time shall be the sole responsibility of the bidder or offeror.
 - 2) No late submission will be considered unless the SPO, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address). It is the responsibility of the bidder or offeror to ensure delivery at the time and to the place specified. Vendors submitting a late response will be notified and given the opportunity to retrieve the submission at their cost. Late submissions not returned to the vendor will be destroyed after all related procurement activity is complete and the resulting contract has been executed.
 - 3) Records shall be made and kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) ~~Other Submissions.~~ Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- c) Extension of Solicitation Due Date
- 1) The SPO may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.
 - 2) The SPO may, 72 hours prior to the time for submitting a bid or proposal, allow modification to the solicitation for the convenience of the State. If notice of a modification to a solicitation cannot be made at least 72 hours in advance of the time the response is due, the solicitation shall be

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cancelled and reissued or the SPO shall extend the time to respond for a reasonable period of time.

3) All notices under this subsection (c) will be provided electronically and posted on the Illinois Procurement Bulletin.

d) Bid/Proposal Firm Time

- 1) Unless otherwise provided in the solicitation, the vendor's bid/proposal must be kept firm for at least 30 days after the opening date.
- 2) After opening bids or proposals, the SPO may request bidders or offerors to extend the time during which the State agency may accept the bids or proposals, provided that, with regard to bids, no other change is permitted. This extension shall not exceed 180 days after the bid opening and does not provide an opportunity for others to submit bids or proposals.

e) Electronic and Fax Submissions

- 1) The solicitation may state that electronic and fax submissions will be considered if they are received at the designated location by the time and date set for receipt. Any required attachments will be submitted as stated in the solicitation.
- 2) Electronic submissions authorized by specific language in the solicitation will be opened in accordance with electronic security measures in effect at the purchasing agency at the time of opening. Electronic signatures will be accepted for electronically submitted bids in accordance with the security standards established by the Department of Central Management Services (see 5 ILCS 175/25-101(c)) and its accompanying regulations (14 Ill. Adm. Code 105.300).
- 3) Fax submissions authorized by specific language in the solicitation will be placed in a sealed container upon receipt and opened with other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

f) Intent to Submit

The solicitation may require that vendors submit, by a certain time and date, a

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notice of their intent to submit a bid or proposal in response to the solicitation. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.

- g) **Only One Bid or Proposal Received**
If only one bid or proposal is received, and if it meets all requirements, the SPO may award to the single bidder or offeror if the SPO finds that the price submitted is fair and reasonable, and that other prospective bidders or offerors had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise, the SPO may cancel the procurement.
- h) **Alternate or Multiple Bids or Proposals**
 - 1) **Alternate bids or proposals may be accepted if:**
 - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1.2025 (Sole Economically Feasible Source Procurement); or
 - C) the low bidder who has met all requirements of the solicitation has provided a lower cost alternative that meets all of the material requirements of the solicitation.
 - 2) **Multiple bids or proposals may be accepted if permitted by the solicitation and submitted in accordance with instructions in the solicitation.**
- i) **Multiple Items**
A solicitation may call for pricing of multiple items of similar or related type. Award shall be as specified in the solicitation based on an individual line item, a group total of certain items, a core list, a "market basket" of related items representative of the total requirement, a grand total of all items, or other grouping method.
- j) **"All or None" Bids or Proposals**
All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

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- k) **Conditioning Bids or Proposals Upon Other Awards**
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall be rejected.
- l) **Unsolicited Bids or Offers**
An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part.
- m) **Clarification of Bids and Proposals**
The SPO may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and final offers as authorized elsewhere in this Part.
- ~~n) **Extension of Time on Indefinite Quantity Contracts**
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the SPO determines in writing that it is not practical to award another contract at the time of the extension.~~
- ~~o) **Increase in Quantity on Definite Quantity Contracts**~~
- ~~1) This subsection (o) applies to procurements other than those for construction or construction related professional services. Within 90 days after awarding a definite quantity contract using the sealed bid or sealed proposal procedure, additional purchase orders, contracts or amendments may be issued to the same vendor at the same unit price and on the same terms and conditions if:~~
- ~~A) The vendor indicates that the additional purchase orders or contracts will be accepted if issued;~~
- ~~B) The market price of the commodities, services or equipment in question has not gone down since the original purchase; and~~
- ~~C) The additional quantity does not exceed 20% of the original definite quantity.~~

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- ~~2) Notices of supplemental purchases in excess of the small purchase limits of Sections 20-20 and 35-35 of the Code shall be published in the Illinois Procurement Bulletin.~~
- ~~3) The quantity may be increased by any percentage, provided the dollar value of the increase does not exceed the applicable small purchase (Section 1.2020) threshold.~~
- np) Assignment, Novation or Change of Name
- 1) Assignment. No State contract is transferable, or otherwise assignable, without the prior written consent of the CPO-GS or SPO, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. The assignee, except in the case of assignment for payment only, must meet all requirements for contracting with the State. Any purported assignment without prior written consent shall be null and void.
 - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
 - A) the transferee assumes all of the transferor's obligations;
 - B) the transferee meets all requirements for contracting with the State;
 - C) the transferor waives all rights under the contract as against the State; and
 - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
 - 3) Change of Name. A vendor may submit to the SPO a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

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- oe) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- pe) Incorporation by Reference
A solicitation may incorporate documents by reference provided that the solicitation specifies where the documents can be obtained.
- qs) Use of Source Selection Method that is Not Required
If a purchasing agency uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the purchasing agency is bound to compliance with the Code and rules governing the method of source selection used.
- re) Vendor Signature
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the SPO within the time specified by that officer.
- st) Stringing
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited. Periodic purchases of similar supplies from several different vendors to maintain inventory is not stringing unless the purchases are planned to avoid the use of competitive procedures.
- tv) Confidential Data
A vendor~~Vendors~~ must clearly identify, by page and paragraph, any information submitted to the State claimed to be exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] (FOIA), including information the vendor claims is a trade secret or other competitively sensitive, confidential or propriety information belonging to the vendor.
- 1) The vendor~~and~~ must identify the basis of the claim of confidentiality or~~re~~claimed exemption from FOIA and show how that basis applies to the request for confidentiality or exemption. Information submitted without a claim of confidentiality or exemption from FOIA may be disclosed to the public without notice or permission.
 - 2) A State agency in receipt of a FOIA request shall attempt to provide

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reasonable notice and opportunity to a vendor claiming an exemption under FOIA or claiming the information should not be provided due to trade secret or competitively sensitive, confidential or proprietary information to object prior to disclosure of any material.

- 3) Information submitted with a claim of confidentiality or claimed exemption from FOIA may still be disclosed to the public if determined by a court or the Public Access Counselor for the Illinois Attorney General that the claim of confidentiality or claimed exemption from FOIA does not meet the requirements for withholding the information under FOIA. ~~The agency in receipt of the claim of FOIA exemption will determine whether the offered exemption is appropriate. The agency in receipt of the claim of FOIA exemption shall attempt to provide reasonable notice and opportunity to object to the vendor prior to disclosure of any material claimed by the vendor to be exempt from FOIA.~~

uw) Notice of Subcontractor

- 1) Any contract entered into under this Part shall state whether the services of a subcontractor will be used. The contract shall include the names and addresses of all known subcontractors with subcontracts with an annual value of more than \$50,000, the general type of work to be performed by each subcontractor, and the expected amount of money each will receive under the contract.
- 2) If, at any time during the term of the contract, a contractor desires to add or change any subcontractors with subcontracts with an annual value of more than \$50,000, the contractor shall promptly notify the State agency SPO, in writing, of the names and addresses of the proposed subcontractors, the general type of work to be performed by the proposed subcontractor, and the expected amount of money each new or replaced subcontractor will receive under the contract.
- 3) No contractor shall change a subcontractor listed in the original bid or proposal, except for documented good cause and with the consent of the SPO.
- A) Good cause may include, but is not limited to:

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- i) failure of the subcontractor to execute a written contract after a reasonable period of time after the written contract is presented to the subcontractor by the contractor;
 - ii) bankruptcy of the subcontractor;
 - iii) death or disability of the subcontractor, if the subcontractor is an individual;
 - iv) dissolution of the subcontractor, if the subcontractor is a corporation or partnership;
 - v) failure of the subcontractor to meet bond requirements as specified in the solicitation;
 - vi) subcontractor becomes ineligible to perform on the subcontract because the subcontractor is suspended, debarred or otherwise ineligible to perform;
 - vii) a series of failures by the subcontractor to perform in accordance with the specifications, terms and conditions of its subcontract;
 - viii) failure of the subcontractor to comply with a requirement of law applicable to the subcontractor; or
 - ix) failure or refusal of the subcontractor to perform the subcontract.
- B) A request of a contractor for a substitution of a listed subcontractor shall be submitted in writing to the State agency and SPO and shall include the reasons for the request. Consent of the SPO to a contractor for a substitution shall be made in writing and be included in the procurement file.
- C) Failure of a contractor to comply with this Section may result in cancellation of its contract or be considered grounds for suspension or debarment.

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~~The contractor shall provide the SPO with a copy of any subcontract with an annual value of more than \$25,000 within 20 days after the execution of the State contract and after the execution of the subcontract, whichever is later.~~

- 1) ~~For professional and artistic contracts, the contract shall state the names and addresses of all subcontractors and the expected amounts each will receive under the contract.~~
- 2) ~~For contracts other than professional and artistic contracts, the contract shall include:~~
 - A) ~~the names and addresses of all subcontractors known at the time of execution who are party to a subcontract with an annual value of more than \$25,000; and~~
 - B) ~~the expected amount of money each will receive under the contract.~~

v*) Pre-Solicitation Assistance

- 1) *For purposes of this subsection (v*), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager or shareholder of a business. [30 ILCS 500/50-10.5(e)]*
- 2) *Prohibited Bidders. Except as provided in subsection (v*)(5), Section 50-10.5(e) of the Code prohibits any person or business from bidding or entering into a contract ~~if the person or business assisted the State of Illinois or a State agency in determining whether there was a need for a contract or assisted~~ an employee of the State of Illinois, who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract or a State agency by reviewing, drafting, directing, or preparing any invitation for bids, 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. [30 ILCS 500/50-10.5(e)]*

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- 3) Non-Prohibited Acts. This Section does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business:
- A) Initiated a communication with an employee of the State to provide general information about industry trends and innovations, products, services or industry best practices, ~~and, if applicable, that communication is documented in accordance with Section 50-39 of the Code.~~
 - B) Responded to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, services or technologies.
 - C) Received or possessed 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.
 - D) Provided, at the request of the State, general marketing material or makes a general sales presentation to show the person's qualifications or product capabilities. Material may be personalized for the procuring agency provided any personalization is obtained from publically available sources.
 - E) Provided technology supplies or services demonstrated to the State that represent industry trends and innovation and is not specifically tailored to meet the State's needs.
- 4) Prohibited Acts
- A) Specifications. A person or business may not submit specifications to a State agency unless requested to by a State employee. With the exception of standard specifications that a vendor makes available to any potential purchaser, a State purchasing officer or person designated by the SPO must approve a State employee's request for specifications for a particular transaction.~~Determination of Need. Any person or business who, at the request of the State or with the consent of the State, reviews or analyzes the State's assets,~~

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~~activities, documents, functions, organization, programs or anything of similar nature to aid in the determination of whether the State has a need for some good or service is prohibited from bidding on or receiving a contract to meet that need.~~

- B) ~~Assistance to State Employees. Preparation of Procurement Documents.~~ A person or business is prohibited from bidding on a solicitation and from having a contract or subcontract arising from any of the following activities if the person or business assisted an employee of the State agency 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. Assistance to a State employee may include any of the following: ~~at the request of the State or with the consent of the State, assisted in the preparation of procurement documents in any of the following ways:~~
- i) Draft (writes or assists the State with writing all or part of the procurement document);
 - ii) Review (reads the document or comments on the procurement document or signified approval or disapproval);
 - iii) Direct (any activity relating to giving instructions or commands or in supervising or overseeing the preparation of the procurement document);
 - ~~iv~~iii) Prepare (any activity relating to organizing or distributing the documents, including through the Procurement Bulletin); or
 - ~~vi~~v) Provides similar assistance, e.g., conducting research or providing any advice used in drafting, reviewing, directing or preparing procurement documents.
- C) A person (and its affiliated or related entities) that contracts with a State agency to write specifications for a particular procurement may not submit a bid or proposal or receive a contract or subcontract for that procurement.

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- 5) Exceptions. Any person or business who responds to an advertised request for information or other publically available opportunity to provide information related to the procurement need or to review drafts of all or part of proposed procurement documents shall not be disqualified by virtue of responding to the State's publically advertised request.

~~w)~~ Pre-Submission Conference

A pre-submission conference may be conducted to enhance potential vendors' understanding of the procurement requirements. The pre-submission conference shall be announced as part of the solicitation notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference ~~shall~~~~should~~ be held long enough after the solicitation has been issued to allow potential vendors to become familiar with it, ~~and~~~~but~~ sufficiently before solicitation opening to allow consideration by vendors of conference results in preparing their responses. Supporting documentation of the conference shall be supplied to all prospective vendors known to have received a solicitation by posting the information on the Bulletin. Nothing stated at the pre-submission conference shall change the solicitation unless a change is made by written modification to the solicitation. Information conveyed in pre-submission conferences is not reportable under Section 50-39 of the Code, but any amendments resulting from the conference shall be supplied to all those prospective vendors through posting on the Bulletin.

~~xz)~~ Federally Funded Purchases

For purchases funded in whole or in part by United States Government funds, the solicitation will identify the federal statutes and regulations with which the vendor must comply.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2010 Competitive Sealed Bidding

a) Application

Competitive sealed bidding, also referred to as Invitation for Bids, is the required method of source selection, except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.

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- b) Invitation for Bids
- 1) Use. An IFB is used to initiate a competitive sealed bid procurement.
 - 2) Content. An IFB shall include, at a minimum, the following:
 - A) instructions and information to potential bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the location to which bids are to be delivered, and the maximum time for bid acceptance by the State;
 - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; ~~and~~
 - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable and State mandated certifications; ~~and~~.
 - D) A form or format that will specify or organize the manner of price submission and that the bidder shall submit along with all other necessary submissions, including disclosure forms.
 - 3) Delivery-Related Costs
Unless otherwise provided in the solicitation, the bid price includes transportation, transit insurance, delivery, installation and any other costs.
- c) Amendments to Invitations for Bids
- 1) Form. Amendments to IFBs shall be clearly identified and shall reference the portion of the IFB being amended.
 - 2) Distribution. Amendments shall be made available to all prospective bidders known to have received an IFB through posting on the Bulletin.
 - 3) Timeliness. Amendments shall be made available at least 72 hours prior to the date or time for submitting a bid ~~within a reasonable time~~ to allow prospective bidders to consider them in preparing their bids. If notice cannot be made at least 72 hours in advance of the time responses are due,

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~~the solicitation may be cancelled and reissued or the SPO may extend the time to respond for a reasonable period of time. If the time and date set for receipt of bids will not permit that preparation, the amendment shall extend the response time. If necessary, the response time may be extended by written announcement posted at the opening location or as announced at the scheduled opening time and confirmed in the amendment.~~

- d) Pre-Opening Modification or Withdrawal of Bids
- 1) Procedure. Bids may be modified or withdrawn by written notice received in the location designated in the IFB prior to the time and date set for bid opening.
 - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
 - 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- e) ~~Receipt, Opening and Recording of Bids~~
- 1) ~~Receipt. Upon its receipt, each bid and modification shall be date and time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened for identification purposes or in error, the file shall state the reason for the breach.~~
 - 2) ~~Opening and Recording~~ Bids and modifications shall be opened publicly at the time, date and place designated in the IFB in the presence of a State witness. The person opening bids shall not serve as witness. The CPO-GS shall determine information that shall be recorded, read and made available at the opening, including items such as the name of each bidder, the bid price and such other information the CPO-GS determines is appropriate.
- f) Bid Evaluation and Award
- 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB, except as permitted in the Code and this Part. The IFB shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria for price or responsiveness that are not disclosed in the IFB.

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- 2) Responsibility. Responsibility of prospective vendors is covered by Section 1.2046 (Responsibility).
- 3) Responsiveness. A bid must conform in all material respects to the IFB.
 - A) Product or Service Acceptability. The IFB shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
 - i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
 - ii) examination of such elements as appearance, finish, taste or feel;
 - iii) other examinations to determine whether the product or service conforms to any other purchase description requirements.
 - B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.
 - C) When the IFB provides a form or format for submitting price and the bidder deviates from the form or format, the bidder shall be declared nonresponsive by the SPO if the price submitted by the bidder cannot be discerned from the response.
- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (f), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the IFB. Only

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objectively measurable criteria that are set forth in the IFB shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, administrative cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible, the evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall treat all bids equitably. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for those items or terms is unbalanced when compared to other pricing in the bid.

- 5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.
- 6) No Disclosure of Information
 - A) Other than information that was recorded, read and made publicly available at the opening of the bids, the State agency conducting the procurement shall not disclose any information contained in any bid outside of contracting officers, identified State agency personnel or others specifically authorized by the CPO-GS or SPO until after the award of the proposed contract has been posted to the Illinois Procurement Bulletin. This does not restrict the disclosure of information to, or receipt by, State agency personnel identified by the State agency head or the chief executive officer of a board or commission to receive the information. The SPO may require confidentiality and conflict statements from those persons identified by the agency head or the chief executive officer to receive the information.
 - B) The agency head or chief executive officer may identify:
 - i) State employees who have primary responsibility for the procurement;
 - ii) State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibilities;

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- ~~D) name of purchasing agency;~~
- ~~E) name of responsible SPO;~~
- ~~F) brief description of supplies/services being purchased;~~
- ~~G) method of source selection;~~
- ~~H) name of the successful responsible bidder;~~
- ~~I) contract price;~~
- ~~J) number of unsuccessful responsive bidders;~~
- ~~K) percentage of disadvantaged business utilization plan;~~
- ~~L) percentage of business enterprise program utilization plan;~~
- ~~M) total number of veteran owned small businesses and the number of service disabled veteran owned small businesses that submitted bids for contracts;~~
- ~~N) any other disclosure required by the Code.~~

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2012 Multi-Step Sealed Bidding

- a) **Definition**
Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the State, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
- b) **Conditions for Use**
The multi-step sealed bidding method may be used when it is determined in writing by the SPO that it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step

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sealed bidding may be used when it is considered desirable:

- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
 - 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, when appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- c) **Pre-Submission Conference in Multi-Step Sealed Bidding**
Prior to the submission or evaluation of unpriced technical offers, a pre-submission conference as contemplated by Section 1.2005(~~wy~~) may be conducted by the SPO or designee.
- d) **Procedure for Phase One of Multi-Step Sealed Bidding**
- 1) **Form.** Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1.2010 (Competitive Sealed Bidding), except as otherwise provided in this subsection (d). In addition to the requirements set forth in Section 1.2010, the multi-step IFB shall state:
 - A) that it is a multi-step sealed bid procurement, that only unpriced technical offers are requested and that priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
 - B) the criteria to be used in the evaluation of the unpriced technical offers;
 - C) that the SPO or designee may conduct oral or written discussions of the unpriced technical offers; and
 - D) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the IFB.

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- 2) Amendments to the IFB. After receipt of unpriced technical offers, amendments to the IFB shall be distributed only to bidders who submitted unpriced technical offers, and those bidders shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the SPO, a contemplated amendment will significantly change the nature of the procurement, the IFB may be canceled in accordance with Section 1.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new IFB issued.
 - 3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one State witness. Technical offers shall not be disclosed to unauthorized persons.
 - 4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the IFB.
 - 5) Discussions. The State agency, in consultation with the SPO, may conduct discussions with a bidder or offeror to determine in greater detail the bidder's or offeror's qualifications, to explore with the bidder or offeror its ability to supply the specific supply or service, and the bidder's or offeror's proposed method of performance.
 - 6) Unacceptable Unpriced Technical Offer
When the SPO determines a bidder's unpriced technical offer does not meet criteria, the offer shall be rejected.
- e) Procedure for Phase Two
- 1) Initiation. Upon the completion of phase one, the SPO or designee shall either:
 - A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
 - B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

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- 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2013 Reverse Auctions

- a) CPO-GS Authorization
A State agency may procure supplies or services (other than for professional and artistic services, telecommunications services, communication services, ~~Internet services, and~~ information services, and construction projects, including design professional services) through means of a reverse auction if the CPO-GS has made a determination that use of a reverse auction is in the best interests of the State. The CPO-GS shall publish in the Bulletin that bids will be received in an electronic auction manner as part of the notice of Invitation for ~~Bids~~Bid.
- b) Reverse Auction Process
The ~~CPO-GSSPO~~ or designee shall conduct a reverse auction through a two step Invitation for Bids process consisting of bid prequalification and price submission.
 - 1) Prequalification
 - A) An invitation to prequalify shall be issued requesting the submission of information addressing vendor qualifications and responsibility; vendor specifications and/or samples; confirming acceptance of auction procedures; and requiring agreement to accept a contract using State contract terms and conditions if selected for award in the price only part of the process. No pricing information shall be submitted or considered in the prequalification step of the process.
 - B) The prequalification bids shall not be opened publicly, but the opening shall be recorded and witnessed by a State witness. Prequalification information will be evaluated on a pass/fail basis and vendors will be notified directly as to whether they met or did not meet the prequalification criteria.

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- 2) Price
 - A) An Invitation for Bids shall be sent to those vendors who passed prequalification. The response shall be limited to the submission of prices in the form specified in the Invitation for Bids. The Invitation for Bids shall establish any minimum bid increments.
 - B) Prices shall be submitted electronically. The [CPO-GSSPO](#) shall cause the prices to be displayed as submitted, but the prices as displayed will not identify the name of the vendor. Vendors may reduce their price at any time during the active period of the auction.
 - C) When the low price is substantially lower than other prices submitted, the [CPO-GSSPO](#) or designee may request that the bidder confirm the price and, if an error has occurred, may allow withdrawal in accordance with the Code and this Part.
- c) Technical Difficulties
 - 1) The auction time may be extended or rescheduled by the [CPO-GSSPO](#) or designee if technical difficulties at the State site do not allow the auction to be conducted as intended. Participants will be notified of an extension or a rescheduling.
 - 2) If technical difficulties occur at a vendor site such that the vendor cannot electronically submit a price, the [CPO-GS or designeeSPO](#) may accept a fax and will then enter the price for the vendor. Faxed prices will not be accepted later than 5 minutes before the originally scheduled end of the auction or if the faxed prices are higher than the then-existing low price.
- d) Reverse Auction Training
The [CPO-GS or designeeSPO](#) may provide instructions or training to prequalified vendors regarding auction procedures and technology.
- e) Disclosure of Reverse Auction Information
After the end of the reverse auction, the names of those who participated in either step of the process shall be disclosed and the final price submitted by each participant.

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(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2015 Competitive Sealed Proposals

- a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.
- b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories (note that the following services, if they are professional and artistic, must be procured pursuant to Section 1.2035):
 - 1) electronic data processing equipment, software and services;
 - 2) telecommunications equipment, software and services;
 - 3) consulting services; and
 - 4) employee benefits and management of those benefits.
- c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the SPO that competitive sealed bidding is either not practicable or advantageous. The Competitive Sealed Proposal method differs from competitive sealed bidding in two ways: it permits discussions with competing offerors and changes in their proposals, including price and it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract. Factors to be considered in determining whether competitive sealed bidding is either not practical or advantageous include:
 - 1) when evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, when the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or when the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration;
 - 2) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;

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- 3) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - 4) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, 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;
 - 5) whether the primary consideration in determining award may not be price; and
 - 6) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State.
- d) Content of the Request for Proposals
The RFP shall be prepared in accordance with Section 1.2010 (Competitive Sealed Bidding), provided that it shall also include:
- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, ~~but that proposals may be accepted without those discussions; and~~
 - 2) a statement that revisions may be requested after discussions and best and final offers may be requested; and
 - 3) a statement of when and how price should be submitted.
- e) Receipt and Registration of Proposals
- 1) ~~Upon its receipt, each proposal or modification shall be date and time stamped but not opened and shall be stored in a secure place until the time and date set for opening. If a proposal is opened for identification purposes or opened in error, the file shall state the reason for the error.~~
 - 12) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include

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the name of each offeror, the number of modifications received, if any, a description sufficient to identify the supply or service item offered, and a notation that the package contains a price proposal. The record of proposals shall be open to public inspection after award of the contract.

- 23) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors.
- A) Only ~~authorized~~ State personnel and contractual agents authorized by the SPO may review the proposals prior to award. Other than information that was recorded, read and made publicly available at the opening of the proposals, the State agency conducting the procurement shall not disclose any information contained in the offer outside of contracting officers, identified State agency personnel or others specifically authorized by the CPO-GS or SPO until after the award of the proposed contract has been posted to the Illinois Procurement Bulletin. This does not restrict the disclosure of information to, or receipt by, State agency personnel identified by the State agency head or the chief executive officer of a board or commission to receive the information. The SPO may require confidentiality and conflict statements from those persons identified by the agency head or the chief executive officer to receive the information.
- B) The agency head or chief executive officer may identify:
- i) State employees who have primary responsibility for the procurement;
 - ii) State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibilities;
 - iii) State employees who exercise oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.
- f) Evaluation of Proposals

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- 1) Evaluation Factors in the RFP. The RFP shall state all of the evaluation factors, including price, and their relative importance. Evaluation subfactors, if any, and their relative importance must be finalized prior to the opening and made available for inspection and copying upon opening. However, all price subfactors and their relative ranking must be shown in the RFP.
- 2) Evaluation Committee. Evaluation Committee members shall be determined by the State agency, tailored to the particular solicitation, and include as appropriate technical or other personnel with expertise to ensure a comprehensive evaluation of offers. Evaluation Committee members must not have any conflicts of interest or apparent conflicts of interest and must commit to the time to complete all evaluations and attend any necessary evaluation meetings. The Evaluation Committee members may be removed by the SPO for good cause, such as failure to comply with instructions or directions of the SPO or to ensure the integrity of the procurement. The SPO shall state in writing his or her reasons for removing a Committee member.
- ~~32)~~ Evaluation. The evaluation shall be based solely on the evaluation factors set forth in the RFP, except as communicated in advance to each proposer with opportunity to make necessary adjustments to the proposal. Numerical rating systems shall be used unless another scoring tool is authorized by the SPO. Any scoring tool shall reflect the evaluation criteria and ranking set forth in the RFP and any subfactors available at the opening. Proposals shall be submitted in two parts: the first, covering issues other than price, and the second, covering price. The first part shall be evaluated and ranked independent of the second part of all proposals. Each member of the evaluation committee must evaluate the first part individually. After completion of the individual evaluations, the SPO shall determine whether the evaluation committee should meet to confirm the individual scores. Factors the SPO should consider in determining whether the evaluation committee should meet include whether there is a significant or substantial variance of scores, divergent scoring comments, or other information that suggests the need for further discussion. The price proposal shall be opened in the presence of a State witness and distributed to the appropriate evaluators.

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- g) Proposal Discussions with Individual Offerors
- 1) Purposes of Discussions. Discussions are held to:
 - A) promote understanding of the State's requirements and the offerors' proposals (e.g., determine in greater detail milestones, deliverables and timelines for completion of work); and
 - B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the RFP.
 - 2) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and clarifications of proposals. Discussions may be conducted by the State agency, in consultation with the SPO, with vendors reasonably susceptible of being awarded a contract based on qualifications and price. If during discussions it is determined there is a need for substantial revision of, or change to, the RFP, the RFP shall be cancelled and may be resolicited to incorporate the clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.
 - 3) Best and Final Offers. The SPO or designee 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 and time. The SPO or designee may conduct additional discussions or require another submission of best and final offers. The scope of the best and final offer and the number of vendors allowed to participate shall be defined by the SPO. The primary objective of best and final offers is to maximize the State's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. If an offeror does not submit either a notice of withdrawal or another best and final offer, the offeror's immediately previous offer will be construed as its best and final offer.
- h) Award
- An award shall be made by the SPO pursuant to a written determination showing

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the basis on which the award was found to be most advantageous to the State, taking into consideration price and evaluation factors set forth in the RFP. The contract file shall contain the basis on which the award is made.

- i) ~~Publicizing Awards~~
~~Immediately upon contract award, offerors shall be notified. The notification shall be issued electronically and additionally may be in the form of a letter, purchase order or other clear communication. Notices of awards through the Sealed Bid Proposal process shall be published in the Bulletin prior to the execution of a contract. Notice of the award shall be posted on the State agency's website the next business day. Notice of award must include at least the following information:~~
- ~~1) date solicitation first offered;~~
 - ~~2) due date for submission of offers;~~
 - ~~3) location for submission of offers;~~
 - ~~4) name of purchasing agency;~~
 - ~~5) name of responsible SPO;~~
 - ~~6) brief description of supplies/services being purchased;~~
 - ~~7) method of source selection;~~
 - ~~8) name of the successful responsible offeror;~~
 - ~~9) contract price;~~
 - ~~10) number of unsuccessful responsive offerors;~~
 - ~~11) percentage of disadvantaged business utilization plan;~~
 - ~~12) percentage of business enterprise program utilization plan;~~

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- ~~13) total number of veteran owned small businesses and the number of service disabled veteran owned small businesses that submitted bids for contracts; and~~
- ~~14) any other disclosure required by the Code.~~

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2020 Small Purchase Limits

- a) Application
- 1) Individual procurements of \$50,000 or less for supplies or services, other than professional and artistic, may be made without notice or competition. These small purchase maximums shall be subject to the annual cost of living increases set forth in subsection (a)(3).
 - 2) Procurements for construction and construction related services of \$70,000 or less, or as increased to reflect increases in the consumer price index as determined by the CPO-GS.
 - 3) The CPO-GS shall announce any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending each December 31. That percentage change shall be used to recalculate the small purchase maximums applicable for the fiscal year beginning the following July 1.
 - 4) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made without notice of competition. Notice of award of professional and artistic service contracts must be published in the Bulletin prior to contract execution and shall include the name of the SPO and a brief explanation of the procurement.
- b) Determination of Small Purchase Status
- 1) In determining whether a contract is under the small purchase limit, the stated value of the supplies or services plus any optional supplies and services, determined in good faith, shall be utilized. When the value is

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calculated month-to-month or in a similar fashion, the amount shall be calculated for a 12 month period.

- 2) 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)).
 - 3) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the SPO determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the [State](#) agency's needs or other circumstances, the SPO must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.
- c) The CPO-GS may establish policies and procedures to manage the use of the small purchase method of source selection. The SPO may establish additional policies and procedures applicable to State agencies under the SPO's jurisdiction.
 - d) If there is a repetitive need for small procurements of the same type, the State agency shall notify the SPO who shall consider whether issuing a competitive sealed bid or proposal for procurement of those needs is in the best interests of the State.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2025 Sole [Source or Sole Economically Feasible Source Procurement](#)

- a) Application
The provisions of this Part apply to procurement from a sole [source or sole economically feasible source](#) (referred to as sole source) unless the estimated amount of the procurement is within the limit authorized in Section 1.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1.2030 (Emergency Procurements), in which case those other procedures may be used.
- b) Conditions for Use of Sole Source [or Sole Economically Feasible Procurement](#)
Sole source procurement is permissible when a requirement is available from only a single supplier. [Sole economically feasible procurement is permissible](#) when only one supplier is deemed economically feasible. A requirement for a particular

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proprietary item does not justify a sole source procurement if there is more than one vendor authorized to provide that item. The following are examples of circumstances that could necessitate sole or sole economically feasible source procurement (this list is not exhaustive):

- 1) compatibility of equipment, accessories, replacement parts or service is a paramount consideration;
- 2) items are needed for trial use or testing of that specific product or service;
- 3) item is for commercial resale;
- 4) non-competitive public utility services;
- 5) item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
- 6) media for advertising;
- 7) art, entertainment services or athletic events;
- 8) radio and television broadcast rights;
- 9) procurements related to participation in mandated educational, professional, research, public service or athletic activities of organizations of which the State agency is a member. These procurements may include, but are not limited to, dues and membership fees, travel and lodging and facility usage fees;
- 10) federal or State grant requires contract with named vendor;
- 11) items required by franchise agreements; and~~changes to existing contracts (see subsection (e)).~~
- 12) items that are required for research and no other source is able to meet the researcher's documented need.

e) Changes

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- 1) ~~Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to ensure success of the program, and that can be best accomplished by the contract holder may be procured under this Section. The SPO must determine that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.~~
 - 2) ~~As provided in Section 20-25(b) of the Code, changes to a contract for professional or artistic services that would result in an increase in the amount paid under the contract of more than 5% of the initial award, or would extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed two months, may not be made on a sole source basis.~~
 - 3) ~~A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1.2020, or that is an emergency as defined in Section 1.2030, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.~~
- c) Sole Source Determination
- The determination as to whether a procurement shall be made as a sole source or sole economically feasible source procurement shall be made by the SPO, based on a request made by a State agency. The request shall be in writing on a form prescribed by the PPB and shall include the basis for the sole source or sole economically feasible source determination. Prior to authorizing the State agency to enter into a contract based on the sole source or sole economically feasible source request, the CPO-GS shall ~~offer~~require a public hearing to be held and make a final determination as required by Section 20-25(a) of the Code. Any request for hearing must be made at least 5 calendar days prior to the date of the scheduled hearing. If no request for a hearing is made, the hearing will be cancelled. The procurement may proceed on a sole source or sole economically feasible source basis only after the procurement method is approved by the CPO-GS.

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- de) Hearing
Any hearing required shall be conducted in accordance with Subpart V.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2030 Emergency Procurements

- a) Authority to Make Emergency Procurements
The provisions of this Part apply to every procurement over the small purchase limit set in Section 1.2020 (Small Purchases) made under emergency conditions. The SPO, or a State agency through written designation, shall have the authority to make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods.
- b) Emergency Conditions
- 1) A statutory emergency condition exists:
 - A) if there exists a threat to public health or public safety;
 - B) when immediate expenditure is needed for repairs to State property in order to protect against further loss or damage to State property;
 - C) to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues; or
 - D) to ensure the integrity of State records.
- c) Quick Purchase
The emergency method of source selection is allowed in additional situations. These include, but are not limited to:
- 1) protect the health and safety of any person;
 - 2) items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a "quick purchase" immediately to take advantage of the availability and price;

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- 3) rare items, such as articles of historical value or art collections, that are available for a limited time;
 - 4) the opportunity to obtain entertainment, speakers and athletic and other events or performances is available for a limited time;
 - 5) immediate action is necessary to avoid lapsing or loss of federal or donated funds.
- d) **Scope of Emergency Conditions**
Emergency procurement shall be limited to the supplies, services, construction or other items necessary to meet the emergency need. In certain situations the purchase to meet the immediate need (i.e., the temporary solution) may, by necessity, also be the permanent solution. In this event, the notice shall describe that circumstance.
- e) **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 provided that, whenever practical, existing State contracts shall be utilized and competitive sources shall be considered if practical. 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.
- f) **Determination and Record of Emergency Procurement**
- 1) **Determination.** The SPO shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. Documentation of efforts to obtain competition shall be made part of the procurement file. These determinations shall be kept in the contract file.
 - 2) Emergency Contract Award
 - A) For purposes of an emergency, an emergency contract is awarded on the earliest of the date:
 - i) a State agency communicates to a vendor to start work;

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- ii) [publication on the Illinois Procurement Bulletin identifying the selected vendor; or](#)
 - iii) [the contract is signed by both parties.](#)
 - B) [Documentation of the contract award date shall be part of the procurement file.](#)
- 32) Record. In a manner acceptable to the receiving parties, the CPO-GS shall designate the method of filing affidavits of each emergency procurement with the PPB and Auditor General. An affidavit of each emergency procurement (including extensions of emergency contracts beyond 90 days) shall be filed by the SPO with the CPO-GS, PPB and the Auditor General within 10 days after the [contract is awarded](#)~~procurement~~ and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known);
 - C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
- 43) Notice of the Emergency Procurement
Notice of the emergency procurement shall be published in the Bulletin by the SPO as specified in Sections 15-25(c) and 20-30 of the Code no later than 3 business 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 total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.
- 54) The State agency shall be responsible for preparing the filings required in Section 20-30 of the Code.

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- g) Duration of Emergency Contract
- 1) The term of the temporary solution emergency contract shall be limited to the time reasonably needed for a competitive procurement for the permanent solution, not to exceed 90 days.
 - 2) A temporary solution emergency contract may be extended beyond 90 days if the CPO-GS determines additional time is necessary and the contract scope and duration are limited to the emergency. Prior to execution of the extension, a public hearing shall be held at which any person~~PPB and members of the public~~ may present testimony.
 - 3) Notice of Extension
Notice of intent to extend an emergency contract shall be published in the Bulletin no later than 14 days prior to a public hearing. Notice shall include at least a description of the need for the emergency extension, the contractor, and, if applicable, the date, time and location of the public hearing.
 - 4) The initial determination as to whether an emergency shall be extended for a term longer than 90 days shall be made by an SPO in the form of an extension request submitted to the CPO-GS. The request shall be in writing and shall include the justification for the extension. Prior to execution of the extension, a public hearing shall be held at which any person~~PPB and members of the public~~ may present testimony and the CPO-GS shall make a final determination as required by Section 20-30(a), (b) and (c) of the Code. The term noticed in the Bulletin of the proposed extension may be shortened or lengthened to a term determined to be in the best interest of the State, as determined by the CPO-GS. The final determination shall be published in the Bulletin.
- h) Contract Extension Hearing
The hearing shall be conducted in accordance with Subpart V.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2035 Competitive Selection Procedures for Professional and Artistic Services

- a) Application

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- 1) The provisions of this Section apply to every procurement of professional and artistic services, except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and except as provided in subsection (e).
 - 2) *"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 ~~500525~~/1-15.60].*
- b) Professional and artistic services are further defined as follows:
- 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
 - 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
 - 3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.
 - 4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service.
 - 5) Professional and artistic services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts.
 - 6) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.

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- 7) When a State agency requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.
- c) The categories of services enumerated in this subsection (c) shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require these services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:
 - 1) law;
 - 2) accounting;
 - 3) medicine;
 - 4) dentistry; and
 - 5) clinical psychology.
- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. These procurements are not subject to the procedures for other professional services established in the Code or this Part.
- e) **Conditions for Use of Competitive Selection Procedures**
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1.2020 (Small Purchase Limits).

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- f) Request for Proposals
Professional and artistic services shall be procured using an RFP.
- 1) Contents. The RFP shall be in the form specified by the CPO-GS and shall contain at least the following information:
- A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - i) 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;
 - ii) if deemed relevant, the age of the offeror's business and average number of employees over a previous period of time, as specified in the RFP;
 - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
 - iv) 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;
 - v) a plan, giving as much detail as is practical, explaining how the services will be performed;

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- G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package);
 - H) the factors to be used in the evaluation and selection process and their relative importance; and
 - I) a plan for post-performance review to be conducted by the State agency after completion of services and before final payment and made part of the procurement file.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFP. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
 - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - D) a record of past performance of similar work.
- g) ~~Delivery, Receipt and Handling of Proposals~~
- ~~1) Receipt. Upon its receipt, each proposal and modification shall be date and time stamped but not opened and shall be stored in a secure place until the time and date set for opening. If a proposal is opened for identification purposes or opened in error, the file should state the reason for the error. 2) Proposals shall be submitted to and opened by the CPO-GS, SPO or a designee on behalf of the SPOCPO-GS.~~
- 1A) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP.

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- ~~2B)~~ Opening shall be witnessed by a State witness or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
- ~~3E)~~ Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only ~~authorized~~ State personnel and contractual agents authorized by the SPO may review the proposals prior to award. In authorizing State personnel under this Section, the SPO may require confidentiality and conflict of interest statements be executed. The SPO may provide blanket authorization to:
- ~~A)~~ State employees who have primary responsibility for the procurement;
- ~~B)~~ State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibilities;
- ~~C)~~ State employees who exercise oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.
- ~~3)~~ ~~Transmission to SPO. The CPO-GS or designee will forward timely proposals to the responsible SPO of the purchasing agency along with any pertinent information contained in the files of the CPO-GS regarding the vendors who submitted proposals.~~
- ~~4)~~ ~~The CPO-GS may require that the SPO be present at and assist in the opening and registration of proposals and the transportation of proposals to the SPO.~~
- h) Discussions
- 1) Discussions Permissible. The CPO-GS, SPO or designee on behalf of the CPO-GS may conduct discussions with any offeror to:

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- A) determine in greater detail the offeror's qualifications; and
 - B) 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. The SPO or designee 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 the State agency conducting the procurement shall not disclose any information contained in any proposals outside of contracting officers, identified State agency personnel or others specifically authorized by the CPO-GS or SPO until after the award of the proposed contract has been posted to the Illinois Procurement Bulletin. This does not restrict the disclosure of information to, or receipt by, State agency personnel identified by the State agency head or the chief executive officer of a board or commission to receive the information. The SPO may require confidentiality and conflict statements from those persons identified by the agency head or the chief executive officer to receive the information. The agency head or chief executive officer may identify:
- A) State employees who have primary responsibility for the procurement;
 - B) State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibilities;
 - C) State employees who exercise oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.
- i) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation and discussion, the SPO shall rank the acceptable offerors in the order of their respective qualifications.

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- j) Evaluation of Pricing Data
Pricing submitted for all acceptable proposals timely submitted shall be opened and ranked.
- 1) If the low price is submitted by the most qualified vendor, the SPO may award to that vendor.
 - 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the SPO, but not a designee, may award to that vendor.
 - 3) If the price of the best qualified vendor exceeds \$25,000, the SPO, but not a designee, must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.
- k) Negotiation and Award of Contract
- 1) General. The purchasing agency, in consultation with the SPO, shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The purchasing agency, in consultation with the SPO, may, in the interest of efficiency, negotiate with the next highest ranked vendor, while negotiating with the best qualified vendor.
 - 2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:
 - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of those services.
 - 3) Successful Negotiation of Contract with Best Qualified Offeror

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- A) If compensation, contract requirements and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
- B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the purchasing agency, in consultation with SPO, based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, other available pricing information and the State agency's identified budget.
- C) Contracts entered into under this Section shall provide:
 - i) The duration of the contract, with a schedule for delivery when applicable;
 - ii) The method for charging and measuring cost (hourly, per day, etc.);
 - iii) The rate of renumeration; and
 - iv) The maximum price.
- 4) Failure to Successfully Negotiate Contract with Best Qualified Offeror
 - A) If compensation, contract requirements or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons shall be placed in the file. The purchasing agency, in consultation with the SPO, shall advise such offeror of the termination of negotiations.
 - B) Upon failure to successfully negotiate a contract with the best qualified offeror, the purchasing agency, in consultation with the SPO, may enter into negotiations with the next most qualified offeror.

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- l) **Multiple Awards**
The purchasing agency, in consultation with the SPO, may enter into negotiations with the next most qualified vendor or vendors when the purchasing agency has a need that requires multiple vendors under contract.
- m) **Notice of Award**
Notice of award shall be in accordance with Section 1.1525(b) and (c). Notice of award of professional and artistic service contracts under \$20,000 must be published in the Bulletin prior to contract execution and shall include the name of the SPO and a brief explanation of the procurement. ~~Written notice of award shall be public information and made a part of the contract file. The CPO-GS shall publish the names of the responsible decision makers of the purchasing agency, the name of the agency, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.~~
- n) **Prequalification**
Prequalification of professional and artistic vendors shall not be used to bar or prevent an otherwise qualified person from responding to a request for proposal for professional and artistic services.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2036 Other Methods of Source Selection

- a) **Split Award**
An award of a definite quantity requirement may be split between bidders or offerors if necessary to obtain the total quantity needed. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required.
- b) **Multiple Award**
- 1) A multiple award may be made for an indefinite quantity solicitation when award to two or more bidders or offerors for similar products or services is necessary for adequate delivery or service.
 - 2) If a multiple award is anticipated, the solicitation shall state this fact as

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well as the criteria for award.

- 3) In a multiple award situation, one vendor shall be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the SPO.
- 4) The State agency shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.
- 5) Multiple Award with Set Rate
 - A) Notwithstanding anything to the contrary in this Part, the CPO-GS but not a designee, may, on a case-by-case basis, authorize an appropriate purchasing agency to issue a competitive solicitation and to enter into contracts with multiple vendors under a process that provides for prequalification, agreement to perform at a set rate, and final selection based on random and equitable distribution of work among qualified vendors.
 - B) The CPO-GS may authorize use of this source selection procedure upon a determination in writing that use of the methods of source selection set forth in Article 20 of the Code is either not practicable or advantageous because, for example, the program needs of State agencies cannot reasonably be met within the normal procurement timeframes, or that the type and variety of State agency needs are such that a single award will not assure the needed availability or diversity of vendors.
 - C) This authorization shall be limited to contracts for information technology services. No other categories of supplies or services may be acquired using this method of source selection unless this subsection (b)(5) is amended.
 - D) Vendors shall be prequalified once per fiscal year, or as often as necessary, through use of a competitive sealed proposal. The minimum qualifications (including performance standards and agreement to provide services at a set rate determined by the

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State), any desirable additional qualifications, and the method of obtaining and setting rates shall be stated in the solicitation advertised in the Bulletin. Those vendors meeting minimum qualifications shall be offered non-exclusive indefinite quantity master contracts against which a procuring agency may later place one or more orders on an as needed basis in accordance with the vendor selection procedure set forth in subsection (b)(5)(G). Implementing ~~Section 45-45~~ Article 45 of the Code and subsection (b)(5)(G) of this Section, the solicitation shall contain a provision alerting vendors that the random selection process used to meet a specific using agency's needs may be limited to those master contract holders who qualify as small businesses.

- E) The purchasing agency shall establish the set rate by one of the following methods. The lowest rate identified will not necessarily be the set rate, but will be a consideration in determining the set rate.
- i) Set in the solicitation the rate that vendors must agree to bill. In general, this rate shall be the lowest rate at which a sufficient number of vendors are ready, willing and able to meet the State's needs. The solicitation shall show the selected purchasing agency has conducted sufficient research (such as reviewing past State contract rates, reference to GSA or other governmental contract rates, or private sector rates determined by internal or industry expert surveys) that the public can have confidence the rate provides overall advantage to the State.
 - ii) Require as part of the solicitation that vendors submit rates (prices), including disclosable rates, and inform them the selected purchasing agency will use this rate information and additional rate information received through use of the best and final process, from other contracts and from research to establish the set rate that vendors must bill.
- F) Vendors not willing to agree to bill at the set rate may be rejected or may have their contracts restricted to use in special circumstances approved by the CPO-GS.

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- G) Using agency needs will be met by the selected purchasing agency selecting a master contract holder on a random basis. If the using agency determines that it has specific programmatic needs that require additional qualifications (e.g., specialized programming knowledge or specific educational requirements) or conditions (e.g., geographic limitations) or State policy considerations (e.g., promotion of small business), such that random vendor selection from among all master contract holders would not meet its needs, the using agency may submit an alternate selection request to the CPO-GS. This request shall set forth all reasons, including the additional qualifications or conditions, why a random vendor selection would not reasonably meet the needs of the agency, or the policy of the State. If at least 3 of the master contract holders meet those additional qualifications or conditions, the selected purchasing agency shall conduct a random selection limited to that subset of the master contract holders. If the using agency's request does not show a need for additional qualifications or if there are not 3 master contract holders with the needed qualifications, the using agency may not utilize the method of source selection set forth in this Section.
- H) In order to ensure the continued availability of the set of master contract holders, all potential orders shall be monitored by the selected purchasing agency to ensure the equitable distribution of work and that no single vendor has an unwarranted disproportionate share of the available work. The selected purchasing agency shall, to avoid a disproportionate distribution of work, remove a vendor from consideration for a period of time sufficient to minimize dollar value discrepancies among vendors. In addition, any vendor so removed may be reinstated for consideration to meet a particular using agency's need if only 3 or fewer otherwise eligible vendors are available to meet the using agency's need.
- I) The selected purchasing agency shall conduct the random selection using a drawing, mechanical device or software driven selection. The specific process used shall ensure that final selection is influenced only by chance, after taking into consideration, as

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applicable and as allowed in this Part, the policy of equitable distribution, use of small businesses, and specific requests from agencies to meet special needs.

- J) It shall be the affirmative obligation of each vendor with a master contract to update information provided to the State regarding its continued ability to provide the contracted service. Master contracts may provide that vendors who cannot perform the required services when contacted and who have not provided the updated information may be taken out of consideration for orders for a period of time, including until the next prequalification.
 - K) The procurement file shall contain justification for the selection of the master contract vendors and each selection to meet the particular need of a using agency including the determination in subsection (b)(5)(B) ~~of this Section~~; the research papers, reports, contract rates and internal or industry expert surveys, "additional rate information" and identification of "other contracts and research" in subsections (b)(5)(E)(i) and (ii); the alternate selection documents required by subsection (b)(5)(G), the 3 or more master contract holders for the alternate random selection in subsection (b)(5)(G) and updated information required of contractors pursuant to subsection (b)(5)(J). The selected purchasing agency shall publish the names of the vendors selected to receive master contracts and the name of each vendor selected to receive an order to meet the using agency's particular need.
- c) Term and Condition Contracts
- 1) A term and condition contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A term and condition contract is not a procurement. It creates no obligation on the part of the State to procure from the vendor, nor does it create an authorization for a State agency to order based on that term and condition contract, except as provided in subsection (c)(2).
 - 2) Orders may be placed against term and condition contracts without use of

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any method of source selection specified in the Code for convenience of processing sole source, emergency or small procurements.

- d) **Auction**
Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium. Individual purchases at auction exceeding the small purchase maximum shall be posted in the Bulletin.
- e) **Non-governmental Joint Purchase**
If the CPO-GS determines in writing that joint procurement with an organization not eligible under the Governmental Joint Purchasing Act is in the best interests of the State agency, the CPO-GS may authorize a State agency to enter into an agreement with such an organization for the joint procurement of any item covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.
- f) **Federal Requirements**
The State agency, in consultation with the SPO, for any State agency receiving federal aid funds, grants or loans or otherwise subject to federal entity requirements may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans or to remain in compliance with federal requirements.
- g) **Foreign Country Procurement**
Procurements to meet the needs of State agency offices located in foreign countries shall comply with the Code and this Part whenever practicable. The SPO shall maintain a record of the action taken.
- h) **Donations**
 - 1) When a procurement will have the majority of funding from a donation, the terms of which require use of particular procurement or contracting procedures, the SPO may follow those procedures, but shall follow the Code and this Part whenever practicable.
 - 2) Donations may be acknowledged by the donee agency in a manner appropriate to the type of donation and the program activity associated

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with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee agency publications, and inviting the donor to attend the program activity associated with the donation.

- i) Broker Method for Obtaining Certain Insurance Coverages
 - 1) Notwithstanding anything to the contrary in this Part, the CPO-GS, but not a designee, may, on a case-by-case basis, authorize the use of this broker method to obtain insurance coverages when use of the methods of source selection set forth in Article 20 of the Code is not practicable or advantageous because, for example:
 - A) Due to the structure of the insurance industry, the types of insurance coverages needed cannot reasonably be obtained from "direct writers" who would provide quotes directly to State agencies in a bid or RFP process; or
 - B) The process of obtaining quotes for needed insurance coverages cannot be accomplished within the normal procurement timeframes.
 - 2) If the CPO-GS determines that this broker method is preferable for designated coverages, a two-part procurement process will be used to obtain the coverages.
 - A) A broker will be selected in accordance with the RFP process ~~for procuring professional services~~ authorized by Section 20-~~1535~~ and ~~Article 35 of the Code~~, and the resulting contract will be subject to all requirements of the Code. The broker contract will be issued for a term of years, and during the term of the contract the broker will assist the State agency in obtaining coverages as set forth in subsection ~~(i)(2)(B)~~ ~~(j)(2)(B)~~ as well as providing customary services such as issuing certificates of insurance and servicing policies.
 - B) The broker will assist the State agency by serving as broker of record in obtaining insurance coverages through the industry process of going to market to obtain quotes. The State agency will

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use an evaluation team to test the market for competitiveness, review the quotes, and select the insurers and products best fitting its needs. The solicitation, evaluation and selection process will be documented in writing and become a part of the public procurement file. The insurance coverages obtained, the term of coverage, and the premiums charged will be posted on the Bulletin as attachments to the broker award notice.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2038 Modification or Withdrawal of Bids or Proposals

a) Modification or Withdrawal

A bidder or offeror may withdraw or modify a bid or proposal if notice of the withdrawal or modification is received by the SPO before the latest time specified for receipt of bids or proposals. Any modification or withdrawal, however, must be made in writing and received by the SPO prior to the scheduled bid or proposal opening. When time is of the essence, the SPO may agree to receive modifications or withdrawals by printed form conveyed by electronic mail, fax or telephone. An originally signed written confirmation of a telephone modification or withdrawal shall be mailed or delivered by the bidder or offeror on the same day. Withdrawals of bids or proposals after bid or proposal opening will not ordinarily be permitted; however, in those cases in which the judgment of the SPO, based on clear and demonstrable evidence, the bidder or offeror has made a bona fide error in the preparation of the bid or proposal and that error will result in a substantial loss to the bidder or offeror, an exception may be made.

b) Minor informalities

A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the State or to other bidders or offerors (i.e., the effect on price, quality, quantity, delivery or contractual conditions is negligible). The SPO shall waive these informalities or allow the bidder to correct them depending on which is in the best interest of the State. Minor informalities include insignificant mistakes that have an effect on price, quantity, quality, delivery or contractual conditions is negligible.

c) Documentation Required

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When a bid or proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared by the SPO showing that relief was granted or denied in accordance with this Part.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2039 Mistakes

- a) **General**
Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other offerors.
- b) **Mistakes Discovered Before Opening**
A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting the error in writing, or in person at the opening location, before the time and date set for opening.
- c) **Confirmation of Mistake After Opening**
When the SPO knows or has reason to conclude that a mistake has been made, the SPO shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) **Mistakes Discovered After Opening but Before Award**
 - 1) **Minor Informalities**
A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery or contractual conditions is negligible). The SPO shall waive these informalities or allow correction depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure to:

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- A) return the ~~required~~ number of signed copies required by the solicitation document~~IFB~~;
- B) acknowledge receipt of an amendment to the solicitation, but only if:
 - i) it is clear from the bid that the offeror received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on price, quantity, quality or delivery.
- 2) Mistakes in Which the Intended Correct Information Is Evident
If the mistake and the intended correct information are clearly evident on the face of the bid document, the information shall be corrected and the bid may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the solicitation document are typographical errors, errors in extending unit prices, transposition errors and arithmetical errors.
- 3) Mistakes in Which the Intended Correct Information Is Not Evident
The bid or proposal may be withdrawn if:
 - A) a mistake is clearly evident on the face of the bid or proposal document but the intended correct bid or proposal is not similarly evident; or
 - B) there is proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
- e) During Discussions; Prior to Best and Final Offers
Once discussions are commenced with any offeror or after best and final offers are requested, an offeror may ~~propose~~propose to correct any mistake, prior to the date set for conclusion of discussions or for receipt of best and final offers, provided the correction would not be contrary to the fair and equal treatment of other offerors.
- f) Mistakes Discovered After Award

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Mistakes shall not be corrected after award of the contract except when the SPO finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.

- g) Documentation Required
The reason for allowing correction or withdrawal of bids or proposals shall be made part of the procurement file and shall be available for public inspection.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

- a) Policy
Any solicitation may be ~~cancelled~~~~anceled~~ before or after opening when the SPO ~~determines~~~~believes~~ cancellation to be in the State's best interest. An SPO may request that a State agency provide any information to assist the SPO in reaching a determination of whether cancellation is in the State's best interest. Nothing shall compel the award of a contract.
- b) Cancellation of Solicitation; Rejection of All Bids or Proposals
- 1) A solicitation may be ~~cancelled~~~~anceled~~ in whole or in part when the SPO determines in writing that the action is in the State's best interest for reasons including, but not limited to:
- A) the State no longer requires the supplies or services;
 - B) the State no longer can reasonably expect to fund the procurement;
 - C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;
 - D) ambiguous or otherwise inadequate specifications;
 - E) the solicitation did not provide for consideration of all factors of significance to the State;
 - F) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

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- G) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
 - H) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
- 2) When a solicitation is ~~cancelled~~~~anceled~~, notice of cancellation shall be posted to the Bulletin.
 - 3) The notice of cancellation shall:
 - A) identify the solicitation;
 - B) briefly explain the reason for cancellation or rejection; and
 - C) when appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar supplies or services.
- c) Rejection of Individual Bids or Proposals
- 1) Individual bids or proposals may be rejected for reasons including, but not limited to:
 - A) the bid or proposal is not responsive (i.e., it does not conform in all material respects to the submission requirements for the solicitation);
 - B) the vendor that submitted the bid or proposal is nonresponsible as determined under Section 1.2046 (Responsibility);
 - C) the supply or service item offered in the bid or proposal is unacceptable by reason of its failure to meet the announced requirements of the solicitation, including, but not limited to, specifications or permissible alternates or other acceptability criteria set forth in the solicitation, statement of work or quotation; or

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- D) the proposed price, including options, is clearly unreasonable.
- 2) Notice of Rejection. Upon request, bidders or offerors whose bids or proposals have been rejected shall be advised of the reasons for rejection.
- d) Documentation
The reason for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1.2043 Suppliers

A State~~An~~ agency may contract with any qualified source of supply, but shall use or consider, as applicable, the following special sources, from which procurements may be made without ~~notice and~~ competition:

- a) Correctional Industries in accordance with Subpart O. The CPO-GS, after consulting with Illinois Correctional Industries, a division of the Department of Corrections, shall determine the type and extent of the preference purchasing agencies shall give to supplies produced or services performed by Correctional Industries. Factors to be considered in determining the preference include, but are not limited to, the ability of Correctional Industries to meet the State's requirements, the price charged and the reason for the Correctional Industries program. This information shall be provided to each SPO and purchasing and using agencies.
- b) State and Federal Surplus Warehouses under the jurisdiction of the Department of Central Management Services. (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.)
- c) Qualified workshops for persons with severe disabilities~~the disabled~~ in accordance with Subpart O.
- d) State agencies and other governmental units described in Section 1-10(b)(1) of the

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Code.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2044 Vendor List

Each State agency may maintain a list of vendors who have expressed interest in contracting with the State. This list may be used to solicit for small purchases and emergency procurements, as well as ~~and~~ to supplement Bulletin notices. Inclusion in any State agency-maintained vendor list shall not be a requirement to be considered for future contracting opportunities.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2045 Vendor Prequalification

- a) The SPO may prequalify prospective vendors when ~~determination of a vendor's~~ prequalifications or preliminary evaluation of supplies or services prior to procurement would promote the effective conduct a procurement.
- b) The SPO shall identify by publication in the Bulletin the qualifications or categories of supplies and services (including professional and artistic services) for which vendors of those supplies and services may prequalify.
- c) ~~An opportunity to prequalify shall be allowed at least one time each fiscal year.~~ AnyThe opportunity to prequalify shall be announced in the Bulletin. The notice shall alert vendors that fail to participate in the prequalification process of the consequences.
- d) When prequalifying a vendor, the SPO may limit prequalification to particular matters (e.g., determining whether a vendor has been and is likely to be "responsible" or whether the vendor manufactures domestically).
- e) The fact that a prospective vendor has been prequalified generally does not necessarily represent a definitive finding of responsibility for a particular procurement.
- f) When prequalifying a vendor, the SPO may consider factors tailored to a specific procurement or type of procurement, which shall be announced in the prequalification notice in the Bulletin.

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- g) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified. If eligibility for the procurement will be limited to prequalified vendors, the solicitation shall state that fact.
- h) The prequalification may provide that any vendor who completes prequalification may refer to that prequalification when submitting responses to solicitation or in other procurement situations instead of submitting the same information with a response. This does not alleviate a vendor from providing updated certifications and other information as part of the prequalification process.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2046 Responsibility

- a) **Application**
Before making an award or signing a contract, the SPO must be satisfied the prospective vendor is responsible. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may receive an award or contract upon receipt of the bond or other security.
- b) **Standards of Responsibility**
Factors to be considered in determining whether the standard of responsibility has been met include, but are not limited to, financial responsibility, insurability, effective equal opportunity compliance, payment of prevailing wages if required by law, capacity to produce or sources of supply, performance record in the business or industry, ability to provide required maintenance service or other matters relating to the bidder's probable ability to deliver in the quality and quantity and within the time and price required under the contract, if it is awarded to the bidder. The vendor must be a legal entity authorized to do business in Illinois prior to submitting the bid, offer or proposal and qualified legally to contract with the State.
- c) **Information Pertaining to Responsibility**
The State agency, in consultation with the SPO, may conduct discussions with a bidder or offeror to determine in greater detail the bidder's or offeror's

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qualifications, to explore with the bidder or offeror its ability to supply the specific supply or service, and the bidder's or offeror's proposed method of performance. This discussion is not for the purpose of determining whether one bidder's or offeror's product or service capability is superior to another, but only to determine that a bidder or offeror has the capability to perform. The prospective vendor shall supply information requested concerning the vendor's responsibility. The State 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 SPO may disqualify the vendor or may base the determination of responsibility upon any available information.

- d) **Written Determination of Nonresponsibility Required**
If a vendor that otherwise would have been awarded a contract is found non-responsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the State agency purchasing director or his or her designee and approved by the SPO. The final determination shall be made part of the procurement file.
- e) **Affiliated Companies**
Vendors that 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 or has been suspended or debarred will also be determined not to be responsible.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 1.2050 Specifications and Samples

- a) **Responsibilities Regarding Specifications**
Subject to the SPO's direction, the State agency shall draft the necessary specifications.
- b) **Procedures for the Development of Specifications**
 - 1) All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements and shall be written in such

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a manner as to describe the requirements to be met, without being unduly restrictive or 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.

- 2) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 3) A specification may provide alternate descriptions when two or more design, functional or performance criteria will satisfactorily meet the State's requirements.
 - 4) Article 45 of the Code shall be considered and applied when required or appropriate.
 - 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 in a competitive solicitation when:
 - 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;
 - C) the nature of the product or the nature of the State'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 State's best interest.

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- 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 State agency 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 a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand 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 bidder.
- d) Brand Name Only Specification
- 1) A "brand name only" specification may be used in a competitive solicitation provided the State agency SPO makes a written request justifying determination that only the identified brand name item will satisfy the State's needs and the SPO approves in writing the use of the brand name only specification.
 - 2) 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 SPO CPO-GS. A State Agency 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) The SPO shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit those sources to achieve whatever degree of competition is practicable. If only one source

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can supply the requirement, the procurement shall be made under Section 1.2025 (Sole Economically Feasible Source Procurement).

- e) Qualified Products List
 - 1) A qualified products list may be developed by the SPO when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.
 - 2) When developing a qualified products list, a notice shall be posted to the Bulletin soliciting potential suppliers to submit products for testing and examination to determine acceptability for inclusion in a qualified products list.
 - 3) Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements.
- 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) State Required Samples
 - 1) Samples or descriptive literature may be requested when it is necessary to evaluate required characteristics of the items bid. Any required samples must be submitted as instructed in the solicitation, with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
 - 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.

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- 3) No payment will be made for samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. The request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.
 - 4) Unsolicited bid samples or descriptive literature are submitted at the vendor's risk, may or may not be examined or tested, will not be deemed to vary any of the provisions of the solicitation, and may not be utilized by the vendor to contest a decision or understanding with the State agency.
- h) **Product Demonstration**
Subject to the requirements of Section 50-39 of the Code, a vendor may request to demonstrate a product or service. Agreement to allow a demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration. No payment will be made for the product demonstration period. The product demonstration will be returned upon request and at the vendor's expense. The request must be made prior to the time of product demonstration with return collect or prepayment provisions and instructions for return accompanying the product demonstration.
- i) **Specifications Prepared by Other Than State Personnel**
~~1) Specifications may be prepared by other than State agency personnel, including, but not limited to, consultants, architects, engineers, designers or other drafters of specifications for public contracts when the SPO determines that there will be no conflict of interest involved and is otherwise in the best interest of the State agency. The SPO retains the authority for final approval of the specifications. Contracts for the preparations of specifications by other than State agency personnel shall require the specification writer to adhere to State agency requirements and the terms of the Code and this Part.~~
- ~~2) The person who prepared the specifications shall not submit a bid or proposal or receive a contract to meet the procurement need.~~
 - ~~3) Prohibited Bidder and Contractors~~
 - ~~A) No person or business shall bid or enter into a contract if the person or business:~~

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- ~~i) Assisted the State agency in determining whether there is a need for a contract, except as part of a response to a publicly issued RFI; or~~
 - ~~ii) Assisted the State agency by reviewing, drafting or preparing any IFB, a RFP or RFI provided similar assistance, except as part of a publicly issued opportunity to review drafts of all or part of these documents.~~
 - ~~B) This subsection (i)(3) does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business:~~
 - ~~i) Initiates a communication to provide general information about products, services or industry best practice and, if applicable, that communications is documented; or~~
 - ~~ii) Responds to a communication initiated by an employee of the State agency for the purposes of providing information to evaluate new products, trends, services or technologies. [30 ILCS 500/50-10.5(e)]~~
 - ~~iii) Has an existing contract with the State for the same products that are the subject of the solicitation.~~
- j) **Pre-Solicitation Request for Information**

When the SPO does not have sufficient information about available supplies or services to issue a solicitation, he or she may issue a pre-solicitation request for information inviting vendors to submit non-price information about the availability of specified types of supplies and services. Vendors may be provided an opportunity to comment on the RFI itself and make non-proprietary suggestions as to the scope and information being requested that would facilitate the best possible responses from the vendor community. Public notice of the pre-solicitation request for information shall be published in the Bulletin at least 14 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 respond to a subsequent solicitation for the types of supplies and services for which information was solicited, and the

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issuance of a pre-solicitation request for information does not commit the State agency 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. All information received through a pre-solicitation request for information will be available for public review.

k) State contracts for the procurement of freight, small package delivery, and other cargo shipping and transportation services shall require providers to report, using generally accepted reporting protocols adopted by the Illinois Environmental Protection Agency for that purpose:

- 1) the amount of energy the service provider consumed to provide those services to the State and the amount of associated greenhouse gas emissions, including energy use and greenhouse gases emitted as a result of the provider's use of electricity in its facilities;
- 2) the energy use and greenhouse gas emissions by the service provider's subcontractors in the performance of those services. [30 ILCS 530/10]

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART I: CONTRACTS

Section 1.2055 Types of Contracts

- a) **Scope**
This Section contains descriptions of types of contracts and limitations as to when they may be utilized by the State in its procurements. Types of contracts not mentioned in this Section may also be utilized with the approval of the SPO.
- b) **Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting**
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.
 - 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.

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- 2) A percentage mark-up from the cost of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.
 - 3) A percentage mark-up from the cost of parts needed in relation to a contract for services does not convert the services contract to a prohibited cost-plus-a-percentage-of-cost contract, provided the parts supplied under the cost-plus-a-percentage-of-cost method do not exceed 20% of the value of the contract.
- c) Types of Fixed-Price Contracts
- 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.
 - 2) Fixed-Price Contract with Price Adjustment
 - A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:
 - i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);
 - ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils and dental gold alloy); and
 - iii) in requirement contracts in which a vendor is selected to provide all of the State's needs for the items specified in the

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contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the State shall have the right to reject the price increase and terminate without cost the future performance of the contract.
- d) Cost-Reimbursement Contracts
- 1) Determination Prior to Use
 - A) The State agency must submit to the SPO a justification for using any type of cost-reimbursement contract. This justification must be sufficient to show that such a contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the items through any other type of contract. The SPO will consider the justification and any other relevant factors before making a written determination to authorized use of the cost-reimbursement contract.
 - B) ~~Any reimbursement~~ Reimbursement of travel expenses authorized in the solicitation and the terms of the contract may not exceed the in accordance with applicable travel control board regulations ~~is authorized without further determinations.~~
 - 2) Cost-Reimbursement Contract. A cost-reimbursement contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee. These contracts establish an estimate of total cost and must establish a ceiling that a vendor may not exceed without the written approval of the SPO.
 - 3) Cost-Plus-Fixed-Fee Contract. This cost-reimbursement type contract provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the

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time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for the work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.

- 4) Cost Incentive Contracts
 - A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).
 - B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract and, if actual costs exceed the ceiling price, the vendor suffers a loss.
 - C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the

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maximum amount that the State is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

- e) **Performance Incentive Contracts**
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the State to a price decrease.
- f) **Time and Materials Contracts; Labor Hour Contracts**
Time and materials contracts provide for an agreed basis for labor performed and payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. A time and materials contract is typically used when it is not possible at the time of posting the solicitation to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. Appropriate contract administration by the State agency is required to give reasonable assurance that efficient methods and effective cost controls are being used. The contracts shall, ~~to the extent possible,~~ contain a stated ceiling or an estimate that shall not be exceeded without prior ~~SPO~~State approval. If the stated ceiling or estimate is exceeded, a change order shall be executed to memorialize the transaction if required by law.
- g) ~~Definite Quantity and~~ Indefinite DeliveryQuantity Contracts
- 1) **Definite Quantity.** A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services ~~either~~ at specified times or when ordered, with deliveries or performance scheduled at designated locations upon order. A definite quantity contract may be used when it can be determined in advance that a definite quantity of supplies or services will be required during the contract period.
 - 2) **Indefinite Quantity.** An indefinite quantity contract is a contract for an

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indefinite amount of supplies or services ~~to be~~ furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally, an ~~indefinite~~~~estimated~~ quantity ~~contract is~~ based on historical usage or the best information available as to quantity ~~as~~ stated in the solicitation and is not a guarantee of a quantity to be ordered. The contract may provide a minimum quantity the State is obligated to order and may also provide for a maximum quantity provision that limits the State's ability to order. If an estimated quantity is identified in the contract or the notice of award published in the Illinois Procurement Bulletin, the contract identifies an estimated quantity, the State agency may order up to 20% more than the estimate without written SPO approval~~additional procurement authorization or activity~~. Any such authorization shall be documented in writing and published in the Bulletin.

- 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the State to order all the actual requirements of designated State agencies during a specified period of time, with deliveries or performance scheduled at designated locations upon order. If identified in the solicitation as a requirements contract, all needed quantity, regardless of any stated estimate, must be ordered from that contract. A requirements contract shall state a realistic estimated total quantity in the solicitation and resulting contract, but this is not a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable or normal.

- h) Leases
A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time, except pursuant to an option to purchase.
- i) Recovery Contracts
Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.
- j) Option Provisions
A solicitation or contract may contain options for renewal, extension or purchase and shall also include the requirements for exercising this option, and shall

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determine the term and the price or shall include the formula for establishing the price. Contracts based on a solicitation may include only those options included in the solicitation, and the options shall be included as required terms in the contract. Exercise of options shall be performed in accordance with the contractsolicitation, the Code and other provisions of this Part. Failure to include the options in the contract shall render the option provisions void.

- k) State Produced Supplies and Services
Notwithstanding any provision in any contract, supplies or services available in-house or from State programs, such as the Illinois Correctional Industries Programs, may be ordered without violating any contract.
- l) Extraordinary Quantities
Notwithstanding any provision in any contract, the State reserves the right to take bids separately if a particular quantity requirement arises that exceeds the State's normal needs or ordering requirements.
- m) Energy Conservation
State agency procurements of energy conservation measures, including guaranteed energy savings contracts, shall be made in accordance with the Code and this Part, except as otherwise authorized by the Code.
- n) Sale of Advertising in State Publications
 - 1) Pursuant to Section 20-110 of the Code, an SPO may sell ads or advertising space in certain State publications.
 - 2) These arrangements shall be made pursuant to specifications included in an IFB or, if appropriate, an RFP.
 - 3) The advertising in, or authorized use of, State publications shall be appropriate to the type of publication and the program operations of the State agency.
 - 4) This procedure is authorized in conjunction with, for example, publications that promote tourism, conservation, recycling and the State Fairs. The executive head of the State agency must concur in writing for the State agency to accept advertising from a person the State agency regulates.

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- 5) Proceeds from the sale of the advertisements shall be paid as stated in the IFB or RFP, including, but not limited to, the following:
 - A) to the General Revenue Fund;
 - B) to a special fund authorized to receive the proceeds;
 - C) as free or additional copies; or
 - D) directly to the printer by the advertiser.
- o) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2060 Duration of Contracts – General

- a) General
The term of a contract, including potential renewals, may not exceed 10 years except:
 - 1) A software license designated as a perpetual license is not considered a multi-term contract; it is instead a one-time purchase.
 - 2) The length of a lease for real property or capital improvement shall be in accordance with Section 40-25 of the Code.
- b) Subject to Appropriation
Each contract is contingent upon and subject to the availability of funds. The State, at its sole option, may terminate or suspend a contract, in whole or in part, without penalty or further payment being required, if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay that obligation or if funds needed are insufficient for any reason. Each contract payable in whole or in part by any funds appropriated by the Illinois General Assembly shall recite that the contract is subject to termination and

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cancellation for lack of, or insufficiency in, funding. A vendor will be notified in writing by the State agency of a failure to receive or a reduction or decrease in any appropriation affecting the contract. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-Year Contracts

A multi-year contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or
- 2) a multi-year contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping costs during the period of contract performance;
 - B) lower production costs because of a larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award and administration of the procurement may be reduced.

d) Multi-Year Contract Procedure

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract

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period;

- 3) the type of pricing requested (e.g., firm for term); and
 - 4) how award will be determined.
- e) Renewals
- 1) The initial term of a contract plus available renewals may not exceed 10 years. When the original ~~contract procurement~~ specifically ~~call sealed~~ for an initial term plus renewals, the renewals may be exercised without further procurement activity, except for the publication of the renewal in the Bulletin as required by Section 15-25 of the Code and Section 1.1525 of this Part and subject to review by the PPB under Section 5-30 of the Code. The renewal terms and conditions shall not change except as provided in the contract (such as price escalations tied to an index). Renewal options may be exercised by the State or by mutual agreement, but shall not be exercised solely at the option of the vendor. Any renewal that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.
 - 2) ~~A renewal may only be entered into if authorized by the the original contract. When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. The renewal shall start a new term not to exceed 10 years, except the term of a sole source contract renewal shall include previous sole source contracts and shall in total not exceed 10 years.~~
 - 3) When a renewal will result in the total term, counting the initial term and any previous renewals, exceeding 10 years, the State agency's need must be procured using one of the methods of source selection authorized by the Code and this Part.
 - 4) Renewals must be fully executed on or before expiration of the current contract term. If the renewal is not exercised prior to expiration of the current contract term, the supplies and services must be procured using

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one of the methods of source selection authorized by the Code and this Part.

- 5f) Filing of Proposed Renewals and Extensions Exceeding \$249,999
Prior to executing a renewal or extension with a cost estimated to exceed \$249,999, the proposed renewal or extension must be submitted to PPB. The PPB shall have up to 30 days to review and comment on the proposal. The SPO assigned to the State agency may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2067 Contract Amendments and Change Orders

- a) Contract amendments memorialize actions authorized by specific language in the contract (e.g., exercise of an option or showing price decrease or increase based on CPI) or memorialize non-material changes (e.g., change in names of notice contacts or number of periodic status meetings).
- b) Change Orders
- 1) A change order is defined in Section 1.15. Renewals, change of a vendor's name, and orders against master contracts are not change orders.
 - 2) Change orders that increase or decrease the cost of a contract or an estimated contract by a total of \$10,000 or more, or the time of completion by a total of 30 days or more, must be accompanied by a written determination that includes a statement *that: the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed; the change is germane to the original contract as signed; or the change order is in the best interest of the State.* [720 ILCS 5/33E-9] Agencies may not divide change orders into smaller parts to avoid requirements for written determinations or publication.
 - 3) A change order shall be executed by the State agency and vendor evidencing the change. All changes that require a written determination as provided in subsection (b)(2) shall be approved by the SPO. Change orders that increase the cost of a contract or an estimated contract by a total of \$10,000 or more or the time of completion by more than 30 days

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shall be published on the Illinois Procurement Bulletin, pursuant to Section 15-25 of the Code and documented pursuant to Section 33E-9 of the Criminal Code of 2012, in advance of execution of the change order. Although use of emergency contracting is discouraged, if exigent circumstances require contract execution prior to publication on the Procurement Bulletin (e.g., emergency salt purchases on a holiday), emergency contracting is permitted pursuant to Section 20-30 of the Code.

- 4) A change order to a contract for professional or artistic services may not:
 - A) result in an increase in the amount paid under the contract by more than 5% of the initial award; or
 - B) extend the contract term beyond the time reasonably needed for a competitive procurement by more than two months.
- 5) The total contract term, including the initial term, renewals, extensions and change orders shall not exceed 10 years. Any change order that would extend the total term beyond 10 years is void. Any continuing need for supplies and services must be procured using one of the methods of source selection authorized by the Code and this Part.
- 6) Prior to executing a change order with a cost estimated to exceed \$249,999, the proposed change order must be submitted to PPB. The PPB shall have up to 30 days to review and comment on the change order. The SPO assigned to the State agency may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.

(Source: Added at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART J: PROCUREMENT FILES

Section 1.2080 Public Procurement File

- a) *A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids and proposals, all evaluation materials, score sheets and all other documentation related to or prepared in conjunction with evaluation, negotiation and the award process. The procurement file shall*

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contain a written determination, signed by the SPO, setting forth the reasoning for the contract award decision. The public procurement file shall not include trade secrets or other competitively sensitive, confidential or proprietary information. The procurement file shall be open to public inspection within 7 days following award of contract. [30 ILCS 500/20-155(b)]

- b) The procurement files shall be maintained by or under the jurisdiction of the CPO-GS.
- c) Documentation of Procurement Actions
Each purchasing agency, under the direction of the SPO, shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:
 - 1) The form of decision memo showing approvals to proceed at all stages;
 - 2) Procurement Bulletin Postings;
 - 3) Solicitation document (e.g., IFB or RFP) and all amendments, clarifications and best and final~~Best & Final~~ requests;
 - 4) Vendors' responses, including clarifications and responses to best and final~~Best & Final~~ requests (losing responses may be stored elsewhere);
 - 5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision);
 - 6) Protest and resolution;
 - 7) Contract and any order, change order, amendments, renewal or extension;
 - 8) If conducted, contractor performance~~Contractor Performance~~ reviews;
 - 9) All information from subsections (c**b**)(1) through (c**b**)(8), less information exempt from disclosure under the Freedom of Information Act [5 ILCS 140] or other law (for example the Architectural, Engineering and Land

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Surveying Qualifications Based Selection Act [30 ILCS 535], which exempts contractor performance reviews, shall be prepared and available for inspection and copying, with information from subsections (c**b**)(1) through (c**b**)(5) available within 7 business days following the award being posted to the Procurement Bulletin.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2084 Record Retention

- a) Retention of Bulletin Information. Information published in the Bulletin shall be ~~retained in electronic format for the current fiscal year plus one additional year, then transferred to media storage and maintained for 13 years after which it may be~~ disposed of in accordance with the State Records Act [5 ILCS 160], providing all audits have been completed and no litigation is pending or anticipated.
- b) Books and records that relate to performance of a State agency contract, ~~including subcontracts~~, and that support amounts charged shall be maintained:
 - 1) by a vendor, for 3 years from the date of final payment under the prime contract; and for such longer period of time as is necessary to complete ongoing or announced audits or to comply with federal requirements.
 - 2) by ~~a subcontractor~~ the State agency for 3 years from the later of the date of final payment under the subcontract or completion of the subcontract ~~date of final payment under the prime contract~~; and for such longer period of time as is necessary to complete ongoing or announced audits.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.2086 Filing with the Comptroller

- a) Filing with Comptroller
 - 1) *Whenever a grant, defined pursuant to accounting standards established by the State Comptroller, or a contract liability, except for contracts paid for from personal services or contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding ~~\$20,000~~ \$10,000 is incurred by any State*

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agency, a copy of the contract, purchase order, grant or lease shall be filed with the Comptroller within ~~30~~ days thereafter. [30 ILCS 500/20-80(b)]

- 2) For each State contract for goods, supplies, or services awarded on or after July 1, 2010, the contracting agency shall provide the applicable rate and unit of measurement of the goods, supplies, or services on the contract obligation document as required by the Comptroller. [30 ILCS 500/20-80(b)]*
- 3) Any cancellation or modification to any such contract liability shall be filed with the Comptroller within ~~30~~ days after its execution. [30 ILCS 500/20-80(b)]*

b) *Late Filing Affidavits*

When a contract, purchase order, grant or lease required to be filed by this Section has not been filed within 30 days after execution, the State agency must file with the Comptroller an affidavit, signed by the chief executive officer of the State agency or a designee, setting forth an explanation of why the contract liability was not filed within 30 days after the execution. A copy of this affidavit shall be filed with the Auditor General and the CPO-GS. [30 ILCS 500/20-80(c)]

c) *Timely Execution of Contracts*

- 1) 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 with the Comptroller. Vendors shall not be paid for any goods that were received or services that were rendered before the contract was reduced to writing and signed by all the necessary parties. [30 ILCS 500/20-80(d)]*
- 2) Upon request of the State agency and with justification required by the CPO-GS, the CPO-GS may request an exception to this subsection (c) 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 subsection (c) must be approved by the Comptroller and Treasurer. ~~This~~ Section 20-80(d) of the Code does not*

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apply to emergency purchases if notice of the emergency purchase is filed with the PPB and published in the Bulletin as required by the Code. [30 ILCS 500/20-80(d)]

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES**Section 1.3005 Construction and Construction Related Professional Services**

- a) General Procedures
 - 1) In the case of contracts for construction of buildings or for other construction work in or about buildings or grounds where the entire estimated cost of the work exceeds the amount stipulated by Section 20-20 of the Code, prospective contractors employed in connection with those projects may be prequalified to determine their responsibility (for architects, engineers and land surveyors, see the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535]). If the total estimated cost of the work exceeds the amount stipulated by Section 30-30 of the Code, separate specifications shall be prepared for all equipment, labor and materials in connection with the following five subdivisions of work to be performed:
 - A) Plumbing.
 - B) Heating, piping, refrigeration and automatic temperature control systems, including the testing and balancing of such systems.
 - C) Ventilating and distribution systems for conditioned air, including the testing and balancing of those systems.
 - D) Electrical wiring.
 - E) General contract work.
 - 2) The specifications shall be drawn so as to permit separate and independent competitive bidding upon each of the above five subdivisions of work.

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All contracts awarded for any part of the work shall award the subdivisions separately to responsible and reliable contractors engaged in these classes of work. These contracts, at the discretion of the State agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the State agency prior to the bidding as the prime subdivision of work, with the provision that all payments will be made directly to the contractors for the five subdivisions upon compliance with the conditions of the contract. Any contract may be ~~awarded~~ for one or more buildings in any project to the same contractor. Specifications shall require, however, that, unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for all of the buildings included in the specifications.

- b) Request for Payment Form Specified by the State Agency
To bill a State agency for remodeling, renovation or construction work done, the vendor must submit a payment request in the form specified by the State agency.
- c) Periodic Payments
When provided in the contract, periodic payments can be made during the course of the work, upon a certificate of a licensed architect or engineer indicating the proportionate amount of total work completed satisfactorily.
- d) Retained Percentage
When periodic payments are made and if specified in the contract, the State agency shall retain a fixed percentage of the contract price to insure faithful completion of the contract.
- e) Additional Work
No amount of funds, in addition to those provided for in a contract for repairs, maintenance, remodeling, renovation or construction, may be obligated or expended unless the additional work to be performed or materials to be furnished are germane to the original contract. Even if germane to the original contract, no additional expenditure or obligations may, in their total combined amount, be in excess of the percentages of the original contract amount as provided in Section 30-35(b) of the Code unless they have received the prior written approval of the construction agency. In the event the total of the combined additional expenditures or obligations exceeds the percentages of the original contract amount set forth in Section 30-35(b) of the Code, the construction agency shall

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investigate the additional expenditures or obligations in excess of the original contract amount and shall, in writing, approve or disapprove subsequent expenditures or obligations and state in detail the reasons for the approval or disapproval. Notices of additional expenditures or obligations in excess of the small purchase limit of Section 202-20 of the Code shall be published in the Bulletin.

- f) **Improvements to Leased Real Estate**
The procedures set forth in this Part shall apply, as appropriate, to contracts for improvements to real estate leased to State agencies.
- g) **Construction Manager Services**
 - 1) Procurement of Construction Manager Services, under the jurisdiction of the Capital Development Board (CDB) will be performed by CDB or through delegation from CDB.
 - 2) Construction Manager Services for projects not under the jurisdiction of CDB shall be procured by State agencies in accordance with [Article 20 of the Code](#)~~Section 1.2035 of this Part~~.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 1.4020 Request for Information-Real Property and Capital Improvement Leases

- a) **RFI-Real Property Leases Form**
When required, an RFI-Real Property Lease shall be issued and include, but not be limited to, the following:
 - 1) *The type of property to be leased;*
 - 2) *The proposed uses of the property;*
 - 3) *The duration of the lease;*
 - 4) *The preferred location of the property, including acceptable geographic boundaries;*

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- 5) *A general description of the configuration desired* [30 ILCS 500/40-20(b)];
 - 6) Special and standard lease terms and conditions, qualifications and responsibility requirements, disclosures and certifications;
 - 7) The address to which responses are to be sent; and
 - 8) The criteria for evaluating responses based on the minimum standards and conditions for occupancy.
- b) All required documents of the RFI-Real Property Leases will be available in electronic format from the Bulletin. Notice shall begin when first published electronically. RFI-Real Property Leases document packages may also be mailed to owners of property that may meet the State's needs after the RFI-Real Property Leases have been published in the Bulletin.
- c) Unless the RFI-Real Property Leases are exclusively designated to accept only electronically prepared documents, RFI-Real Property Leases document packages shall, at a minimum, include:
- 1) Response forms and instructions for completing forms;
 - 2) A copy of spatial and performance guidelines required to meet the needs of the State agency to occupy the real property being procured; and
 - 3) The date and time responses must be submitted.
- d) **Public Notice**
Public notice of the RFI-Real Property Leases shall be published in the Bulletin at least 14 days before the date set forth in the request for receipt of responses and shall also be published in a similar manner in a newspaper of general circulation in the community or communities where the State agency is seeking space [30 ILCS 500/40-20(c)].
- e) **Response**
The RFI-Real Property Leases response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the

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RFI-RPL. [30 ILCS 500/40-20(d)] All responses to the RFI-Real Property Leases will be publicly opened on the announced date. Names of all parties submitting proposals will be made available to the public immediately following the opening of the proposals.

f) Negotiation and Determination

- 1) *The CPO-GS, SPO or designee may enter into discussions with respondents to the RFI-Real Property Leases for the purpose of clarifying State agency needs and the information supplied by the respondents, On the basis of the information supplied and discussions, if any, the CPO-GS, SPO or designee shall make a written determination identifying the responses that meet the minimum criteria set forth in the RFI-Real Property Leases. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State. [30 ILCS 500/40-20(d)] [Site visits may be made as part of the discussion and/or negotiation process.](#)*
- 2) The CPO-GS reserves the right to reject any proposals and to request and evaluate "best and final" proposals. Best and final offers shall be sought after a written determination is made by the SPO or designee that it is in the best interest of the State to request best and final proposals. A best and final proposal shall not be requested from any vendor deemed non-responsive or who does not meet the minimum criteria set forth in the RFI.

g) Contract Award, Reporting and Filing

- 1) The SPO or designee shall review all relevant information and shall recommend to the CPO-GS which proposal shall be accepted based on the evaluation of all responsive proposals. The CPO-GS shall make the final award, which will be published in the Bulletin. Notification of award will be sent to all respondents.
- 2) When the lowest response by price is selected, a written report of the negotiation shall be retained in the lease files and shall include the reasons for the final selection.
- 3) *When the lowest response by price is not recommended, the SPO or designee shall forward to the CPO-GS, along with the lease, notice of the*

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identity of the lowest respondent by price and written reasons for the recommendation of a different award. The CPO-GS shall publish the written reasons for selection in the next volume of the Bulletin. [30 ILCS 500/40-20(d)] The written reasons for the selection of the vendor shall be retained in the lease files.

- h) **PPB Review**
PPB shall review any proposed lease of real property of more than 10,000 square feet or any proposed lease of real property with annual rent payments of \$100,000 or more. The PPB shall have 30 days to review the proposed lease. No contract may be entered into until the 30-day period has expired, unless the State agency requests in writing that the PPB waive the period and the PPB grants the waiver in writing. If the PPB does not object within 30 days, the proposed lease shall become effective. [30 ILCS 500/40-20(e)]
- i) **State Agency Cooperation**
A State agency shall provide any materials or provide any assistance the PPB determines is required for its review. PPB may request in writing from the State agency and the State agency shall promptly, but in no event later than 5 business days after receipt of the request, provide to PPB documentation of information in the possession of the State agency.
- j) **Actions and determination made in this subsection shall be made in consultation with the Department of Central Management Services, the State agency responsible for the purchasing and leasing of real property as defined in 20 ILCS 405/405-300.**

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART O: PREFERENCES

Section 1.4530 Correctional Industries

The CPO-GS shall distribute to each SPO and State agency the list of items that must be purchased from Illinois Correctional Industries (ICI), as determined by the CPO-GS. Procurement from ICI may be made without [prior](#) notice or competition.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

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Section 1.4535 Qualified Not-for-Profit Agencies for Persons with Severe Disabilities

- a) Purpose
Contracts with qualified not-for-profit agencies (sheltered workshops) under this Section should promote employment opportunities for persons with severe disabilities. In making a determination to purchase from a sheltered workshop, State agencies should review the number of jobs performed by persons with severe disabilities and the total amount of the contract. A reasonable amount of subcontracting is allowed under this Part to the extent it does not deter from promoting employment for persons with severe disabilities.
- ba) Use
The CPO-GS shall distribute to each SPO and State agency a list of supplies and services available from ~~qualified not-for-profit agencies for persons with severe disabilities (sheltered workshops)~~. Purchases may be made from sheltered workshops without prior notice or competition.
- c) Preference
The CPO-GS shall identify to each SPO and State agency the supplies or services for which preference must be given to sheltered workshops. Prior to conducting a competitive procurement or otherwise contracting for supplies or services on the preference list, the State agency shall contact one or more of the sheltered workshops that provide the needed supply or service and attempt to negotiate a fair and reasonable contract at a price not substantially more than had it been competitively bid. If negotiations fail or if circumstances suggest using a sheltered workshop is not reasonable, the SPO may authorize use of an alternative procurement method.
- db) Pricing Approval
Prior to contracting with a sheltered workshop, the State Use Committee (see Section 45-35(c) of the Code) must determine that the price is not substantially more than a competitively solicited price. The State Use Committee shall inform the State agency, in writing, of its determination.
- e) Procurement Code Requirements
Sheltered workshops that contract with the State must comply with all applicable provisions of the Illinois Procurement Code.
- f) Publication to Procurement Bulletin

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Upon receipt of the State Use Committee written determination, the SPO shall publish notice of purchases in excess of the small purchase threshold to the Illinois Procurement Bulletin. An agency's decision to purchase from a sheltered workshop rather than issuing a competitive solicitation is not protestable.

- g) Contract Execution
Once a State agency receives the written determination from the State Use Committee that the price of the proposed contract is not substantially more in price than a competitively solicited contract and the State agency has posted the notice of purchase from a sheltered workshop to the Procurement Bulletin, the SPO may authorize a State agency to enter into a contract with the sheltered workshop.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.4540 Gas Mileage and Flex-Fuel Requirements

- a) Specifications for new passenger automobile specifications shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code. As used in this Section, passenger automobile does not include station wagons, vans, 4-wheel drive vehicles, emergency vehicles and police or fire vehicles. Passenger automobiles must achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of the Motor Vehicle Information and Cost Savings Act (15 USC 2001).
- b) *All gasoline-powered vehicles purchased from State funds must be flexible fuel vehicles or fuel efficient hybrid vehicles. Any vehicle purchased from State funds that is fueled by diesel fuel shall be certified by the manufacturer to run on 5% biodiesel (B5) fuel. [30 ILCS 500/25-75].*
- c) Beginning January 1, 2016, 25% of all vehicles purchased with State funds shall be vehicles fueled by electricity, compressed natural gas, liquid petroleum gas, or liquid natural gas. This provision shall not apply to vehicles purchased by the Illinois Department of Corrections or the Illinois State Police.
- de) The CPO-GS or SPO may exempt a procurement from the requirements of subsections (a), ~~and~~ (b) and (c) when a Statean agency demonstrates a need for a non-compliant vehicle in writing.

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- ~~e~~d) *In awarding contracts requiring the procurement of vehicles, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of vehicles powered by ethanol produced from Illinois corn or biodiesel fuels produced from Illinois soybeans. [30 ILCS 500/45-60]*
- f)e) The CPO-GS may require use of a uniform form or format for the SPO's determination that an exemption is warranted.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.4545 Small Business

- a) **Set-Aside**
The CPO-GS may determine categories of construction, supplies or service procurements that will be set aside for small businesses in Illinois. A set-aside designation shall be for a stated period of time. An SPO may determine to set aside for small business individual contracts not in a set-aside category.
- b) **Small Business List**
The CPO-GS may develop his or her own list, or may use a list maintained by another State agency, of vendors that meet the criteria of small business. Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information as specified verifying that the vendor qualifies as a small business under this Part. A business that fits the definition of small on the day of award or proposal opening will be considered small for the duration of the contract. When utilizing vendor lists for soliciting small business vendors, all vendors shall be solicited under the commodity codes representing the supplies or services being solicited.
- c) **Required Use**
Any procurement proposed for set aside for small businesses shall be so identified in the Bulletin notice and the solicitation documents. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) **Withdrawal of Set-Aside**
If the SPO determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the SPO may reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be

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published in the Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with this Part but without the small business designation.

e) Criteria for Small Business

1) Unless the CPO-GS provides a definition for a particular procurement that reflects industrial characteristics, a small business is a business that is independently owned and operated and is not dominant in its field of operation~~one that meets the requirements of Section 45-45 of the Code.~~

A) A wholesale business is a small business if its annual sales for its most recently completed fiscal year do not exceed \$10,000,000.

B) A retail business or business selling services is a small business if its annual sales and receipts for its most recently completed fiscal year do not exceed \$6,000,000.

C) A manufacturing business is a small business if it employs no more than 250 persons. A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year. If a manufacturing business has been in existence for less than a full fiscal year, its average employment shall be calculated for the period through one month prior to the bid or proposal due date.

D) A construction business is a small business if its annual sales and receipts for its most recently completed fiscal year do not exceed \$10,000,000.

E) If a business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the higher of \$10,000,000 for a wholesaler, \$6,000,000 for a retailer, \$10,000,000 for a construction business, or the amounts shown in Section 45-45 of the Code. For example, a business that is both a retailer and a wholesaler may not have total sales exceeding \$16,000,000 and the retail component may

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not exceed \$6,000,000 and the wholesale component may not exceed \$10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed 250.

- 2) A small business in Illinois is defined as an entity that meets the criteria in subsection (e)(1) and is a sole proprietor whose primary residence is in Illinois or is a business incorporated or organized as a domestic corporation under the Business Corporation Act of 1983 [805 ILCS 5/1.80] or is a business organized as a domestic partnership under the Uniform Partnership Act of 1997 [805 ILCS 206], or a business organized as a domestic limited partnership under the Uniform Limited Partnership Act of 2001 [805 ILCS 215].~~one that meets the definition of a "resident bidder" in Section 45-10 of the Code and either has headquarters in Illinois or has the majority of its workforce in Illinois.~~
- 3) A small business ~~that is~~must not be dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 4) ~~If a business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the higher of \$10,000,000 for a wholesaler, \$16,000,000 for a retailer, \$10,000,000 for a construction business or the amounts shown in Section 45-45 of the Code. For example, a business that is both a retailer and a wholesaler may not have total sales exceeding \$16,000,000 and the retail component may not exceed \$16,000,000 and the wholesale component may not exceed \$10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed 250.~~
- 45) Businesses artificially divided to qualify as a small business will be disallowed. When computing the size status of a vendor and whether the vendor qualifies as a small business, the number of employees and annual

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sales and receipts, as applicable, of the vendor and all affiliates, concerns and related entities shall be included. Concerns and related entities are affiliates of each other when ~~either~~ one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists. In determining whether concerns and related entities are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management, identity of interest (substantially identical business or economic interests such as family members, individuals or firms with common investments, or firms that are economically dependent through contractual or other relationships) and contractual arrangements. In determining whether affiliation exists, the CPO will consider the totality of the circumstances, and may find affiliation even though no single factor is sufficient to constitute affiliation. ~~A~~ However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

- f) Small Business Specialist
The CPO-GS shall designate a small business specialist who shall have the duties set forth in Section 45-45(e) of the Code and who shall also act as coordinator of small business. The designated small business specialist shall compile statistics provided by the State agency needed to make the small business annual report to the General Assembly required under Section 45-45(f) of the Code.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART P: ETHICS

Section 1.5002 Continuing Disclosure; False Certification

- a) Multi-year contracts and subcontracts are subject to the annual recertification requirements of Section 50-2 of the Code. *Every person that has entered into a multi-year contract and every subcontractor with a multi-year subcontract subject to the Code, shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the responsible CPO-GS 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 is not able to truthfully certify*

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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]

- b) The CPO-GS may prescribe a standard format for annual recertification and may include annual certifications as part of the prequalification process.
- c) Should a vendor be unable to certify that it continues to meet requirements of Section 50 of the Code, the relevant information shall be submitted to the SPO for review and disposition.
- d) [Annual certification through the vendor portal pursuant to Section 1.535 satisfies the requirements of this Section.](#)

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5005 Bribery

- a) *Prohibition*
No person or business shall be awarded a contract or subcontract who:
 - 1) *Has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or*
 - 2) *Has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.*
- b) *Businesses*
No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:
 - 1) *The business has been finally adjudicated not guilty; or*

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- 2) *The business demonstrates to the governmental entity with which it seeks to contract or which is a signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded or performed by a director, officer or high managerial agent on behalf of the business, as provided in Section 5-4(a)(2) of the Criminal Code of ~~2012+96+~~ [720 ILCS 5].*
- c) *Conduct on Behalf of Business*
For purposes of this Section, when an official, agent or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.
- d) *Certification*
Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of the Code shall contain a certification by the contractor or the subcontractor, respectively, that the contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section, and acknowledges that the CPO-GS may declare the related contract void if any certifications required by this Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. A contractor or subcontractor who makes a false statement, material to the certification, commits a Class 3 felony. [30 ILCS 500/50-5]

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5010 Felons

- a) *Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. [30 ILCS 500/50-10]*

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- b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of the Code~~this Part~~ shall contain a certification by the bidder or contractor or subcontractor, respectively, that the bidder, contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges the CPO-GS may declare the related contract void if any of the certifications required by this Section are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. [30 ILCS 500/50-10.5]

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5011 Debt Delinquency

- a) *No person shall submit a bid for or enter into a contract or subcontract if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt.* [30 ILCS 500/50-11(a)] For purposes of this Section, terms shall have the meanings ascribed in Section 50-11 of the Code.
- b) *Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, contractor or subcontractor, respectively, that the contractor or the subcontractor and its affiliate is not barred from being awarded a contract or subcontract under this Section and acknowledges that the CPO-GS may declare ~~the~~ related contract void if any of the certifications required by this Section~~completed pursuant to this subsection (b)~~ are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. [30 ILCS 500/51-11(b)]*

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5012 Collection and Remittance of Illinois Use Tax

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- a) *No person shall enter into a contract with a State agency or enter into a subcontract unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act [35 ILCS 105], regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. [30 ILCS 500/50-12] For purposes of this Section, terms shall have the meanings ascribed in Section 50-12 of the Code.*
- b) *Every bid submitted and contract executed by the State and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, contractor or subcontractor, respectively, that the bidder, contractor or subcontractor is not barred from bidding for or entering into a contract under subsection (a) and acknowledges that the CPO-GS may declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false. [30 ILCS 500/50-12]*

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5013 Conflicts of Interest Prohibited by the Code

- a) Any bid, proposal, offer of acceptance, or proposed contract must be reviewed for conflicts of interest pursuant to Section 50-13 of the Code. If a conflict is found, no contract will be executed unless the CPO requests and is granted an exemption~~a waiver is granted under Section 50-20 of the Code~~ by the Executive Ethics Commission under Section 50-20 of the Code.
- 1) **Office or Employment**
It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person, to have or acquire

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any contract, or any direct pecuniary interest in the contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority. [30 ILCS 500/50-13(a)]

2) Financial Interests

It is unlawful for any firm, partnership, association, or corporation, in which any person as described in subsection (a)(1) is entitled to receive more than 7½% of the total distributable income or an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/50-13(b)]

3) Combined Financial Interests

It is unlawful for any firm, partnership, association or corporation, in which any person listed in subsection (a)(1) together with his or her spouse or minor children is entitled to receive more than 15%, in the aggregate, of the total distributable income or an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/50-13(c)]

- b) For the purpose of this Part, an individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise received a direct financial benefit in conjunction with performance of a contract, including finders fees and commission payments.
- c) For the purpose of this Part, "distributable income" means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of the income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income the entitlement shall be determined at the end of the company's most recent fiscal year.
- d) This Section applies to those elected to an office of Illinois State government. This Section does not apply to those elected to local government offices, including school districts, nor does it apply to those elected to Federal offices in this State. This Section does not apply to contracts with licensed professionals, provided those contracts are competitively bid. For purposes of this Section,

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"bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.

- e) Additional exemptions to the application of this Part are listed in Section 50-13(f) of the Code.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5014 Environmental Protection Act Violations

- a) *Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act [415 ILCS 5] shall do business with the State of Illinois or any State agency or enter into a subcontract from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved with the violation continues to have any involvement with the business. [30 ILCS 500/50-14(a)]*
- b) *A person or business otherwise barred from doing business with the State of Illinois and any State agency or any subcontractors under the Code by subsection (a) may be allowed to do business with the State of Illinois or any State agency if it is shown that there is no practicable alternative to the State to contracting with that person or business. [30 ILCS 500/50-14(b)]*
- c) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, contractor or subcontractor, respectively, that the bidder, contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the contracting State agency may declare the related contract void if any of the certifications completed pursuant to this subsection (c) are false. *If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor's certification was false.* [30 ILCS 500/50-14(c)]

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5020 Exemptions

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If the SPO finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the SPO shall forward to the CPO-GS the name of the vendor and a description of the proposed contract and of the ~~potential~~ conflict, and shall state why an exemption should be granted. The CPO-GS shall decide whether to disapprove the contract or submit the files to the Executive Ethics Commission to determine whether an exemption should be granted in accordance with Section 50-20 of the Code. [The CPO-GS may request the State agency's position on the conflict of interest to assist in the CPO-GS' decision.](#)

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5021 Bond Issuances

- a) Definitions. For the purposes of this Section 1.5021, the following listed terms shall have the same meaning as in the Code and as further defined in this subsection (a).
 - 1) "Entity" means brokers, dealers and municipal securities dealers as defined in, and subject to, Rule G-37 and Rule G-38 of the Municipal Securities Rulemaking Board (MSRB).
 - 2) "*Independent Consultant*" means a person used by the entity to obtain or retain securities business through direct or indirect communication by the person with a State official or employee (including an official or employee of the State agency) on behalf of the entity when the communication is undertaken by the person in exchange for or with the understanding of receiving payment from the entity or other person. Independent Consultant does not include:
 - A) *a finance professional employed by the entity; or*
 - B) *a person whose sole basis of compensation from the entity is the actual provision of legal, accounting or engineering advice, services or assistance in connection with the securities business that the entity seeks to obtain or retain. [30 ILCS 500/50-21(a)]*
 - 3) "Issuance of bonds or other securities by the State agency" means the purchase or placement on other than a competitive bid of a primary offering of the State agency's general obligation municipal securities.

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- 4) "Issuance by the State agency" means the issuance of bonds or other securities by the State agency when acting as a governmental issuer specified in MSRB Rule G-37.
 - 5) "MSRB Rule G-37" and "MSRB Rule G-38" refer to the Municipal Securities Rulemaking Board rules in effect on August 6, 2012, or any successor rules adopted by the MSRB on the same subject after August 6, 2012, as provided in Section 50-21(b) and (c) of the Code. MRSB Rule 37 went into effect April 25, 1994, and MRSB Rule G-38 went into effect on August 29, 2005. Copies of G-37 and G-38 are available to the public at the MSRB website: <http://www.mrsb.org>, at the United States Security and Exchange Commission's website: <http://sec.gov>, and at the office of the CPO-GS. (See 30 ILCS 500/50-21(b) and (c).)
- b) Use of Independent Consultants
- 1) Section 50-21(a) of the Code prohibits the State agency from entering into a contract with respect to the issuance of bonds or other securities by the State agency with any entity that uses [anas](#) independent consultant to obtain or retain securities business through direct or indirect communications by the person with a State official or employee, including an official or employee of the State agency. Use of an independent consultant is also prohibited by MSRB Rule G-38. Every contract between the State agency and an entity relating to the issuance of bonds or other securities by the State agency shall include a certification that the entity did not use an independent consultant to obtain the contract and that the entity has not been found to have knowingly violated in Illinois MSRB Rule G-38 (or any successor rule) with respect to the prohibition on obtaining or retaining municipal securities business.
 - 2) In the event a federal agency finds that an entity has knowingly violated MSRB Rule G-38 in the State of Illinois, the CPO-GS shall bar that entity from participating in any contract with respect to the issuance of bonds or other securities by any of the State agencies for a period of one year as specified in Section 50-21(c) of the Code.
- c) Prohibited Political Contributions

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- 1) Section 50-21(b) of the Code requires that every contract between the State agency and an entity relating to the issuance of bonds or other securities by the State agency include a certification that the entity is, and will remain for the duration of the contract in compliance with the MSRB Rule G-37 requirement for reporting political contributions and that the entity has not been found to have knowingly violated in Illinois MSRB Rule G-37 (or any successor rule) with respect to the making of prohibited political contributions or payments. Failure to remain in compliance throughout the term of the contract shall make the contract voidable by the CPO-GS.
- 2) In the event a federal agency finds that an entity has knowingly violated MSRB Rule G-37 in the State of Illinois by making prohibited political contributions, the CPO-GS shall impose a penalty that is at least twice the fine assessed by the federal agency. In addition, the CPO-GS shall bar the entity from participating in any contract with respect to the issuance of bonds or other securities by any of the State agencies for a period of one year as specified in Section 50-21(c) of the Code.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

- a) For purposes of Section 50-35(a) of the Code, an "offer from responsive bidders or offerors" means only those offers that are received under Section 20-10, 20-15 or 20-35 or Article 35 of the Code.
 - 1) Disclosures shall be obtained from all prime vendors when the value of a contract exceeds \$25,000.
 - 2) Disclosures are not required in sole source and emergency contracts, but shall be obtained in whole or in part when practical and when the value exceeds \$25,000.
 - 3) Disclosures shall be obtained for small purchases exceeding \$25,000. If a small purchase could qualify as an emergency or sole source, disclosures shall be obtained when practical.
 - 4) In circumstances in which the vendor refuses or is unable to provide

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disclosures, the SPO may authorize the State agency to move forward with the transaction. In granting that authorization, the State agency must provide documentation of efforts to obtain compliance in a form prescribed by the PPB and CPO-GS.

- b) For purposes of:
 - 1) Section 50-35(b) of the Code, "parent entity" means an entity that owns 100% of the bidding entity.
 - 2) Section 50-35(b)(1) of the Code, "contractual employment of services" means any contract to provide services to the State, whether as independent contractor or employee, that is by and between the State and the named individual.
- c) "Distributable" or "distributive income" means the income of a company after payment of all expenses, including employee salaries and bonuses, and retained earnings that is distributed to those entitled to receive a share of that income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income, the entitlement shall be determined at the end of the company's most recent fiscal year.
- d) "Personal services" shall be any contract for services subject to the Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services, but excludes contracts with employees who are exempt from the Code under Section 1-10(b)(4).
- e) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 USC 78a et seq.).
- f) New disclosures are required on contract renewals. New disclosures are not required for contract amendments.
- g) 10K Disclosures
 - 1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the State in satisfaction of the disclosure requirement of Section

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50-35(b) of the Code. The vendor may be required to identify the specific sections or parts in the 10K disclosure containing information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the State is not in the 10K, or in a document that may be submitted to the SEC in conjunction with, or in lieu of, the 10K, then that additional documentation shall be provided as well.

- 2) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO-GS or SPO shall be investigated.
- 3) In circumstances in which a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements of the Code, the SPO or designee may consider information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure in determining whether a potential conflict of interest exists.

h) Form of Disclosure

- 1) *The form of disclosure shall be prescribed by the CPO-GS and shall include at least the names, addresses and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having any of the following relationships:*
 - A) *State employment, currently or in the previous 3 years, including contractual employment of services;*
 - B) *State employment of spouse, father, mother, son or daughter, including contractual employment for services in the previous 2 years;*
 - C) *Elective status: the holding of elective office in the State of Illinois, the government of the United States, any unit of local government*

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authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years;

- D) *Relationship to anyone holding elective office currently or in the previous 2 years, including spouse, father, mother, son or daughter;*
- E) *Appointive office: the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois that entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years;*
- F) *Relationship to anyone holding appointive office currently or in the previous 2 years, including spouse, father, mother, son or daughter;*
- G) *Employment, currently or in the previous 3 years, as, or by, any registered lobbyist of the State government;*
- H) *Relationship to anyone who is or was a registered lobbyist in the previous 2 years, including spouse, father, mother, son or daughter;*
- I) *Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections;*
- J) *Relationship to anyone, including spouse, father, mother, son or daughter, who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.[30 ILCS 500/50-35(b)(1-10)]*

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- 2) *The disclosures required under this Section also include the name and address of each lobbyist required to register under the Lobbyist Registration Act [25 ILCS 170] and other agent of the bidder or offeror who is not identified under subsection (a) and who has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. The disclosure under this subsection (h)(2) is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful. [30 ILCS 500/50-35(b-1)]*
 - 3) *The disclosure required under this Section must also include, for each of the persons identified in subsection (h)(1) or (2), each of the following that occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection (h)(3) is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful. [30 ILCS 500/50-35(b-2)]*
- i) **Intent of Disclosure**
The disclosure required in subsection (h) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the CPO-GS, SPOs, their designees and executive officers so they may adequately discharge their duty to protect the State. [30 ILCS 500/50-35(c)]
- 1) **Determination by Procurement Officer**
When an alleged conflict of interest is identified~~When a potential conflict of interest is identified~~, discovered or reasonably suspected, it shall be reviewed by the CPO-GS or SPO, who will send the contract to the PPB. The PPB shall ~~recommend~~recommended to the CPO-GS whether to allow or void the contract, bid, offer or subcontract weighing the best interest of the State of Illinois. If the CPO-GS disagrees with the PPB's recommendation to void a contract or void a bid or offer, the Executive Ethics Commission~~The CPO-GS will hold a hearing if the PPB recommends to void a contract or void a bid or offer.~~ No contract shall be awarded before a hearing if the PPB recommends a contract or bid or offer be voided. This written determination shall become a publicly available part of the contract, bid or proposal file.

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- 2) Requirements for Reasonable Care and Diligence
These thresholds for disclosure do not relieve the CPO-GS, SPO or their designees from reasonable care and diligence for any contract, bid, offer or proposal. The CPO-GS, SPOs or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois. [30 ILCS 500/50-35(e)]
- 3) Inadvertent or Accidental Failure to Fully Disclose
Inadvertent or accidental failure to disclose shall render the contract, subcontract, bid, proposal or relationship voidable by the CPO-GS if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, subcontracts, bids, proposals or relationships with the State for a period of up to 2 years. [30 ILCS 500/50-35(f)]
- 4) Intentional, Willful or Material Failure to Disclose
Intentional, willful or material failure to disclose shall render the contract, subcontract, bid, proposal or relationship voidable by the CPO-GS if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, subcontracts, bids, proposals or relationships with the State for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented upon by the CPO-GS, who must rule in writing whether and when to reinstate.
- 5) Other Procurements
In addition, all disclosures shall note any other current or pending contracts, proposals, subcontracts, leases or other ongoing procurement relationships the bidding, proposing, offering or subcontracting entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease or other relationship. [30 ILCS 500/50-35(h)]
- 6) Continuing Obligation
The contractor or bidder has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process or during the term of any contract. [30 ILCS 500/50-35(i)]

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- j) ~~Hearing~~
~~Any hearing required under Section 50-35 of the Code shall be conducted in accordance with Subpart W.~~

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5037 Vendor Registration, Certification and Prohibition on Political Contributions

- a) Introduction
Illinois statute ~~[(10 ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37)]~~ restricts political contributions by vendors and affiliated entities; requires registration with the State Board of Elections (SBEL); ~~requires a copy of the registration certificate stamped by SBEL (Registration Certificate) to be submitted with bids/proposals and contracts~~; and requires solicitation and contract certifications relative to the requirements of the statutes. This Section supplements requirements found in statutes and does not excuse compliance with any of those requirements.
- b) General Registration Requirements
- 1) These requirements apply to contracts, bids and proposals that are subject to the Code:
 - A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted to the Bulletin on or after January 1, 2009, regardless of the value assigned to the procurement.
 - B) Bids and proposals include pending bids and proposals.
 - C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of \$50,000, or whose aggregate value of bids/proposals for State contracts exceeds \$50,000, or whose aggregate value of State contracts and bids/proposals exceeds \$50,000.
 - D) This value is calculated on a calendar-year basis.

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- 2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.
 - 3) An "executive employee" means:
 - A) the President, Chairman of the Board, Chief Executive Officer and/or other individuals who fulfill equivalent duties as the President, Chairman of the Board, or Chief Executive Officer; and/or
 - B) any employee whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.
- c) Bids and Proposals
- 1) In order to be considered for award, a vendor who meets the requirements for registration must be registered with SBEL as of the date the bid or offer is due and shall provide a copy of the Registration Certificate or be able to produce the Registration Certificate on that date. A copy of the Registration Certificate must be submitted with bids/proposals. The CPO-GS may establish a prequalification procedure allowing advance submission of the SBEL certificate. A vendor who complies with the prequalification procedure shall be deemed to have submitted the SBEL certification with the bid or proposal.
 - 2) If a vendor is not registered by the date the bid or offer is due, the SPO shall reject the bid or offer as non-responsive. If the Registration Certificate is not timely submitted, the procuring agency shall reject the bid/proposal.
 - 3) Prior to award or execution of contract, the SPO or a designee of the SPO

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shall verify that the vendor who meets the requirements for registration has registered with SBEL and shall document vendor compliance. The procuring agency shall not reject a bid/proposal if absence of the Registration Certificate is the result of delay or error by the State, but shall require the Registration Certificate before making an award.

d) Contracts

Documentation of vendor compliance A copy of the Registration Certificate must be in the procurement file in relation to any contract for which a vendor is required to register as set forth in this subsection (d), unless the vendor certifies it is not required to register.

- 1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds \$50,000, the vendor must provide documentation of vendor compliance upon request ~~the Registration Certificate~~ and make the appropriate contract certification, if it has not already done so. The Registration Certificate or other evidence of vendor compliance may be provided by reference to and incorporation of the vendor's prequalification by the CPO-GS.
- 2) A State agency shall identify in the solicitation whether the contract is estimated to exceed \$50,000 annually. Vendors submitting bids or offers for master contracts estimated to exceed \$50,000 annually regardless of consumption are required to register with SBEL.
- ~~3~~2) For indefinite quantity/estimated value contracts that are not estimated to exceed \$50,000 annually, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds \$50,000. The vendor shall register with SBEL within 10 business days after orders exceed \$50,000.
- ~~4~~3) For change order ~~contract amendments~~, if the value of the change order amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals, exceeds \$50,000, the vendor must provide the Registration Certificate or other evidence of vendor compliance upon request and make the appropriate contract

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certification, if it has not already done so.

- 54) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate or other evidence of vendor compliance upon request. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.
- 65) Contract certification required by Section 20-160 of the Code shall be included in or added to each contract that must be filed with the State Comptroller pursuant to Section 20-80 of the Code and those written two-party contracts that need not be filed with the Comptroller. Agencies may require written confirmation of the rule-imposed certification at any time.
- e) Voidable contracts
Every solicitation issued and contract executed by the State on or after January 2, 2009, shall contain a statement that the contract is voidable under Section 50-60 if the bidder, offeror or contractor fails to comply with Section 20-160 of the Code.
- f) Prohibited Political Contributions
- 1) Upon discovery of a political contribution that is potentially prohibited by Section 50-37 of the Code, the CPO shall send a letter requesting response from the business entity that made the potentially prohibited contribution within 5 business days acknowledging or denying that the contribution was prohibited.
- 2) If the CPO determines that a political contribution was prohibited, all contracts held by the contributing business entity are voidable, and the CPO shall determine if the circumstances surrounding the prohibited political contribution warrant the voiding of any of these contracts.
- 3) If a business entity violates Section 50-37(b) of the Code three or more times within a 36 month period, the CPO shall void all contracts with the business entity and the business entity shall be prohibited from responding to any solicitation issued by any State agency or entering into a contract with any State agency for 3 years from the date of the last violation.

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- 4) If the CPO determines that a prohibited political contribution is grounds to suspend a business entity pursuant to Section 1.5560(b), the business entity shall have the right to a hearing pursuant to Section 1.5560(g), to be conducted in accordance with Subpart V.
- g) Notice
 - 1) Notice of each violation of Section 50-37 and any penalty imposed for each violation shall be published on the Illinois Procurement Bulletin and in the Illinois Register.
 - 2) The CPO shall directly notify a political committee in receipt of a prohibited political contribution that payment equal to the amount of the contribution is due the State of Illinois within 30 days after publication of the violation in the Illinois Register.
 - 3) If an amount owed by a political committee as a result of a prohibited political contribution is not paid and is deemed uncollectible for any reason, notice of the political committee's nonpayment shall be published on the Illinois Procurement Bulletin and in the Illinois Register.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5039 Procurement Communication Reporting Requirement

- a) Reporting Requirement
Any written or oral communication received by a State employee *who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract and* that imparts or requests material information or makes a material argument regarding potential action concerning *an active* procurement matter, including, but not limited to, an application, a contract or a project, shall be reported *to the Procurement Policy Board* in accordance with rules of the Executive Ethics Commission (2 Ill. Adm. Code 1620). [\[30 ILCS 50/50-39\(a\)\]](#)
- b) Excepted Communications
 - 1) These communication do not include the following:

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- A) statements made by a person publicly in a public forum. However, communications made in a public forum, if made privately, must be reported;
- 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; and
- C) statements made by the State employee toof the agency:
- i) ~~to the~~ State employee's Agency Headagency head;
 - ii) ~~or~~ other employees of that agency;
 - iii) ~~or to the~~ employees of the Executive Ethics Commission, including the CPO-GS, SPOs, PCMs and other CPO-GS staff; or;
 - iv) an employee of another State agency who, through the communication, is either:
 - exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate SPO; or
 - 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:

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- i) RFI;
 - ii) RFP;
 - iii) Request for Qualifications;
 - iv) IFB;
 - v) small purchase, sole source, or emergency solicitation; or
 - vi) questions or answers posted to the Illinois Procurement Bulletin to supplement the procurement action, provided that the communications are made in accordance with instructions contained in the procurement solicitation, procedures, or guidelines;
- D) communications that are privileged, protected, or confidential under law; and
- E) 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:
- i) the posting of procurement opportunities;
 - ii) the process for approving a procurement business case or its equivalent;
 - iii) fiscal approval;
 - iv) submission of bids;
 - v) the finalization of contract terms and conditions with an awardee or apparent awardee; and
 - vi) any other similar formal procurement process.

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- 2) 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.
- 3) *No trade secret or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.*
[30 ILCS 500/50-39(b)]
- c) *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 Section 50-39 of the Code. [30 ILCS 500/50-39(c)]*

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5060 Prohibited Bidders and Contractors

- a) *Unless otherwise provided, no business shall bid or enter into a contract or subcontract if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 (PL 107-204) or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 [815 ILCS 5] for a period of 5 years from the date of conviction.*
- b) *Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of the Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer shall declare the related contract void if any of the certifications pursuant to this subsection (b) are false. [30 ILCS 500/50-10.5]*
- c) *A person or business that assists a State agency with writing specifications, developing evaluation criteria, or participating in evaluations of bids or proposals shall not submit a bid or proposal or receive a contract or subcontract for that procurement.*

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(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART S: PROTESTS

Section 1.5550 Protests

- a) Procurement-Related Protests Allowed
 - 1) Any person may submit a protest related to the notice of the procurement, the solicitation document, any pre-bid/proposal meeting and any decision to reject a late bid or proposal.
 - 2) Any person who has submitted a bid or proposal may protest a decision to reject the person's bid or proposal or to award to another person.
- b) Protest Review Officer

The CPO-GS may appoint one or more Protest Review Officers (PRO) to consider the procurement-related protests and make a recommendation to the CPO-GS for resolution of the protest. The CPO-GS may adopt the recommendation or take other action.
- c) Submission of Protest
 - 1) A protesting party must submit a protest in writing to the PRO identified in the solicitation document. Fax and email qualify as writing, but the PRO does not guarantee receipt using those means.
 - 2) The protest must be physically received by the PRO at the location specified. A postmark or other carrier mark prior to the due date and time is not sufficient to show physical receipt.
 - A) In regard to the solicitation notice or solicitation document including specifications, a protest must be received within 14 days after the date the solicitation was posted to the Bulletin and must be received by the PRO at the designated address before the date for opening bids or proposals.
 - B) In regard to rejection of individual bids or proposals or awards, the

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protest must be received by close of business no later than 14 days after the protesting party knows or should have known of the facts giving rise to the protest to ensure consideration, and, in any event, must be received before execution of the applicable contract.

C) The PRO, for good cause shown, or when he or she determines that a protest raises issues significant to the procurement system, may consider an untimely protest. Good cause may include, but is not limited to, instances in which the procurement file is not available in a timely manner to interested parties or when a FOIA request has not been responded to by a State agency in full or in part.

- 3) Any notice posted to the Illinois Procurement Bulletin establishes the "known or should have known" date for the subject matter of the notice.
- 4) Protests must be clearly marked on the delivery container, the fax cover sheet or the e-mail subject line.
- 5) No formal briefs or other technical forms of pleading or motion are required. Protest submissions should be concise and logically arranged, and should clearly state legally sufficient grounds of protest. The written protest shall include as a minimum the following:
 - A) the name and address of the protesting party;
 - B) identification of the procurement, and, if a contract has been awarded, its number or other identifier;
 - C) a statement of reasons for the protest specifically identifying any alleged violation of a procurement statute, a procurement rule or the solicitation itself, including the evaluation and award (conclusions with supporting facts and arguments may not be sufficient); and
 - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated. If submitting the protest by fax, supporting documentation over 20 pages in length may not be included without authorization. If the protest is by fax

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or e-mail, the protesting party may be required to submit documentation by mail or carrier within 2 business days after the request; and

E) specific relief sought.

6) The protesting party shall clearly identify any information in the protest that is confidential, proprietary or a trade secret.

d) Requested Information

1) The State agency must supply a response to the protest within the time period set forth by the PRO. If a State agency fails to comply with this request, the PRO may consider the protest on the basis of available information or may recommend to the CPO-GS that the relief requested in the protest be granted.

2) The protesting party must supply any additional information requested by the PRO within the time periods set in the request. If the protesting party fails to comply with this request, the PRO shall consider the protest on the basis of available information or may deny the protest.

3) The PRO may request that an interested party supply additional information within the time period set in the request. For purposes of a protest, an "interested party" means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

e) Stay of Procurements During Protest

Unless the CPO-GS determines the needs of the State require an immediate execution of a contract, the following apply:

1) When a protest has been timely filed and before an award has been made, the SPO shall make no award of the contract until the protest has been resolved.

2) If timely received but after award, the award shall be stayed without penalty to the State.

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- f) Resolution
- The CPO-GS will resolve the protest by means of a written determination. ~~The resolution may include affirming the State's initial decision, in whole or in part, or revoking the State's decision in whole or in part.~~ The PRO will make a recommendation to the CPO-GS resolve the protest as expeditiously as possible after receiving all relevant, requested information. In determining the appropriate recommendation, the PRO shall consider the seriousness of the procurement deficiency, the degree of prejudice to other parties or to the integrity of the competitive procurement system, the good faith of the parties, the urgency of the procurement, and the impact of the recommendation on the State agency's mission. The recommendation may include, but is not limited to:
- 1) Affirming the State agency's initial decision, in whole or part;
 - 2) Directing the State agency to issue a new solicitation;
 - 3) Directing the State agency to award a contract consistent with statute and rule; or
 - 4) Directing such other action as is necessary to promote compliance with statute or rule.
- g) Effect of Judicial Proceedings
- If an action concerning the protest has commenced in a court or administrative body, the CPO-GS may defer resolution of the protest pending the judicial or administrative determination.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART T: SUSPENSION AND DEBARMENT

Section 1.5560 Suspension and Debarment

- a) This Part applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code. For the purposes of this Part, all references to "vendors" includes subcontractors.
- b) The CPO-GS may suspend a vendor from doing business with the State agency or with respect to certain types of supplies or services. A suspension may be issued

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upon a showing that the vendor violated the Code or this Part or failed to conform to specifications or terms of delivery.

- c) When the CPO-GS finds cause exists for the suspension or debarment, a notice of suspension or debarment, including a copy of that determination, shall be sent to the vendor. Notice shall be furnished in writing by personal service or by certified or registered mail. Bids or proposals will not be solicited from the vendor and, if received, will not be considered during the period of suspension or debarment.
- d) The CPO-GS may suspend a vendor for a period of time commensurate with the seriousness of the offense, but for no more than 10 years. The suspension will be effective 7 calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension shall not become effective until the evaluation of the objection is completed.
- e) The CPO-GS may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the State. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor or proposing the use of a debarred subcontractor will not be considered as responsive. The debarment will be effective 7 calendar days after receipt of notice, unless an objection is filed. If an objection is filed, the debarment shall not become effective until the evaluation of the objection is completed.
- f) The CPO-GS shall post the public record of suspensions and debarments that are currently in effect on his or her web page and on the Bulletin.
- g) A vendor objecting to the suspension or debarment shall do so in writing, detailing why the action is not valid and providing any documentation to support that position. The vendor may request a hearing. This hearing shall be conducted in accordance with Subpart V.
- h) The CPO-GS shall maintain a master list of all suspensions and debarments. The master list shall retain information concerning suspensions and debarments as public records. ~~These records will be maintained for a period of at least 3 years following the end of the suspension or debarment.~~ This public information may be considered in determining responsibility.

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(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART U: VIOLATION OF STATUTE OR RULE

Section 1.5620 Violation of Statute or Rule

- a) **Determination that Solicitation or Award Violates Statute or Rule**

If the CPO-GS or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO-GS or SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if the correction may be legally accomplished.
- b) **Determination that Contract Violates the Code or this Part**
 - 1) If any contract or amendment to a contract is entered into, or purchase or expenditure of funds is made, at any time in violation of this Part or any other law, the contract or amendment may be declared void by the CPO-GS or may be ratified or affirmed, provided the CPO-GS determines that ratification is in the best interest of the State. If the contract is ratified and affirmed, it shall be without prejudice to the State's right to any appropriate damages.
 - 2) If, during the term of a contract, the SPO determines that the contractor is delinquent in the payment of debt as set forth in Section 50-11 of the Code, the CPO-GS may declare the contract void if it determines that voiding the contract is in the best interest of the State.
 - 3) If, during the term of a contract, the CPO-GS learns from an annual certification or otherwise determines that the contractor or subcontractor no longer qualifies to enter into State contracts, the CPO-GS may declare the contract void if it determines that voiding the contract is in the best interest of the State. *However, the related contract shall not be declared void unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontractor no longer qualifies to enter into State contracts. [30 ILCS 500/50-60(e)]*
- c) **Effect of Declaring a Contract Null and Void**

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In all cases in which a contract is voided, the State agency shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART V: HEARING PROCEDURES

Section 1.5730 Notice of Hearing

- a) Notice that a hearing will be held as necessary to receive testimony or written comments regarding the subject matter identified in the notice will be published in the Bulletin. The hearing notice shall be published in the Bulletin as soon as practicable and in accordance with any statutory requirements.
- b) The hearing may be held as soon as the first working day following the end of the notice period. The notice shall contain the following information and may describe more than one matter to be considered at the same hearing:
 - 1) The name of the affected parties (e.g., State agency and vendor);
 - 2) A description of the subject matter;
 - 3) A justification for the action under review;
 - 4) Requirements for testifying or submitting written comments;
 - 5) Hearing contact information;
 - 6) The date, time and location of the hearing;
 - 7) A statement that all written comments and oral testimony shall be considered public record and open to review by the public;
 - 8) A statement of, or reference to, this hearing procedure.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.5740 Written Comments and Oral Testimony

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Any person~~Interested parties~~ wishing to comment for or against the determination may do so in writing alone, may testify in person and may submit written comments reflecting the oral testimony.

a) Written Comments

1) Submission of Written Comments

Written comments are requested by the hearing registration deadline, shown in the Bulletin notice, ~~to aid the Hearing Officer in preparing for the hearing.~~ ~~However, All~~ written comments received by the hearing date will be considered.

2) Incorporation of Written Comments

If the Hearing Officer has received any written comment, the name and affiliation of the person submitting the comment shall be stated for the record and the written comments shall be incorporated into the record. In addition, the Hearing Officer may read excerpts from or summarize the basic points of the written comments for the record.

b) Oral Testimony

1) Advance Registration

Any person who wishes to testify is requested to register with the Hearing Contact. Advance registration is requested to allow for efficient scheduling and to ensure the hearing room has sufficient capacity for those who wish to testify. Those who register in advance will be heard first on the matter for which they registered. The Hearing Officer has discretion to limit testimony for the efficiency of the hearing.

2) Written Copy of Testimony Requested

Written comments reflecting proposed oral testimony are requested by the hearing registration deadline shown in the Bulletin notice to allow the Hearing Officer time to prepare for the hearing. A person testifying may submit written comments along with the testimony. The Hearing Officer may request a written copy of the oral testimony.

3) Witness Slip Required

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Each person providing oral testimony must complete a witness slip and provide it to the Hearing Officer as instructed.

4) Duration of Testimony

Each ~~person~~interested party shall have a reasonable period of time to present his or her position based on the complexity of the issue and the press of other business,

c) Sole Source and Emergency Contract Extensions – Supplemental Provisions

1) The notice, including attachments, as shown in the Bulletin represents the position of the State agency and the initial position of the CPO-GS. The Hearing Officer shall have the notice placed into the record. A copy of the notice will be posted in the hearing room.

2) The SPO and a representative of the State agency shall attend the hearing if any person registers in advance to testify in opposition to the sole source or emergency contract extension determination. Attendance may be by video or audio. The SPO and agency representative shall respond to questions of the Hearing Officer and shall be available for consultation after adjournment of the hearing.

3) The Hearing Officer may ask questions or request further written information in response to written comments or testimony or at the Hearing Officer's initiative. The Hearing Officer may allow parties to engage in dialogue and allow follow-up questions and answers as needed to ensure full understanding of the matter. The Hearing Officer is not required to respond to substantive questions at the hearing nor make commitments regarding the content of his or her recommendation.

d) Suspension and Debarment – Supplemental Provisions

A party who receives notice of suspension or debarment may request a hearing to protest the suspension or debarment action. The hearing will be conducted in accordance with this Section and the following additional provisions shall apply.

1) The Hearing Officer may ask questions or request further written information in response to written comments or testimony or at the Hearing Officer's initiative. The Hearing Officer is not required to

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respond to substantive questions at the hearing or make commitments regarding the content of his or her recommendation.

- 2) Both the affected State agency and the vendor affected by a suspension of debarment may, at the discretion of the Hearing Officer, bring in witnesses to present testimony regarding the facts or circumstances that led to the determination to suspend or debar.
- 3) In addition to responding to questions of the Hearing Officer, the witnesses shall respond to questions by the affected vendor if, at the discretion of the Hearing Officer, the questions are allowed.
 - A) The Hearing Officer may allow questions when the subject matter of the question is relevant and the questioning will not unnecessarily delay the proceedings.
 - B) The Hearing Officer may deny questions when the subject matter seeks only to unnecessarily embarrass the witness or delay the proceedings.
- e) Recommendation
After conclusion of the hearing, the Hearing Officer shall review the State agency's position, any information obtained from public comment (written or oral), the applicable Sections of the Procurement Code, other laws and associated rules and written policies and other information deemed relevant.
- f) Decision of the CPO-GS
 - 1) The CPO-GS shall, after considering the Hearing Officer's recommendation, make a decision in writing (which may be electronic) to uphold or overturn, in whole or in part, the State agency's decision.
 - 2) The CPO-GS may request additional information from the Hearing Officer, or any other party, including supplemental comments or testimony from the interested parties, prior to making a decision.
 - 3) The CPO-GS may adopt the recommendation, in whole or in part, or may reject the recommendation, or may write a separate decision.

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- g) Notice of Decision
- 1) The decision of the CPO-GS shall be provided to the impacted parties and State agencies. A copy of the decision shall be posted to the Bulletin.
 - 2) Upon posting notice of a decision upholding the determination, the State agency may take action to have the contract executed.
- h) Maintenance of Records
A copy of the public notices, any documents presented, any written comments, the recommendation of the Hearing Officer, and any decision of the CPO-GS shall be maintained in the procurement file. Any transcript or recording of a public hearing shall be available upon request.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART W: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1.7015 Inspections

- a) Inspection of Plant or Site
The CPO-GS or a designee may enter a vendor's or subcontractor's plant or place of business and, pursuant to contract provisions, if any, to:
- 1) inspect supplies or services for acceptance by the State agency;
 - 2) audit the books and records of any vendor or subcontractor;
 - 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
 - 4) determine whether the standards of responsibility have been met or are capable of being met;
 - 5) determine if the contract is being performed in accordance with its terms;
and
 - 6) accomplish any other purpose permitted by law.

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- b) The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
- c) When an inspection is made in the plant or place of business of a vendor or subcontractor, the vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- d) Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed so as to not unreasonably delay the work of the vendor or subcontractor.
- e) ~~Inspection of Construction Projects~~
On-site inspection of construction shall be performed in accordance with the terms of the contract.

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

SUBPART X: SELECTION OF A SUCCESSOR ILLINOIS LOTTERY
PRIVATE MANAGER IF A PRIVATE MANAGEMENT
AGREEMENT HAS BEEN TERMINATED

Section 1.8010 Selection Process

- a) *Notwithstanding any other law to the contrary, the Department of the Lottery (Lottery) shall select a private manager through a competitive request for qualifications process consistent with Section 20-35 of the Illinois Procurement Code. [20 ILCS 1605/9.1(e)]*
- b) Contents. The Request for Qualifications (RFQ) shall be in the form specified by the Lottery and shall contain at least the following information:
 - 1) the type of services required;
 - 2) a description of the work involved;
 - 3) an estimate of when and for how long the services will be required;
 - 4) the type of contract to be used;

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- 5) a date by which proposals for the performance of the services shall be submitted;
 - 6) 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) if deemed relevant, the age of the offeror's business and average number of employees over a previous period of time, as specified in the RFQ;
 - C) the abilities, qualifications and experience of all persons who would be assigned to provide the required services;
 - D) 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 RFQ;
 - E) a plan, giving as much detail as is practical, explaining how the services will be performed;
 - 7) price or other proposed form of compensation (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package);
 - 8) the factors to be used in the evaluation and selection process and their relative importance; and
 - 9) a plan for post-performance review to be conducted by the Lottery after completion of services and before final payment and to be made part of the procurement file.
- c) The RFQ may not require, stipulate, suggest or encourage a monetary or financial contribution, donation, incentive or economic investment as an explicit or implied

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term or condition for awarding the contract. The RFQ may not include a requirement that an individual or individuals employed by the Lottery or employed by Lottery advisors receive a consulting contract for professional services.

- d) Prior to the publication of the RFQ in the Illinois Procurement Bulletin, the Lottery shall obtain written approval of the evaluation factors from the CPO-GS or a designee.
- e) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFQ. Price or other form of compensation will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The minimum factors are:
 - 1) *the offeror's ability to market the Lottery to those residents who are new, infrequent or lapsed players of the Lottery, especially those who are most likely to make regular purchases on the internet;*
 - 2) *the offeror's ability to address the State's concern with the social effects of gambling on those who can least afford to do so;*
 - 3) *the offeror's ability to provide the most successful management of the Lottery for the benefit of the people of the State based on current and past business practices or plans of the offeror;*
 - 4) *the offeror's past performance in servicing, equipping, operating or managing a lottery on behalf of Illinois, another State or foreign government and attracting persons who are not currently regular players of a lottery and maximizing revenue in an ethical and socially responsible manner [20 ILCS 1605/9.1(e)];*
 - 5) the plan for performing the required services;
 - 6) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

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- 7) the personnel, equipment and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - 8) a record of past performance of similar work.
- f) Delivery, Receipt and Handling of Proposals
- 1) Receipt. ~~Each Upon its receipt, each~~ proposal and modification received shall be date- and time-stamped, recorded in a log and but not opened and shall be stored in a secure manner (e.g., locked file cabinet, safe, locked room or other secure location) by the person responsible for receiving the proposals place until the time and date set for opening. If a proposal is opened for identification purposes or opened in error, the file ~~shall should~~ state the reason for the error.
 - 2) The Lottery shall maintain the confidentiality of the proposals. No information within the proposals shall be disclosed to anyone prior to opening. Lottery personnel may confirm receipt of the proposal to the offeror.
 - 3) If a proposal is opened for identification purposes or in error, the procurement file shall include a signed statement explaining the reason for the mistake or error, including the name of every person involved. The proposal shall be resealed until the time set for opening.
 - 42) Proposals shall be submitted to and opened by the Lottery.
 - A) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFQ.
 - B) Opening shall be witnessed by a State witness or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

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- C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only ~~authorized~~ State personnel and contractual agents authorized by the Lottery may review the proposals prior to award.
- g) Evaluation Committee. Evaluation Committee members shall be determined by the Lottery, be tailored to the particular solicitation, and include, as appropriate, technical or other personnel with expertise to ensure a comprehensive evaluation of offers. The Evaluation Committee members shall be subject to the approval of the Director or his or her designee and committee members may be removed by the Director or his or her designee for failure to comply with instructions or directions.
- hg) Discussions
- 1) Discussions Permissible. The ~~Evaluation Committee~~ Lottery may conduct discussions with any offeror to:
 - A) determine in greater detail the offeror's qualifications; and
 - B) 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. The Lottery 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 the ~~Evaluation Committee~~ agency conducting the procurement shall not disclose any information contained in any proposal with any other offeror or person or entity other than personnel authorized by the Director or his or her designee ~~proposals~~ until after award of the proposed contract.
 - 3) No discussions with offerors may occur unless the entire evaluation committee is present.
- ih) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation and discussion, the Lottery initially shall rank the acceptable offerors in the order of their respective

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qualifications compared to the qualifications outlined in the RFQ and not considering price.

- ji) Evaluation of Pricing Data or Other Proposed Compensation
Pricing and other forms of proposed compensation submitted for all acceptable proposals timely submitted shall be opened and the offerors shall be ranked only after the initial ranking under subsection (ih) has been completed.
- k) Hearing
 - 1) After evaluation of all offerors' proposals, the Lottery shall select offerors as finalists.
 - 2) The Lottery shall hold a public hearing on the finalists' proposals.
 - 3) At least 7 days prior to the public hearing, the Lottery must provide public notice that includes:
 - A) The date, time and place of the hearing;
 - B) The subject matter of the hearing;
 - C) A brief description of the private management agreement to be awarded;
 - D) The identity of the offerors selected as finalists; and
 - E) The address and telephone number of the Lottery.
 - 4) At the public hearing, the Lottery shall:
 - A) Provide sufficient time to allow each of the finalists to present its proposal. Each finalist shall be afforded an identical, maximum amount of time for presentation, including any extensions of time that may be granted during the course of the hearing.
 - B) Allow comments from the public and offerors that were not selected as finalists.

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- lj) Negotiation ~~and Award~~ of Contract
- 1) General. The Lottery shall designate a negotiation committee to attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Lottery may, in the interest of efficiency, negotiate with the next highest ranked vendor while negotiating with the best qualified vendor.
 - 2) The Lottery shall conduct compensation negotiations with the vendor determined to be most qualified based upon the evaluation factors contained in the RFQ prior to the publication of any notice of award.
 - 3) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:
 - A) making certain that the offeror has a clear understanding of the scope of the work, specifically the essential requirements involved in providing the required services, and that the plan for service delivery is feasible;
 - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - C) agreeing upon compensation that is fair and reasonable and based upon realistic revenue projections, taking into account the estimated value of the required services and the scope, complexity and nature of those services.
 - 4) Successful Negotiation of Contract with Best Qualified Offeror
 - A) If compensation, contract requirements and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is ~~cancelled~~cancelled.
 - B) Compensation must be determined in writing to be fair and reasonable by the ~~Director~~Superintendent of the Lottery (~~Director~~)(Superintendent). The negotiation committee shall

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prepare a compensation analysis and recommendation for consideration by the ~~Director~~Superintendent. The analysis shall be based on specifications contained in the RFQ and include, but not limited to, the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, other available pricing information and the Lottery's identified budget.

5) Failure to Successfully Negotiate Contract with Best Qualified Offeror

A) If compensation, contract requirements or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons shall be placed in the file. The Lottery shall advise the offeror of the termination of negotiations.

B) Upon failure to successfully negotiate a contract with the best qualified offeror, the Lottery may enter into negotiations with the next most qualified offeror.

k) Award

~~Award shall be made to the offeror determined in writing by the Department to be best qualified based on the evaluation factors set forth in the request for qualifications and negotiation of compensation determined to be fair and reasonable. [30 ILCS 500/20-35]~~

l) Notice of Award

~~Written notice of award shall be public information and made a part of the contract file. The Lottery shall publish the names of its responsible decision makers, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the Illinois Procurement Bulletin.~~

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.8020 Public Hearing (Repealed)

a) ~~After receipt of all offerors' proposals, the Lottery shall select offerors as finalists.~~

b) ~~The Lottery shall hold a public hearing on the finalists' proposals.~~

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- e) ~~At least 7 days prior to the public hearing, the Lottery must provide public notice that includes:~~
- ~~1) The date, time and place of the hearing;~~
 - ~~2) The subject matter of the hearing;~~
 - ~~3) A brief description of the private management agreement to be awarded;~~
 - ~~4) The identity of the offerors selected as finalists; and~~
 - ~~5) The address and telephone number of the Lottery.~~
- d) ~~At the public hearing, the Lottery shall:~~
- ~~1) Provide sufficient time to allow each of the finalists to present its proposal. Each finalist shall be afforded an identical, maximum amount of time for presentation, including any extensions of time that may be granted during the course of the hearing.~~
 - ~~2) Allow comments from the public and offerors that were not selected as finalists.~~

(Source: Repealed at 38 Ill. Reg. 20884, effective October 31, 2014)

Section 1.8025 Award

- a) Prior to the Lottery's selection of the final offeror, the CPO-GS shall certify that the procurement process provided for under this Subpart has been followed. Notice of this determination shall be published in the Illinois Procurement Bulletin.
- b) The Lottery shall select a final offeror as private manager by publication of notice in the Bulletin. This notice shall include *a detailed explanation and the reasons why the final offeror is superior to other offerors and will provide management services in a manner that best achieves the objectives of the Illinois Lottery Law.* [20 ILCS 1605(h)]

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- c) Written notice of award shall be public information and made a part of the contract file. The Lottery shall publish the names of its responsible decision makers, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be on the Illinois Procurement Bulletin.
- de) *Within 7 days after award of the contract and subject to provisions of the Freedom of Information Act [5 ILCS 140], the Lottery shall make available for public inspection and copying all pre-award, post-award, administration and close-out documents relating to the contract. [30 ILCS 500/20-155]*

(Source: Amended at 38 Ill. Reg. 20884, effective October 31, 2014)

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- 1) Heading of the Part: Service Quality Requirements Applicable to Wireless Eligible Telecommunications Carriers
- 2) Code Citation: 83 Ill. Adm. Code 736
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
736.100	Amendment
736.105	Amendment
736.115	Repeal
736.300	Repeal
736.305	Amendment
736.310	Repeal
736.500	Amendment
736.505	Repeal
736.510	Repeal
736.515	Repeal
736.520	Repeal
736.525	Repeal
736.530	Repeal
736.540	Repeal
736.550	Repeal
736.555	Amendment
736.610	Repeal
736.620	Repeal
736.630	Repeal
736.640	Repeal
736.650	Repeal
736.660	Repeal
736.670	Repeal
736.680	Repeal
736.685	Repeal
736.690	Repeal
736.695	Repeal
736.700	Repeal
736.705	Repeal
736.710	Repeal
736.APPENDIX A	Repeal
736.APPENDIX B	Repeal

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- 4) Statutory Authority: Implementing Sections 13-101, 13-304, 13-305, and 13-712 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-101, 13-304, 13-305, 13-712, and 10-101]
- 5) Effective Date of Rule: October 23, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: February 28, 2014; 38 Ill. Reg. 5441
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.
- 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: PA 98-45, which took effect in June 2013, made a number of revisions to telecommunications provisions in the Public Utilities Act, including provisions concerning service quality. Part 736 contains service quality requirements for wireless carriers that are eligible telecommunications carriers (ETCs); ETCs are carriers that the Commission has determined are eligible to participate in federal low-income programs and other universal service programs. The revisions effected by this rulemaking make the service quality requirements for wireless ETCs under Part 736 comparable to the service quality requirements that now govern wireline ETCs following passage of the legislation.
- 16) Questions or requests for information about this adopted rule shall be directed to:

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Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 736

SERVICE QUALITY ~~REQUIREMENTS AND CUSTOMER PROTECTION~~ APPLICABLE
TO WIRELESS ELIGIBLE TELECOMMUNICATIONS CARRIERS

SUBPART A: GENERAL

Section	
736.100	Application of Part
736.105	Definitions
736.110	Waiver
736.115	Reporting (Repealed)
736.120	Enforcement

SUBPART B: ENGINEERING

Section	
736.300	Construction and Maintenance of Plant and Equipment (Repealed)
736.305	Emergency Operation
736.310	Incorporation of National Codes and Standards (Repealed)

SUBPART C: STANDARDS OF QUALITY OF SERVICE

Section	
736.500	Adequacy of Service
736.505	Answering Time (Repealed)
736.510	Interoffice Trunks (Repealed)
736.515	Dropped Calls and Signal Strength (Repealed)
736.520	Service Outages and Notification (Repealed)
736.525	Installation Requests – Failure to Provide Service (Repealed)
736.530	Trouble Reports (Repealed)
736.540	Directory Notification (Repealed)

SUBPART D: OTHER WETC REQUIREMENTS

Section

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service Lifeline support, this Part shall only apply to the Lifeline Supported Services of those WETCs.

(Source: Amended at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.105 Definitions

As used in this Part, the following terms shall have these definitions:

"Act" means the Public Utilities Act [220 ILCS 5].

~~"Answer time" means a measurement in seconds from the point the carrier's telephone system receives the call until the call is answered by the carrier's representative or voice response unit and ready to accept information. When the carrier uses a menu-driven system, the measurement begins once the menu-based system has transferred the customer into the carrier's telephone system until the call is answered by the carrier's representative.~~

~~"Assistance calls" means calls in which the operator provides assistance or instructions to the customer. Examples include rate quotes, credit requests, trouble reports, dial assistance, and dialing instructions.~~

~~"Business office" means those offices of the carrier where calls are answered and made. A business office typically employs representatives to assist customers for order entry and lookup on customers' orders and account records through the use of a computerized system.~~

~~"Busy hour" means the two consecutive half hours each day during which the greatest volume of traffic is handled.~~

"Commission" means the Illinois Commerce Commission.

"Customer" means any person, building owner, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with WETC telecommunications services as defined in Section 13-204 of the Act [220 ILCS 5/13-204]. "Customer" may also be referred to as "end user."

~~"Customer premises equipment" or "CPE" means the equipment utilized by the customer to gain access to the wireless carrier's network—see "Handset."~~

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~~"Dropped calls" means a wireless mobile phone call that is terminated unexpectedly and in the absence of disconnection initiated by either party to the call.~~

~~"Emergency situation" means a single event that causes an interruption of service or installations affecting end users of a WETC. The emergency situation shall begin with the first end user whose service is interrupted by the single event, and shall end with the restoration or installation of the service of all affected end users. The term single event shall include:~~

~~a declaration made by the applicable State or federal governmental agency that the area served by the WETC is either a State or federal disaster area;
or~~

~~an act of third parties, including acts of terrorism, vandalism, riot, civil unrest, or war, or acts of parties that are not agents, employees or contractors of the WETC; or~~

~~a severe storm, tornado, earthquake, flood or fire, including any severe storm, tornado, earthquake, flood or fire that prevents the WETC from restoring service due to impassable roads, downed power lines, or the closing off of affected areas by public safety officials.~~

~~The term "emergency situation" shall not include:~~

~~a single event caused by high temperature conditions alone; or~~

~~a single event caused, or exacerbated in scope and duration, by acts or omissions of the WETC, its agents, employees or contractors or by the condition of facilities, equipment, or premises owned or operated by the WETC; or~~

~~any service interruption that occur during a single event listed in this definition, but are not caused by those single events; or~~

~~a single event that the WETC could have reasonably foreseen and taken precaution to prevent; provided, however, that in no event shall a WETC~~

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~~be required to undertake precautions that are technically infeasible or economically prohibitive.~~

~~This Part shall be construed as being content neutral as to whether a strike or other work stoppage is an "emergency situation". In the event of a strike or other work stoppage, the WETC's obligations to provide remedies for failure to comply with this Part shall, in the absence of a decision by a court of competent jurisdiction, be determined by the Commission on a case by case basis based upon the individual factual circumstances of each strike or other work stoppage. In making such a determination, and notwithstanding the definition of "emergency situation" above, the Commission shall not presume that a strike or other work stoppage is an act of an employee or of the WETC.~~

"End user" means any person, building owner, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with WETC regulated telecommunications service for consumption, not for resale, as defined in Section 13-204 of the Act [220 ILCS 5/13-204]. "End user" may also be referred to as "customer."

~~"Handset" means the device employed by the end user to originate, route or terminate regulated telecommunications service over the WETC network. For the purposes of this Part, handsets are considered to be the equivalent of customer premises equipment ("CPE"), beyond the regulatory authority of the Commission, and subject to the terms and conditions of a contract or warranty between the manufacturer, WETC, and end user.~~

~~"Information call" means a call in which a customer will be connected to an information bureau by dialing the proper service code or number and will be given the directory number of the customer whom he desires to call, provided that the customer's number to be called is or will be published or listed in the information records. An "information call" is also referred to as directory assistance.~~

"Lifeline" means the retail local service offering defined and established at 47 CFR 54.401 as of February 6, 2013. This incorporation does not include any later amendments or editions.

"Map" means a drawing showing a geographical area in which a WETC furnishes regulated telecommunications services.

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"Regulated telecommunications service" means the ability to transmit and receive voice service over the WETC's network at the end user's residence or business location, as identified by the billing or designated address of the account. Regulated telecommunications service refers to Commission regulation, and does not include WETC network performance in other service territories (e.g., roaming) or from other cellular towers at locations away from the billing or designated address.

~~"Repair office" means an office to handle customers' reported telephone facility problems. Customers may call to request trouble verification tests, initiate trouble reports and obtain information on the status of open trouble reports.~~

~~"Reporting entity" means a unit established by the WETC for the purpose of administering the customer service operations established by this Part.~~

~~"Signal strength" means the measure of how strongly a transmitted signal is being received, measured or predicted, at a reference point that is a significant distance from the transmitting antenna, measured in dB microvolts per metre (dBµV/m).~~

~~"Traffic" means call volume based on number and duration of messages.~~

~~"Trouble report" means any verbal or written report relating to difficulty or dissatisfaction with the operation of regulated telecommunications services to the WETC regarding the operation of the network affecting their regulated telecommunication service, including both service-affecting conditions or out of service conditions. One report shall be counted for a verbal or written report received. When several items are reported by one customer at the same time, and the group of troubles so reported is clearly related to a common cause, they are counted as one report.~~

"Wireless Eligible Telecommunications Carrier" or "WETC" means a wireless telecommunications carrier that has been designated by the Commission as eligible to receive federal universal service funds.

(Source: Amended at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.115 Reporting (Repealed)

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- a) ~~All reports required to be submitted to the Chief Engineer, Telecommunications Division of the Commission under this Part 736 shall be verified by an authorized agent of the reporting carrier.~~
- b) ~~Each WETC shall provide annually on July 1 to the Chief Engineer, Telecommunications Division of the Commission a service quality and consumer protection report, consisting of information relative to the following Sections: Section 736.505(a), Operator Answer Time; Section 736.505(b), Business and Repair Answer Time; Section 736.515, Dropped Calls and Signal Strength; Section 736.520, Service Outages; Section 736.525, Installation Requests— Failure to Provide Service; and Section 736.530, Trouble Reports.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

SUBPART B: ENGINEERING

Section 736.300 Construction and Maintenance of Plant and Equipment (Repealed)

~~The WETCs outside plant shall be designed, constructed, maintained, and operated in accordance with the provisions of 83 Ill. Adm. Code 305 and 83 Ill. Adm. Code 265.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.305 Emergency Operation

- a) Each WETC shall make provisions to meet emergencies resulting from failures of commercial or power service, sudden and prolonged increases in traffic, illness of personnel, fire, storm, or other natural disasters. Each WETC shall inform employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of regulated telecommunications service.
- b) Each WETC shall maintain a reasonable amount of back-up power to ensure functionality without an external power source, be able to reroute traffic around damaged facilities, and be capable of managing traffic spikes resulting from emergency situations, ~~deploy backup battery power and permanent generators at all mobile telephone switching offices (MTSOs), and sufficient backup power at each cellular tower to permit a portable generator to be timely deployed in extended power outages. MTSO batteries shall be maintained in accordance with~~

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~~Institute of Electrical and Electronic Engineers (IEEE) standards as adopted in Section 736.310(b), and records verifying such maintenance shall be kept on site.~~

(Source: Amended at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.310 Incorporation of National Codes and Standards (Repealed)

- a) ~~The Commission adopts as its rules the following portions of the NESC (1997 edition, approved June 6, 1996, published by the Institute of Electric and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017):~~
- ~~1) Section 2 (Definitions of Special Terms).~~
 - ~~2) Section 9 (Grounding Methods of Electric Supply and Communications Facilities).~~
- b) ~~The Commission adopts as its rules the following publications of the IEEE:~~
- ~~1) IEEE Std 1188-1996 (August 20, 1996), Institute of Electrical and Electronics Engineers, Inc. (IEEE), 3 Park Avenue, New York NY 10016-5997, Recommended Practice for Maintenance, Testing, and Replacement of Valve Regulated Lead Acid (VRLA) Batteries for Stationary Applications.~~
 - ~~2) IEEE Std 450-1995 (May 31, 1995), Institute of Electrical and Electronics Engineers, Inc. (IEEE), 3 Park Avenue, New York NY 10016-5997, Recommended Practice for Maintenance, Testing and Replacement of Lead Acid Batteries for Stationary Applications.~~
- e) ~~These incorporations do not include any later amendments or editions.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

SUBPART C: STANDARDS OF QUALITY OF SERVICE

Section 736.500 Adequacy of Service

Each WETC ~~shall~~will comply with the ~~applicable~~ service quality and consumer protection provisions contained in the Wireless Association[®] (CTIA) Consumer Code for Wireless Service

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~~(CTIA Code) Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service, except that compliance with Section Nine of that Code is not required by this Part.~~ The Commission adopts the version in effect on ~~September 10, 2013~~ January 25, 2007. The CTIA Code may be viewed on the Commission's web site at: <http://www.icc.illinois.gov>.

(Source: Amended at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.505 Answering Time (Repealed)

- a) ~~Operator Offices~~
 - 1) ~~Operator offices shall be staffed so that the average answer time, calculated on a monthly basis, shall not exceed ten seconds for the following types of calls:~~
 - A) ~~toll and assistance; and~~
 - B) ~~information.~~
 - 2) ~~Whenever the average answer time for either toll and assistance calls and/or information calls, calculated on a monthly basis, exceeds ten seconds, the WETC shall take corrective action and report such action to the Commission within 15 business days after the end of the month in which the violation occurred.~~
- b) ~~Business and Repair Offices~~
 - 1) ~~Business offices (during normal business hours) and repair offices shall be staffed so that the average answer time, calculated on a monthly basis, shall not exceed 60 seconds. In the case where a menu driven, automated, or interactive system is utilized to answer any such call, such system shall provide within the first menu of options, the option of transferring to a live attendant. This requirement shall apply separately to business offices and repair offices, if they are maintained separately.~~
 - 2) ~~Whenever the average answer time for either business offices or repair offices (if maintained separately), calculated on a monthly basis, exceeds 60 seconds, the WETC shall take corrective action and report such action to the~~

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~~Commission within 15 business days after the end of the month in which the violation occurred.~~

- 3) ~~WETCs shall maintain records of answer time performance at their business offices and repair offices. At a minimum, these records shall contain the following information collected on a monthly basis:~~
- ~~A) Total number of calls received;~~
 - ~~B) Total number of calls answered; and~~
 - ~~C) Average answer time.~~
- e) ~~For purposes of this Section, "average answer time" shall be calculated by dividing the total number of call waiting seconds by the total number of reported monthly calls answered.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.510 Interoffice Trunks (Repealed)

- a) ~~WETC facilities shall be engineered so that at least 98% of calls shall not encounter an All Trunks Busy (ATB) condition and at least 98% of properly dialed calls, during the busy hour, shall receive ringing signal or station busy tone on the first attempt. When the completion rate falls below 98% for three consecutive months, corrective action shall be initiated and such action reported to the Commission.~~
- b) ~~For purposes of subsection (a), the information required to be reported shall be calculated by capturing total call attempts and calls that do not encounter an ATB condition that are going through trunk groups controlled by the reporting entity during the busy hour. Calls that do not encounter an ATB condition should be divided by Total Trunk Attempts to derive the percent of calls completed without encountering an ATB.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.515 Dropped Calls and Signal Strength (Repealed)

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~~In their annual filing to the Chief Engineer, Telecommunications Division of the Commission, WETCs will provide information regarding both dropped calls and signal strength. This information should support a conclusion that planned development areas are experiencing operational problems, and that additional investment from the universal service fund will provide tangible benefit to end users.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.520 Service Outages and Notification (Repealed)

- a) ~~All WETCs shall notify the Commission that they have experienced, on any facilities that they own, operate, lease or otherwise utilize, an outage of at least 30 minutes duration:~~
- ~~1) Of a Mobile Switching Center (MSC);~~
 - ~~2) That potentially affects at least 900,000 user minutes of telephony;~~
 - ~~3) That affects at least 1,350 DS3 minutes;~~
 - ~~4) That potentially affects any special offices and facilities; or~~
 - ~~5) That potentially affects a 9-1-1 special facility, in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 9-1-1 facility as the provider's contact person for communications outages at that facility, and they shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on callers to that facility.~~
- b) ~~Each WETC shall notify the Commission of any such service interruption. The notification shall be made via telephone call to (217)558-6166 and shall consist of the following information:~~
- ~~1) Affected Area Code/Prefix;~~
 - ~~2) Company name;~~
 - ~~3) Cause of interruption;~~

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- 4) ~~Outage date and time;~~
 - 5) ~~Restoration date and time;~~
 - 6) ~~Effect on 9-1-1 service; and~~
 - 7) ~~Name and number of person reporting the service interruption.~~
- e) ~~A follow-up written report shall be provided to the Chief Engineer of the Telecommunications Division within 30 days after the service interruption, either via U.S. Postal Service, facsimile, or e-mail.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.525 Installation Requests – Failure to Provide Service (Repealed)

~~WETCs shall annually report failures to provide service. The report shall include detailed information on the number of requests for service from applicants within its designated service areas that were unfulfilled for the reporting period. The WETC shall also describe its attempts to provide service to those applicants, and any investment plans that may mitigate the problem in the future.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.530 Trouble Reports (Repealed)

- a) ~~WETC's shall annually compile and report trouble reports. The report shall provide separate totals for the number of complaints that the WETC's customers made to the FCC, as well as to its own network repair centers. The report shall also generally describe the nature of the complaints and outcome of the carrier's efforts to resolve the complaints. Trouble reports related to customer problems with handsets are not to be included in the calculation of WETC trouble reports.~~
- b) ~~For purposes of maintaining records or reporting information relating to the requirement set forth in subsection (a), the information required to be so maintained or reported shall be calculated by dividing the number of customer-initiated network trouble reports in any given month that are cleared to network dispositions, less~~

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~~handset troubles, or emergency situations, by the total number of access lines in service. The rate shall be reported on a per 1000 access line basis.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.540 Directory Notification (Repealed)

~~WETCs shall, prior to entering into a contract with a customer, or prior to the conclusion of any applicable trial period, provide a written disclosure to the customer explaining that it will not provide a telephone directory to the customer, and that the customer's telephone number will not be published in any telephone directory. Such disclosure and acknowledgment shall be made in a type face of 10 point or larger, and shall be otherwise clear and conspicuous.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

SUBPART D: OTHER WETC REQUIREMENTS

Section 736.550 Obligation to Serve (Repealed)

~~A WETC shall offer the nine services and functions that are supported by federal universal service support mechanisms, identified in the FCC's rules at 47 CFR 54.101(a) as of October 1, 2006, using either its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier), upon a reasonable request for such service. The incorporation of federal rules in this Section does not include any later amendments or editions.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.555 WETC Service Area Maps

- a) Each WETC shall ~~have on file with the Commission~~ a list of exchanges for which it is granted ETC status. This list shall identify any incumbent local exchange carrier operating in each exchange listed ~~a map of its designated ETC service area. If a WETC's Commission-defined ETC service area includes a portion of an exchange, but less than the entire exchange, then that exchange shall be included on the exchange list and shall be identified as being served "in part".~~

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- b) ~~Each WETC shall file with the Commission a map of its designated ETC service area, in accordance with the WETC's ETC designation. A map filed after the effective date of this Part shall be in accordance with the WETC's ETC designation.~~
- c) ~~Each map shall show the boundary lines of the area the WETC's WETC Commission designated ETC service area holds itself out to serve. Boundary lines shall be located by appropriate measurement to an identifiable location if that portion of the boundary line is not otherwise located on section lines, waterways, railroads, or roads. ETC service area boundaries shall be identified according to labeled rate exchange areas (exchanges) for all exchanges included in their entirety within the ETC service area. Any exchange served only in part shall have the ETC service area boundary displayed by section lines, waterways, railroads or roads for any portion of that boundary located on section lines, waterways, railroads or roads. Any portion of the boundary line not located on section lines, waterways, railroads or roads shall be displayed by appropriate measurement to an identifiable location.~~
- d) ~~The name of the WETC filing the map shall be placed at the top left cornerside of the top of the map, and the name of the exchange followed by the words "(Name of carrier) ETC Service Area Boundary Map" shall be placed at the right side of the top corner of the map. The first filing of a map shall display be designated by the word "Original" immediately placed just below the words "(Name of carrier) ETC Service Area Boundary Map". If the map is subsequently refiled, the words "First Revision Revisions" shall replace be substituted for the word "Original", and on each subsequent refiled the next higher number shall replace be substituted for the number preceding the word "Revision" on the previous last map filed. The docket number and the date of the order granting ETC Status shall also appear at the right side near the top corner of the map.~~
- e) ~~Each WETC shall maintain and make available for public inspection a map of its ETC service area consistent with all requirements of this Part.~~

(Source: Amended at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.610 Customer Billing (Repealed)

- a) ~~A WETC shall issue bills to customers on a monthly basis. Bills shall be itemized as set forth in subsection (b) of this Section.~~

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- b) ~~Itemization of charges~~
- 1) ~~All bills shall contain an itemization of charges. Itemization of every monthly billing shall include, but not be limited to:~~
 - A) ~~the phone number of the appropriate WETC business office;~~
 - B) ~~the due date of the bill; and~~
 - C) ~~the separate listing of the following:~~
 - i) ~~federal, state and local taxes, and~~
 - ii) ~~federal universal service charges.~~
 - 2) ~~Upon request, a WETC shall provide its customers with an itemization of service and equipment charges once every calendar year free of charge. This itemization shall also include the phone number of the local WETC business office that the customer may contact to receive further information concerning the service and equipment charges listed on such itemization.~~
- c) ~~Customer bills sent through the United State mail shall be in envelopes and shall include return envelopes for payment of customer bills, unless the customer has elected to pay the bill electronically.~~
- d) ~~Unbilled Service~~
- 1) ~~Bills for service supplied by a WETC must be rendered within one year of the date such service was supplied. No customer shall be liable for any amount of unbilled service after one year. A WETC is not restricted to this one year limitation on unbilled service if a WETC has reason to believe that the customer used a device or scheme to obtain service without payment and where the WETC has so notified the customer prior to disconnection.~~
 - 2) ~~When delinquency occurs following the issuance of a bill for previously unbilled service, except when the customer has avoided payment as~~

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~~described in subsection (d)(1), a WETC shall review the bill with the customer, and shall offer to accept payments toward the liquidation of the amount of unbilled service over a period mutually agreed to by the WETC and customer. This period of time shall be at least as long as the period over which the unbilled or underbilled service was provided.~~

e) Refunds

- 1) ~~In the event that a customer pays a bill as submitted by a WETC and that billing is later found to be incorrect due to an error either in charging more than the published rate, in measuring the quantity or volume of service provided, or in charging for the incorrect class of service, the WETC shall refund the overcharge from the date of overpayment by the customer.~~
- 2) ~~The refund shall be accomplished by a credit on a subsequent bill for the WETC's service, or by check if the account is final.~~
- 3) ~~Interest on any refund shall be at the rate set by the Commission pursuant to 83 Ill. Adm. Code 735.120.~~

- f) ~~If the WETC offers electronic billing, customers may elect to have their bills sent electronically. Such bills shall be transmitted with instructions for payment. Information sent electronically shall be deemed to satisfy any requirement in this Part that such information be printed or written on a customer bill. Bills rendered in accordance with this Section may be paid electronically, provided that nothing in this Section shall be construed to prevent a WETC from accepting payment electronically or by the use of a customer preferred financially accredited credit or debit methodology.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.620 Deferred Payment Agreements (Repealed)

- a) ~~Customers who are indebted to a WETC for past due service shall have the opportunity to make arrangements with the WETC to retire the delinquent amount by periodic payments referred to hereinafter as a Deferred Payment Agreement. All applicants for service and customers who have failed to make payment under a DPA during the past 12 months, who are indebted to a WETC for past due service, may have the opportunity, at the discretion of the WETC, to make~~

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~~arrangements to retire the debt by periodic payments referred to hereinafter as a Deferred Payment Agreement.~~

- b) ~~The terms and conditions of a Deferred Payment Agreement shall be determined by a WETC after consideration of the following:~~
- ~~1) size of the past due account;~~
 - ~~2) customer's or applicant's ability to pay;~~
 - ~~3) customer's or applicant's payment history;~~
 - ~~4) reasons for the delinquency; and~~
 - ~~5) any other relevant factors relating to the circumstances of the customer's or applicant's service.~~
- e) ~~The WETC shall allow the customer or applicant a minimum of four months from the date of the agreement in which to complete payment pursuant to a Deferred Payment Agreement.~~
- d) ~~A Deferred Payment Agreement shall be in writing, with a copy provided to the applicant or customer, and shall conform to the following requirements:~~
- ~~1) the applicant or customer shall be required to pay all future bills for the WETC's service by the due date; and~~
 - ~~2) the applicant or customer shall retire the delinquent amount according to the terms of the Deferred Payment Agreement.~~
- e) ~~If an applicant or customer shall default upon any payment due under the Deferred Payment Agreement, all amounts owed pursuant to the agreement become payable immediately and a WETC shall have the right to discontinue service, pursuant to proper notice.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.630 Applicants for Service (Repealed)

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- a) ~~In addition to the disclosures required in the CTIA Consumer Code for Wireless Service, incorporated into these rules in Section 736.500 above, each WETC shall disclose in collateral or other disclosures at point of sale, or conclusion of any applicable trial period, all of the services and service plans it offers customers in its ETC area, including the rates and terms and conditions of those services and service plans.~~
- b) ~~As a part of the first bill rendered for service to a new customer, a WETC shall provide the customer with a listing of all services and telephone equipment which shall be provided to that customer, with an itemization of any applicable monthly charges. If the customer notifies the WETC within 20 days after receiving his/her first bill that the customer does not desire to receive certain services or equipment, the WETC will delete such services or equipment from the customer's account. The customer shall be responsible for all monthly usage and installation charges incurred for the use of such service and equipment.~~
- e) ~~A WETC shall establish a written procedure governing requirements for establishment of credit, available upon request.~~
- d) ~~Credit Information~~
- 1) ~~If an applicant for service is unable to provide satisfactory credit information, the WETC shall offer to provide prepaid service or offer to provide service upon the payment of a deposit, pursuant to Section 736.650.~~
- 2) ~~If the verification of credit provides unsatisfactory credit information, the applicant will be informed of the reason or reasons, and if the applicant so requests, the WETC shall provide these reasons in writing to the applicant. Thereafter, the WETC may refuse to provide or continue service until the customer provides a deposit pursuant to Section 736.650. Alternatively, the WETC may offer prepaid service options~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.640 Present Customers (Repealed)

- a) ~~A WETC may request that the customer pre-pay for service or may request a deposit, pursuant to Section 736.650, from any customer during any 12 months~~

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~~that a customer receives service if the customer, during that period, pays late four times or has service discontinued for nonpayment two times.~~

- b) ~~A WETC requesting that the customer pre-pay for service or requesting a deposit for any of the reasons stated in this Section shall make such request within 45 days after the occurrence of the event giving rise to the request.~~
- e) ~~A present customer whose service is terminated for nonpayment becomes an applicant for service and will be subject to the provisions of Section 736.630 for purposes of establishing service.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.650 Deposits (Repealed)

~~Conditions under which a WETC may request a deposit from applicants for service are set out in Section 736.630.~~

- a) ~~Nothing in this Section shall prevent a WETC from offering pre-paid service options in lieu of requesting a deposit in order to provide service.~~
- b) ~~The WETC shall establish a written procedure governing the methods by which deposits shall be calculated, available upon request. The amount of the deposit may be adjusted at the request of the customer, applicant or WETC at any time when the character or degree of use of the service materially changes or when it is clearly established that the character or degree of use of the service will materially change in the immediate future. The written procedure governing the methods by which deposits shall be calculated shall be based on objective criteria and the amount of deposits requested shall be reasonably related to the expected obligation of the customer for the service options available. The estimated deposit for an applicant may take into consideration past billing history for service of another company if service was provided within the State of Illinois and within 6 months after the application.~~
- e) ~~A WETC may request that the requested deposit from any customer be paid before service is activated.~~
- d) ~~Refund of Deposits~~

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- 1) ~~Deposits plus interest shall be automatically refunded after being held for 12 months, so long as:~~
 - A) ~~the customer has paid any past due bill for service owed to the same WETC;~~
 - B) ~~service has not been discontinued for nonpayment;~~
 - C) ~~the customer has not paid late four times; or~~
 - D) ~~the WETC has not provided evidence that the customer used a device or scheme to obtain service without payment.~~
 - 2) ~~If the WETC does not return a customer's deposit after 12 months, the WETC shall provide the customer with the reasons the deposit is being retained, if the customer so requests.~~
- e) ~~Deposits plus interest shall be refunded when service has been terminated for more than 30 days, less the amount of any unpaid bills for that service. When a deposit plus interest is applied to the liquidation of unpaid bills, the WETC shall provide the customer with a statement showing the amount of the unpaid bill(s) liquidated by the deposit plus interest, and the balance remaining due either to the customer or to the WETC.~~
 - f) ~~All deposit refunds shall be by separate check and not by credit to the customer's account unless the deposit is used to pay the customer's final bill. No refund of less than \$1 need be issued. When refunds are not deliverable, records shall be maintained to show a WETC's efforts toward locating the applicant or customer, and delivering the refund.~~
 - g) ~~At the option of the WETC, a deposit plus interest may be refunded, in whole or in part, at any time earlier than the times prescribed in this Section.~~
 - h) ~~The rate of interest on deposits shall be the rate set by the Commission pursuant to 83 Ill. Adm. Code 735.120.~~
 - i) ~~At the request of a customer, the WETC shall compute the accrued interest upon the deposit and pay such amount to the customer. The WETC need not make~~

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~~such payment more often than once in a 12 month period, nor sooner than 12 months after receipt of a deposit.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.660 Discontinuance or Refusal of Service (Repealed)

- a) ~~The WETC may discontinue or refuse service for any of the following reasons listed in this subsection:~~
- ~~1) Failure to make or increase a deposit pursuant to Sections 736.630, 736.640, and 736.650;~~
 - ~~2) Failure to pay a past due bill owed to the WETC;~~
 - ~~3) Failure to make payment in accordance with the terms of a deferred payment agreement;~~
 - ~~4) When a WETC has reason to believe that a customer has used a device or scheme to obtain service without payment and where the WETC has so notified the customer prior to disconnection;~~
 - ~~5) Violation of or noncompliance with a Commission order;~~
 - ~~6) Violation of or noncompliance with any rules of the WETC for which the WETC is authorized to discontinue service for violation or noncompliance on the part of the customer or user;~~
 - ~~7) Violation of or noncompliance with municipal ordinances and/or other laws pertaining to service; or~~
 - ~~8) The customer's use of equipment adversely affects the WETC's service to others. This disconnection may be done without notice to the customer or user.~~
- b) ~~Discontinuance procedures~~
- ~~1) The WETC may discontinue service to a customer for nonpayment only after it has mailed or delivered by other means a written notice of~~

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~~discontinuance, substantially in the form of Appendix A. Service shall not be discontinued until at least five days after delivery of this notice or eight days after the date on a mailed notice. The notice of discontinuance shall be delivered separately from any other written matter or bill.~~

- 2) ~~Notice of discontinuance shall not be mailed before the third business day following the due date shown on the bill.~~
- 3) ~~Notwithstanding anything else in this Section, the WETC may immediately discontinue service to a customer when, upon investigation, it has reason to believe that a customer has used a device or scheme to obtain service without payment and the WETC has notified the customer prior to disconnection.~~
- e) ~~The notice shall remain in effect for 20 days after the date of discontinuance shown on the notice. The WETC shall not discontinue service beyond the 20-day period until at least five days after delivery of a new written notice of discontinuance or eight days after the date of a mailed notice. This provision shall not apply with respect to discontinuance pursuant to subsection (a)(4).~~
- d) ~~In addition to the written notice, the WETC shall attempt to advise the customer when service is scheduled for discontinuance. The WETC shall not deliver more than two consecutive notices of discontinuance for past due bill without engaging in collection activity with the customer.~~
- e) ~~Timing of the discontinuance~~
 - 1) ~~Services may be discontinued only during hours when a WETC has personnel on duty who are able to restore service within three hours after receipt of payment, at any standard restoration charge.~~
 - 2) ~~Each WETC shall have personnel authorized to reconnect service available until at least 5 p.m. on business days if the conditions cited as grounds for discontinuance are corrected and any restoration charge is paid.~~
- f) ~~Service shall not be discontinued, and shall be restored if discontinued, where a present customer who is indebted to the WETC enters into a payment arrangement pursuant to Section 736.620, and complies with its terms.~~

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- g) ~~Service shall not be discontinued, and shall be restored if discontinued, for any reason that is the subject of a dispute or complaint pursuant to Section 736.670 and/or 736.680 while the dispute or complaint is pending and the complainant has complied with the provisions of these Sections.~~
- h) ~~Service shall not be discontinued for an amount due the WETC that has not been included in a discontinuance notice.~~
- i) ~~Nothing in this Section shall be construed to prevent immediate discontinuance of service without notice or the refusal of service for reasons of public safety or health.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.670 Illness Provision (Repealed)

- a) ~~Certificate of Illness~~
 - 1) ~~A WETC shall postpone discontinuance of telephone service to a customer for 30 days after the date of certification by a licensed physician that discontinuance of service will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident in the customer's household.~~
 - 2) ~~Initial certification shall prohibit discontinuance of service for 30 days. Certification may be renewed by the customer for one additional 30-day period by providing another certificate to the WETC. Failure to renew the certificate shall entitle the WETC to initiate discontinuance procedures.~~
 - 3) ~~Initial certification by the certifying physician may be by telephone if written certification is forwarded within five days.~~
- b) ~~This certificate of medical emergency must be in writing on stationery that clearly sets forth the name of the doctor, hospital or medical clinic. The certificate shall show the name of the person whose illness would be aggravated, the nature of the medical emergency, and the name, title and signature of the licensed physician certifying the medical emergency.~~

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- e) ~~Within the first 30 days, the customer must enter into a Deferred Payment Agreement for the retirement of the unpaid balance of the account and keep the current account paid during the period that the unpaid balance is to be retired.~~
- d) ~~In the event service is discontinued within 10 days prior to certification of illness by or for a qualifying resident, service shall be restored to that residence if a proper certification is thereafter made in accordance with the provisions of this Section.~~
- e) ~~Notice of discontinuance of service sent to residential customers shall include a notice substantially in the form of Appendix B.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.680 Payment for Service (Repealed)

- a) ~~Payment to the WETC shall be made by the due date shown on the monthly bill and shall be by check, draft or other negotiable instrument denominated in U.S. dollars acceptable to the WETC or in United States currency, provided that nothing in this Section shall be construed to prevent a WETC from accepting payment electronically or by the use of a customer preferred financially accredited credit or debit methodology.~~
- b) ~~If the customer remits to the WETC on more than one occasion during a 12 month period a check, draft or other instrument that is dishonored, the WETC may refuse acceptance of further checks and place the customer on a "cash" basis. Under a "cash" basis, the WETC may refuse acceptance of anything as payment other than United States currency, U.S. Postal Service money orders, or an instrument denominated in U.S. dollars and guaranteed by or issued by a third party acceptable to the WETC. The WETC shall advise the customer in writing of the restriction and of the various options available in paying by "cash". The WETC may also offer prepaid service options.~~
- e) ~~Receipt of a subsequently dishonored negotiable instrument in response to a notice of discontinuance shall not constitute payment of a customer's account and no WETC shall be required to issue additional notice prior to discontinuance. However, three business days must be allowed for redemption of such instrument.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

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Section 736.685 Past Due Bills (Repealed)

- a) ~~The due date printed on the monthly bill shall not be less than 21 days after the date on the bill, if mailed, or the date of delivery as shown on the bill if delivered by other means.~~
- b) ~~Payment made in person at the WETC's office or authorized agent shall be deemed received the date payment is made.~~
- c) ~~Payment made in the WETC's night depository, if any, shall be deemed received on the next full business date.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.690 Service Restoration Charge (Repealed)

- a) ~~When service has been discontinued pursuant to Section 736.660, the WETC may charge and collect a restoration charge, if any, set forth in its terms and conditions of service contained in the contract between the WETC and the customer.~~
- b) ~~When service has been discontinued for nonpayment and payment has not been received or satisfactory payment arrangements have not been made for a period of ten calendar days, the WETC may consider the service terminated. Restoration may be considered as a new activation if payment has not been received within ten days, at the WETC's option.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.695 Dispute Procedures (Repealed)

- a) ~~The WETC shall make available at each of its offices where it transacts business with the public a customer service representative authorized to hear any dispute by an applicant, customer or user. Such personnel shall consider the complainant's allegations and shall explain the complainant's account and the WETC's assertions in connection therewith. Such personnel shall be authorized to act on behalf of the WETC in resolving the complaint and shall be available during all business hours for this duty.~~

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- b) ~~The WETC shall direct its personnel engaged in personal contact with an applicant, customer, or user in the WETC service area seeking dispute resolution under the provisions of this Part to inform the person of his/her right to have the problem considered and acted upon by supervisory personnel of the WETC when any dispute cannot be resolved. The WETC shall further direct supervisory personnel to inform the applicant, complainant, or user who expresses non-acceptance of the decision of the supervisory personnel of his/her right to have the problem, if arising under this Part, reviewed by the Commission and shall furnish them with the telephone number and address of the Consumer Services Division of the Illinois Commerce Commission.~~
- e) ~~When a customer disputes a particular bill, the WETC shall not discontinue service for nonpayment so long as the customer:~~
- ~~1) pays the undisputed portion of the bill;~~
 - ~~2) pays all future periodic bills by the due date; and~~
 - ~~3) enters into discussions with the WETC to settle the dispute with dispatch.~~
- d) ~~No late payment charge shall be charged on any disputed bill paid within 14 days after resolution of the dispute if the complaint was filed before the bill became past due.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.700 Commission Complaint Procedures (Repealed)

- a) ~~Before the Commission will allow the filing of a formal complaint by a WETC applicant, customer, user or WETC an informal complaint shall be filed with the Commission's Consumer Services Division.~~
- b) ~~The informal complaint:~~
- ~~1) should be in writing but may be initiated by telephone or in person at the offices of the Commission; and~~
 - ~~2) shall provide the following information to the Commission:~~

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- A) ~~the name, address and telephone number of the applicant, customer, or user;~~
 - B) ~~the name of the WETC involved;~~
 - C) ~~the nature of the complaint in a clear and concise manner, and~~
 - D) ~~the specific relief requested.~~
- e) Upon receipt of the informal complaint, the Consumer Services Division shall:
- 1) ~~advise the WETC complained of that a complaint has been filed against it; the party complained of must respond to the Consumer Services Division within 14 days;~~
 - 2) ~~review and investigate the complaint;~~
 - 3) ~~advise the parties of the results of the investigation within a reasonable time not to exceed 14 days following receipt of a complete response from the WETC. By agreement of the parties and the Consumer Services Division, these time limits may be extended.~~
- d) ~~Service shall not be discontinued for the reason that is the subject of the complaint during the pendency of any proceeding (formal/informal) before the Commission pursuant to the provisions of this Section so long as the customer has complied with the provisions of Section 736.695(c).~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.705 Second Language (Repealed)

~~Where there is a demonstrated need for second language notices in the service area of any WETC, as determined by the Commission on the basis of census figures, the community area involved, and customer complaints and requests for such notice, notices as set out in Appendices A and B shall be sent to customers located within the area and contain the following warning in the appropriate second language: "Important—This notice affects your rights and obligations and should be translated immediately. If you cannot find a person to translate for you, call your service provider immediately."~~

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(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

Section 736.710 Customer Information Booklet (Repealed)

~~A customer information booklet that contains a WETC's credit and collection practices shall be made available on the WETC's website, provided to all applicants for service, and shall be available at all business offices.~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

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Section 736.APPENDIX A Notice of Discontinuance of Service (Repealed)

~~IMPORTANT! READ THIS IMMEDIATELY~~

~~WETC NAME _____ CUSTOMER _____~~

~~ADDRESS _____~~

~~CITY, STATE, ZIP _____~~

~~PHONE # _____ ACCOUNT # _____~~

~~YOUR _____ (WETC) SERVICE WILL BE DISCONTINUED ON OR~~

~~AFTER _____ (Date) BECAUSE:~~

~~YOU OWE \$ _____ IN PAST DUE BILLS~~

~~YOU OWE \$ _____ FOR A DEPOSIT FOR TELEPHONE SERVICE~~

~~OTHER _____ (Specify)~~

~~TO AVOID DISCONTINUANCE OF _____ (WETC) SERVICE, YOU MUST~~

~~PAY \$ _____ BEFORE _____ (Date)~~

~~*** If you cannot pay the whole amount now, you may be able to get a payment plan with _____ (WETC Name) . Call us at Phone # _____ for more information.~~

~~*** _____ (WETC Name) has employees on duty from _____ A.M. to _____ P.M. to answer your questions or listen to your complaints. If you do not understand why you owe this money, or if you think there has been a mistake, call _____ (WETC Name) at Phone # _____ , as soon as possible. If the person you talk to cannot help you, ask to talk to a supervisor. If the supervisor cannot help you, call the Consumer Services Division of the Illinois Commerce Commission at 800-524-0795. Call before you are Discontinued!~~

~~*** IMPORTANT: If your services are Discontinued, you will have to pay \$ _____ before your service will be turned on again.~~

~~(Printed on Red Paper)~~

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~~Reverse Side (Printed on Red Paper)~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

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Section 736.APPENDIX B Requirements to Avoid Shutoff of Service in the Event of Illness (Repealed)

~~IF DISCONTINUANCE OF SERVICE WILL AGGRAVATE OR CREATE A MEDICAL EMERGENCY FOR A RESIDENT OF YOUR HOUSEHOLD, WE WILL NOT DISCONTINUE YOUR SERVICE.~~

WHAT YOU MUST DO:

~~YOU MUST CONTACT A PHYSICIAN OR LOCAL BOARD OF HEALTH. THEY MUST CALL _____ (WETC-Name) AT _____ (Phone) RIGHT AWAY. THEY ALSO MUST SEND A WRITTEN CONFIRMATION, SIGNED BY A PHYSICIAN, TO THE COMPANY WITHIN 5 DAYS THAT CONTAINS THE FOLLOWING INFORMATION:~~

~~Name of the person. A statement that the person is a resident of the premises in question; the name, business address and telephone number of the certifying physician; the nature of the illness; the period of time during which discontinuance of telephone WETC service will aggravate the illness.~~

HOW LONG IS THE CERTIFICATION VALID?

~~THE CERTIFICATION IS VALID FOR ONE MONTH. IT CAN ALSO BE RENEWED FOR ONE MONTH IF THE PHYSICIAN WRITES TO THE COMPANY AGAIN. IF THE CERTIFICATION IS NOT RENEWED, YOUR TELEPHONE SERVICE MAY BE DISCONTINUED AFTER THE FIRST MONTH.~~

~~FOR MORE INFORMATION CALL _____ (WETC-Name) AT _____ (Phone) OR CALL:~~

~~CONSUMER SERVICES DIVISION~~

~~ILLINOIS COMMERCE COMMISSION~~

~~800-524-0795~~

(Source: Repealed at 38 Ill. Reg. 21064, effective October 23, 2014)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985
- 2) Code Citation: 68 Ill. Adm. Code 1175
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1175.100	Amendment
1175.105	Amendment
1175.110	Amendment
1175.115	Amendment
1175.220	Amendment
1175.230	Amendment
1175.235	Amendment
1175.300	Amendment
1175.305	Amendment
1175.320	Amendment
1175.325	Amendment
1175.330	Amendment
1175.335	Amendment
1175.345	Amendment
1175.350	Amendment
1175.360	Amendment
1175.365	Amendment
1175.370	Amendment
1175.375	New Section
1175.420	Amendment
1175.430	Amendment
1175.435	Amendment
1175.500	Amendment
1175.505	Amendment
1175.520	Amendment
1175.530	Amendment
1175.535	Amendment
1175.536	Amendment
1175.545	Amendment
1175.550	Amendment
1175.560	Amendment
1175.565	Amendment
1175.570	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1175.720	Amendment
1175.730	Amendment
1175.735	Amendment
1175.800	Amendment
1175.805	Amendment
1175.810	Amendment
1175.825	Amendment
1175.835	Amendment
1175.840	Amendment
1175.841	Amendment
1175.850	Amendment
1175.855	Amendment
1175.865	Amendment
1175.870	Amendment
1175.875	Amendment
1175.1030	Amendment
1175.1035	Amendment
1175.1100	Amendment
1175.1105	Amendment
1175.1110	Amendment
1175.1125	Amendment
1175.1135	Amendment
1175.1140	Amendment
1175.1141	Amendment
1175.1150	Amendment
1175.1165	Amendment
1175.1170	Amendment
1175.1175	Amendment
1175.1300	Amendment
1175.1430	Amendment
1175.1435	Amendment
1175.1500	Amendment
1175.1505	Amendment
1175.1510	Amendment
1175.1525	Amendment
1175.1550	Amendment
1175.1570	Amendment
1175.1575	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 4) Statutory Authority: Implementing the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 [225 ILCS 410] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) Effective Date of Rule: November 7, 2014
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: July 7, 2014; 38 Ill. Reg. 13595
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: There are no substantive differences between the Proposed and Adopted versions.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter 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: This adopted rulemaking implements PA 97-777 which authorized cosmetology schools to offer barbering programs. It provides greater flexibility for smaller barber schools in regards to minimum work space requirements. It also modernizes physical site requirements for all schools to reflect current teaching methods and curriculum and provides for electronic storage of student records. The adopted rulemaking authorizes barber schools to offer internship programs as part of their educational program. It also clarifies that salon registration requirements apply to any physical location dedicated to providing cosmetology, esthetics, nail technology, hair braiding, or barbering services.
- 16) Information and questions regarding this adopted rule shall be directed to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1175
THE BARBER, COSMETOLOGY, ESTHETICS, HAIR BRAIDING,
AND NAIL TECHNOLOGY ACT OF 1985

SUBPART A: GENERAL

Section	
1175.100	Fees
1175.105	English Translations
1175.110	Granting Variances
1175.115	Sanitary Standards

SUBPART B: BARBER

Section	
1175.200	Examination – Barber
1175.205	Examination – Barber Teacher
1175.210	Examination Requirements
1175.215	Application for Licensure
1175.220	Endorsement
1175.225	Renewals
1175.230	Restoration – Barber
1175.235	Restoration – Barber Teacher

SUBPART C: BARBER SCHOOLS

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1175.300	School Approval Application
1175.305	Physical Site Requirements
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1175.320	Recordkeeping – Transcripts
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1175.330	Curriculum Requirements – Barber
1175.335	Curriculum Requirements – Barber Teacher

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1175.340	Final Examination
1175.345	Change of Ownership
1175.350	Change of Location
1175.355	Change of Name
1175.360	Expansion
1175.365	Discontinuance of Program
1175.370	Withdrawal of Approval
<u>1175.375</u>	<u>Cosmetology Schools Approved to Teach Barbering</u>

SUBPART D: COSMETOLOGY

Section

1175.400	Examination – Cosmetology
1175.405	Examination – Cosmetology Teacher and Cosmetology Clinic Teacher
1175.410	Examination Requirements
1175.415	Application for Licensure
1175.420	Endorsement
1175.425	Renewals
1175.430	Restoration – Cosmetology
1175.435	Restoration – Cosmetology Teacher

SUBPART E: COSMETOLOGY SCHOOLS

Section

1175.500	School Approval Application
1175.505	Physical Site Requirements
1175.510	Enrollment Agreements and Refund Policies
1175.515	Advertising
1175.520	Recordkeeping – Transcripts
1175.525	Recordkeeping – Hours Earned
1175.530	Curriculum Requirements – Cosmetology
1175.535	Curriculum Requirements – Cosmetology Teacher
1175.536	Curriculum Requirements – Cosmetology Clinic Teacher
1175.540	Final Examination
1175.545	Change of Ownership
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1175.560	Expansion
1175.565	Discontinuance of Program

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1175.570 Withdrawal of Approval

SUBPART F: CONTINUING EDUCATION –
COSMETOLOGY/COSMETOLOGY TEACHER

Section

1175.600 Sponsor Approval (Repealed)
1175.605 Department Supervision (Repealed)
1175.610 Credit Hours (Repealed)
1175.615 Waiver of Continuing Education Requirements (Repealed)

SUBPART G: ESTHETICS

Section

1175.700 Examination – Esthetics
1175.705 Examination – Esthetics Teacher
1175.710 Examination Requirements
1175.715 Application for Licensure
1175.720 Endorsement
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1175.730 Restoration – Esthetics
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SUBPART H: ESTHETICS SCHOOLS

Section

1175.800 Esthetics School Application
1175.805 Cosmetology Schools Approved to Teach Esthetics
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1175.815 Enrollment Agreements and Refund Policy
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1175.825 Recordkeeping – Transcripts
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1175.835 Curriculum Requirements – Esthetics
1175.840 Curriculum Requirements – Esthetics Teacher
1175.841 Curriculum Requirements – Esthetics Clinic Teacher
1175.845 Final Examination
1175.850 Change of Ownership
1175.855 Change of Location

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1175.860	Change of Name
1175.865	Expansion
1175.870	Discontinuance of Program
1175.875	Withdrawal of Approval

SUBPART I: CONTINUING EDUCATION – ESTHETICIAN/ESTHETICS TEACHER

Section

1175.900	Sponsor Approval (Repealed)
1175.905	Department Supervision (Repealed)
1175.910	Credit Hours (Repealed)
1175.915	Waiver of Continuing Education Requirements (Repealed)

SUBPART J: NAIL TECHNOLOGY

Section

1175.1000	Application for Licensure under Sections 3C-4 and 3C-5 of the Act (Grandfather) (Repealed)
1175.1001	Examination – Nail Technician
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1175.1010	Examination
1175.1015	Application for Licensure
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1175.1025	Renewals
1175.1030	Restoration – Nail Technician
1175.1035	Restoration – Nail Technology Teacher

SUBPART K: NAIL TECHNOLOGY SCHOOLS

Section

1175.1100	Nail Technology School Application
1175.1105	Cosmetology Schools Approved to Teach Nail Technology
1175.1110	Physical Site Requirements
1175.1115	Enrollment Agreements and Refund Policies
1175.1120	Advertising
1175.1125	Recordkeeping – Transcripts
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1175.1135	Curriculum Requirements – Nail Technology
1175.1140	Curriculum Requirements – Nail Technology Teacher

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1175.1141	Curriculum Requirements – Nail Technology Clinic Teacher
1175.1145	Final Examination
1175.1150	Change of Ownership
1175.1155	Change of Location
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SUBPART L: CONTINUING EDUCATION

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1175.1200	Sponsor Approval
1175.1205	Division Supervision
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SUBPART M: SALON OR SHOP REGISTRATION

Section	
1175.1300	Application for a Barber Shop or Cosmetology, Nail Technology, Hair Braiding or Esthetics Salon Certificate of Registration

SUBPART N: HAIR BRAIDING

Section	
1175.1400	Requirements for Licensure under Article III E of the Act (Grandfather)
1175.1405	Application for Licensure – Hair Braider
1175.1410	Application for Licensure – Hair Braiding Teacher
1175.1420	Renewals
1175.1430	Restoration – Hair Braider
1175.1435	Restoration – Hair Braiding Teacher

SUBPART O: HAIR BRAIDING SCHOOLS

Section	
1175.1500	Hair Braiding School Application
1175.1505	Cosmetology Schools Approved to Teach Hair Braiding
1175.1510	Physical Site Requirements

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1175.1515	Enrollment Agreements and Refund Policies
1175.1520	Advertising
1175.1525	Recordkeeping – Transcripts
1175.1530	Recordkeeping – Hours Earned
1175.1535	Curriculum Requirements – Hair Braiding
1175.1540	Curriculum Requirements – Hair Braiding Teacher
1175.1545	Final Examination
1175.1550	Change of Ownership
1175.1555	Change of Location
1175.1560	Change of Name
1175.1565	Expansion
1175.1570	Discontinuance of Program
1175.1575	Withdrawal of Approval

AUTHORITY: Implementing the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 [225 ILCS 410] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 12 Ill. Reg. 20488, effective November 29, 1988; emergency amendments at 13 Ill. Reg. 6810, effective April 10, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15034, effective September 7, 1989; amended at 14 Ill. Reg. 14090, effective August 20, 1990; amended at 16 Ill. Reg. 13276, effective August 18, 1992; amended at 18 Ill. Reg. 4856, effective March 14, 1994; amended at 21 Ill. Reg. 7277, effective May 29, 1997; amended at 23 Ill. Reg. 5749, effective April 30, 1999; amended at 27 Ill. Reg. 19293, effective December 11, 2003; amended at 30 Ill. Reg. 9503, effective May 10, 2006; amended at 35 Ill. Reg. 1888, effective January 20, 2011; amended at 35 Ill. Reg. 14983, effective September 9, 2011; amended at 38 Ill. Reg. 21098, effective November 7, 2014.

SUBPART A: GENERAL

Section 1175.100 Fees

- a) Licensure fees for cosmetologists, barbers, estheticians, hair braiders, nail technicians, cosmetology teachers, cosmetology clinic teachers, barber teachers, esthetics teachers, esthetics clinic teachers, hair braiding teachers, nail technology teachers and nail technology clinic teachers are:
 - 1) License. The fee for a license is \$30 and is to be submitted with the application.

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- 2) Examination. Applicants for any examination shall be required to pay, either to the Department of Financial and Professional Regulation – Division of Professional Regulation (Division) or to the designated testing service, a fee covering the cost of providing the examination.
 - 3) Renewal. The fee for renewal of a license shall be calculated at the rate of \$25 per year.
 - 4) Restoration. The fee for restoration of a license is \$50 plus payment of all lapsed renewal fees.
 - 5) Restoration From Inactive Status. The fee for restoration of a license from inactive status is the current renewal fee.
 - 6) Endorsement. The fee for a license for a cosmetologist, barber, esthetician, hair braider, nail technician, cosmetology teacher, barber teacher, esthetics teacher, hair braiding teacher, or nail technology teacher licensed under the laws of another jurisdiction is \$45.
- b) Licensure fees for cosmetology schools, barber schools, esthetics schools, hair braiding schools or nail technology schools are:
- 1) License. The fee for a license is \$150 plus the cost of inspection (\$50).
 - 2) Change of Ownership. The fee for a license resulting from a change of ownership is \$150 plus the cost of inspection (\$50).
 - 3) Change of Location. The fee for a license resulting from a change of location is \$150 plus the cost of inspection (\$50).
 - 4) Change of Name. The fee for a license resulting from a change of name is \$20.
 - 5) Renewal. The fee for renewal of a license shall be calculated at \$100 per year.
 - 6) Expansion. The fee for on-site and off-site expansion is \$50.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 7) Cosmetology School Approval to Teach Esthetics. The fee for approval to upgrade to teach esthetics shall be the cost of the inspection (\$50).
 - 8) Cosmetology School Approval to Teach Nail Technology. The fee for approval to upgrade to teach nail technology shall be the cost of the inspection (\$50).
 - 9) Cosmetology School Approval to Teach Hair Braiding. The fee for approval to upgrade to teach hair braiding shall be the cost of the inspection (\$50).
 - 10) Cosmetology School Approval to Teach Barbering. The fee for approval to upgrade to teach barbering shall be the cost of the inspection (\$50).
- c) Salon Fees
- 1) Registration. The fee for registration of a barber shop or cosmetology, nail technician, hair braiding or esthetics salon (salon) is \$40.
 - 2) Change of Name. The fee for changing the name or address of a registered barber shop or salon is \$20.
 - 3) Renewal. The fee for renewal of a registration for a barber shop or salon is calculated at \$20 per year.
- d) Sponsor Fees
- 1) Registration. The fee for registration as a continuing education sponsor shall be \$500.
 - 2) Renewal. The fee for renewal as a continuing education sponsor shall be \$250 every two years. If a sponsor allows the registration to lapse, he/she will be required to submit \$500 to restore the registration.
 - 3) State agencies, State colleges and State universities in Illinois who are approved as continuing education sponsors shall be exempt from registration and renewal fees.
- e) General Fees

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- 1) Duplicate/Replacement. The fee for the issuance of a duplicate or replacement license is \$20.
- 2) Change of Name or Address. The fee for issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no license is issued.
- 3) Certification of Record. The fee for certification of a licensee's record for any purpose is \$20.
- 4) Wall Certificate. The fee for a wall certificate showing licensure is the actual cost of producing such a certificate.
- 5) Roster. The fee for a roster of persons licensed as cosmetologists, cosmetology teachers, cosmetology clinic teachers, barbers, barber teachers, estheticians, esthetics teachers, esthetics clinic teachers, nail technicians, nail technology teachers, nail technology clinic teachers, hair braiders, hair braiding teachers, cosmetology schools, esthetics schools, nail technology schools, hair braiding schools, barber schools, and shops and salons is the actual cost of producing ~~such~~ a roster.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.105 English Translations

Any document submitted to the Division, in accordance with the Barber, Cosmetology, Esthetics, [Hair Braiding](#), and Nail Technology Act of 1985 (the Act) [225 ILCS 410] and this Part, in a foreign language must be accompanied by an original, notarized English translation. The translator must be fluent in both English and the foreign language and must certify to the accuracy of the translation.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.110 Granting Variances

- a) The Director of the Department of Financial and Professional Regulation-Division of Professional Regulation (Director) may grant variances from this Part

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in individual cases where he/she finds that:

- 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be substantially injured by granting the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director of the Division shall notify the Barber, Cosmetology, Esthetics, Hair Braiding and Nail Technology Board (Board) of the granting of ~~the such~~ variance, and the reasons for the variance~~therefor~~, at the next meeting of the Board.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.115 Sanitary Standards

The sanitary standards set forth in this Section shall be followed by all licensees as appropriate to their practice. Failure to comply with these standards shall be considered unprofessional conduct and may be determined to be a violation pursuant to Section 4-7 of the Act.

- a) Definitions
 - 1) "Clean" means free of soil, dust, contaminants or impurities, or recently laundered and unused, or the removal of soil, dust, etc., by washing, sweeping, clearing away, or any other appropriate method
 - 2) "Disinfect" means the use of a chemical agent that eliminates harmful bacteria, fungi and viruses on surfaces.
 - 3) "Disinfectant" means a chemical agent that eliminates harmful bacteria, fungi and viruses.
 - 4) "Hospital Grade Disinfectant" means a disinfectant that is registered with the Environmental Protection Agency (EPA) as a hospital-level disinfectant and that performs the functions of bactericides (kill harmful bacteria), virucides (kill pathogenic viruses), and fungicides (destroy fungus).

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b) Sanitary Requirements

- 1) Adequate disinfecting or sterilizing equipment shall be maintained for the number of licensees, usage requirements, and volume of business.
- 2) All disinfecting agents shall be kept at adequate strengths to maintain effectiveness, be free of residue and be available for immediate use at all times the salon or shop is open for business.
- 3) All tools, implements and items that come in direct contact with a client shall be cleaned and disinfected or disposed of after use on each client.
- 4) All non-disposable manicure tools and implements shall be cleaned and disinfected with a hospital grade disinfectant after use on each client.
- 5) All items designed to be disposed of after a single use, such as orangewood sticks, cotton, gauze, neck strips, nail wipes, tissues, sponges, paper towels, wooden applicators and spatulas, emery boards or porous nail files, buffer blocks, pumice stones, sanding bands or sleeves and disposable nail bits shall be disposed of after each use.
- 6) New and/or disinfected and cleaned tools shall be stored separately from all others.
- 7) Manicure tables, work stations and facial chairs shall be cleaned and disinfected with a hospital grade disinfectant before and after serving each client.
- 8) Head rests of any chair shall be protected with a disposable cover and changed after each use, or a clean washable towel may also be used.
- 9) Items subject to cross-contamination by re-dipping into a multi-use container, such as creams, cosmetics, astringents, lotions, removers, waxes, moisturizers, masks and oils used within a field of practice, shall be dispensed from containers to prevent contamination of the unused portion. Any product that becomes contaminated shall be discarded after use on that particular client.

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- 10) Paraffin wax must be used in ~~such~~ a manner that prevents contamination of wax remaining in the paraffin bath or container, such as application with a single use or sanitized spatula or applicator, or disposal of any used wax. Paraffin must be covered when not in use and maintained at a temperature specified by the manufacturer's instructions.
- 11) All articles that come in direct contact with the client's skin that cannot be cleaned or disinfected shall be disposed of immediately after use.
- 12) All clean towels shall be kept in a closed or covered space.
- 13) All clean or disposable esthetics sheets, gowns and head coverings shall be kept in a closed or covered space.
- 14) Licensees shall observe and follow thorough hand washing with soap and water or any equally effective cleansing solution or waterless hand sanitizer before and after serving each client.
- 15) Licensees shall ensure that each client's hands or feet are washed with soap and water or waterless hand sanitizer prior to performing any manicuring or pedicuring services.
- 16) The use of nail products or the distribution of nail products containing monomer Methyl Methacrylate (MMA) is prohibited.
- 17) Clean towels shall be used for each client.
- 18) Clean or disposable esthetics sheets, gowns and head coverings shall be used for each client.
- 19) A neck strip or towel shall be placed around the client's neck and changed after each use to prevent direct contact between a common use hair cloth or cape and the client's skin.
- 20) Hair clippings shall not be allowed to accumulate and shall be disposed of in a covered container.
- 21) Floor surfaces shall be kept clean, orderly and in good repair.

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- 22) Storage drawers for clean tools and implements shall be clean, free of hair and used only for clean tools and implements.
- 23) All soiled towels shall be kept in a covered container. Containers shall be large and sturdy enough to store soiled items, towels or linens after use.
- 24) Shampoo bowls and sinks shall be clean and free of hair and residue after each use.
- 25) Equipment, mirrors, lights and similar closures, furnishings, attached equipment, decorative materials and fixtures shall be kept clean and in good repair.
- 26) Walls, doors, windows and ceilings shall be clean and free of excessive spots, mildew, condensation or peeling paint.
- 27) Storage cabinets, work stations and vanities shall be kept clean.
- 28) Roller-storage receptacles and contents shall be clean and free of hair and residue.
- 29) Outer surfaces of waste disposal containers shall be kept clean.
- 30) All salons and shops shall provide adequate ventilation as required by the city, county or municipality to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes.
- 31) All salons and shops shall provide a safe and adequate supply of continuous hot and cold running water from an approved source (see Illinois Plumbing Code (77 Ill. Adm. Code 890)). Sinks located in the restroom do not qualify as a water source.
- 32) Licensees shall have immediate access to a supply of hot and cold running water.
- 33) No owner or manager of a salon or shop shall knowingly permit any person suffering from a serious communicable disease, as defined in 77 Ill. Adm. Code 690, to work on the premises.

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- 34) No licensee shall be required or permitted to massage any surface of the skin or scalp where the skin is inflamed or where a skin infection or eruption is present.
 - 35) No licensee shall be required or permitted to work upon a person suffering from a serious communicable disease, as defined in 77 Ill. Adm. Code 690.
 - 36) Pets or other animals shall not be permitted in a salon or shop at any time. This prohibition does not apply to an animal assistant for the physically impaired.
- c) **Pedicure Equipment Cleaning and Disinfecting Procedures**
The following procedures, as developed by the International Nail Technicians Association, shall be followed for all pedicure equipment, such as whirlpool pedicure foot spas, self-contained foot basins, sinks and pedicure bowls:
- 1) After each client:
 - A) Drain all water from the foot spa, pedicure basin or bowl;
 - B) Clean the interior surfaces and walls of the foot spas or basin with soap or detergent to remove all visible debris; rinse with clean, clear water;
 - C) Disinfect by spraying the interior surface of the foot basin or bowl with either an EPA-registered disinfectant (demonstrated bactericidal, fungicidal, and virucidal activity used according to manufacturer's instructions), or 10% bleach solution; and
 - D) Wipe dry.
 - 2) At the end of every day, after the last client:
 - A) Perform the procedures of subsection (c)(1);
 - B) Remove the screen from whirlpool basin. All debris trapped behind the screen of each foot spa shall be removed with a brush

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and soap or detergent; then the screen and the inlet shall be cleaned to remove all visible debris with soap or detergent and water;

C) Before replacing the screen, totally immerse the screen in either an EPA-registered disinfectant or 10% bleach solution;

D) Fill the basin with warm water and low-sudsing soap, turn the system on and flush the spa system for 5 minutes, then rinse and drain.

3) Once every week:

A) Repeat the procedures of subsection (c)(2); then fill the foot spa or basin with cold water and one tablespoon of 5.25% liquid household bleach (or the equivalent) for each one gallon of water based on the capacity of unit;

B) Turn unit on and circulate the bleach solution through the system for 5 to 10 minutes; turn unit off;

C) Let the bleach solution sit in the spa or pedicure basin overnight (at least 6-10 hours);

D) The following morning, and before the first client, drain bleach solution;

E) Fill the basin with clean water, turn the system on and flush the system with clean water and drain.

4) Logs:

Make a record of the date and time of the weekly cleaning and disinfecting. The record for the last 90 days shall be readily accessible and available upon client or inspector request. Separate logs for weekly and daily procedures are needed but may be kept in the same document log.

d) Devices/Equipment

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- 1) All manual or mechanical devices and equipment used in the practice of barbering, cosmetology, esthetics, [hair braiding](#) or nail technology must meet all "product registration requirements" imposed by any federal, State, county or local authority.
 - 2) All manual or mechanical devices or equipment used in the practice of barbering, cosmetology, esthetics, [hair braiding](#) or nail technology must be used in accordance with the "product safety requirements" imposed by any federal, State, county or local authority.
 - 3) Each licensee must verify, maintain, or be able to access documentation related to any device classified by the FDA that is used in the practice of barbering, cosmetology, esthetics, [hair braiding](#) or nail technology.
 - 4) Licensees may not use any manual or mechanical device or equipment unless the use is part of the delivery of services within the licensee's scope of practice and is consistent with the manufacturer's intended use of the device and with client health and safety.
- e) **Compliance with All Applicable Regulations**
Owners or managers of a salon or shop and licensees shall observe and be subject to all Illinois Department of Public Health, as well as other city, county and State, regulations pertaining to public health and safety. Compliance with building, State fire, plumbing, and electrical regulations is also required.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART B: BARBER

Section 1175.220 Endorsement

- a) An applicant who is currently licensed as a barber in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
 - 1) A certification from the state of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and

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- B) Whether the applicant's file contains any record of disciplinary actions taken or pending;
- 2) Official transcripts from the school attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
 - 3) Certification of current licensure if other than original licensure;
 - 4) Two completed Verification of Employment forms showing at least 3 years of lawful practice in another jurisdiction if:
 - A) the jurisdiction of original licensure does not require a licensing examination or has not provided an examination score; or
 - B) the applicant is applying under Section 2-4a of the Act;
 - 5) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;
 - 6) The required fee set forth in Section 1175.100; and
 - 7) A copy of the jurisdiction's licensing statute applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- b) An applicant who is currently licensed as a barber teacher in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
- 1) A certification from the state of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and

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- B) Whether the applicant's file contains any record of disciplinary action taken or pending;
- 2) Official transcripts from the school attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
 - 3) Certification of current licensure if other than original licensure;
 - 4) Two Verification of Employment forms shall be submitted by the applicant who completed at least 500 hours of teacher training but less than 1000 hours. A barber teacher applicant shall verify 3 years of lawful practice as a barber;
 - 5) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;
 - 6) A copy of the applicant's barber license or verification from the licensing authority that the applicant has the ability to practice barbering with a barber teacher license;
 - 7) The required fee set forth in Section 1175.100; and
 - 8) A copy of the jurisdiction's licensing statute applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- c) An applicant for licensure as a barber who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as a barber. To obtain credit for work experience, the applicant must submit verification of employment on forms provided by the Division in support of the work experience. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.
- d) An applicant applying for licensure as a barber or barber teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall

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not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination. The successful completion of the substantially equivalent examination must occur after the most recently failed examination attempt in Illinois. An applicant may be required to appear before the Board to answer questions about any examination taken by the applicant. The Board may recommend the completion of additional education by an applicant prior to licensure.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.230 Restoration – Barber

- a) A person applying for restoration of his/her license as a barber that has been expired for less than 5 years shall submit an application on forms provided by the Division and the required fee set forth in Section 1175.100. If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of his/her license as a barber that has been expired for 5 years or more shall submit an application on forms provided by the Division along with:
 - 1) Verification of employment as a barber in another jurisdiction within the 5 years preceding application for restoration;
 - 2) Certification of licensure from the licensing authority in the jurisdiction of employment;
 - 3) A completed Restoration Questionnaire;
 - 4) The required fee set forth in Section 1175.100; or
 - 5) If restoring from active military service, a copy of the applicant's DD-214 and the current renewal fee.
- c) An applicant for restoration under subsection (b) who is unable to comply with one or both of subsections (b)(1) and (2) who has not maintained a practice in another jurisdiction shall ~~also~~ submit official transcripts showing successful

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completion of a 250 hour refresher course from a licensed barber or cosmetology school or successful completion of the examination set forth in Section 1175.210 within 2 years before application for restoration. An applicant shall comply with the remaining requirements of subsection (b).

- d) If an applicant takes and fails the examination, the license will not be restored until ~~such time as~~ he/she has successfully completed the examination.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.235 Restoration – Barber Teacher

- a) A person applying for restoration of a license as a barber teacher that has been expired for less than 5 years shall file an application, on forms provided by the Division, and the required fee. If restoring after active military service, the applicant shall submit a copy of the applicant's DD-214 and the current renewal fee.
- b) A person applying for restoration of a license as a barber teacher that has been expired for 5 years or more shall submit an application on forms provided by the Division, along with:
- 1) Verification of employment as a barber teacher in another jurisdiction within the 5 years preceding application for restoration;
 - 2) A certification of licensure from the appropriate licensing authority in the jurisdiction of employment;
 - 3) A completed Restoration Questionnaire ;
 - 4) The required fee set forth in Section 1175.100; or
 - 5) If restoring after active military service, a copy of the applicant's DD-214 form and the current renewal fee.
- c) An applicant for restoration under subsection (b) who is unable to comply with one or both of subsections (b)(1) and (2)~~who has not maintained an active teaching practice in another jurisdiction~~ shall ~~also~~ submit official transcripts showing successful completion of a 250 hour barber teacher refresher course or

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successful completion of the examination set forth in Section 1175.210 within 2 years after applying for restoration of the license. An applicant shall comply with the remaining requirements of subsection (b).

- d) If an applicant takes and fails the examination, the license will not be restored until ~~such time as~~ he/she has successfully completed the examination.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART C: BARBER SCHOOL

Section 1175.300 School Approval Application

- a) An applicant for a barber school license shall submit a completed application to the Division with the following information and documentation:
- 1) A detailed floor plan consistent with the requirements of Section 1175.305 ~~of this Part~~;
 - 2) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the proposed school site;
 - 3) If the owner is a corporation, a copy of the Articles of Incorporation; if the owner is a limited liability company, a copy of the Articles of Organization;
 - 4) If owner is a partnership, a listing of all partners and their current addresses;
 - 5) A signed fire inspection report by the local fire inspection authority within the last 6 months giving approval for use of the site as a school;
 - 6) A financial statement prepared by a certified public accountant licensed by the Division pursuant to~~under~~ the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient finances exist to operate the school for at least 3 months;
 - 7) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.310 ~~of this Part~~;

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- 8) A listing of all teachers, including their teacher license numbers, who will be in the school's employ;
 - 9) A copy of the curricula that will be followed;
 - 10) A copy of the school's official transcript; and
 - 11) The required fee set forth in Section 1175.100.
- b) When the above items have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not commence nor shall the school in any way solicit student enrollment, until the school has received written notice of approval from the Division. Approval will be granted if the requirements of this Subpart have been met.
- c) Barber schools shall only offer instruction in barbering and barber teacher education.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.305 Physical Site Requirements

- a) Space Requirements
- 1) A school shall have a minimum of ~~5001,000~~ square feet of work space or 40 square feet of work space for each student, or a maximum of 25 students, whichever is greater~~for a maximum of 25 students in the work area~~. An additional 30 square feet of work space is required for each additional student if attendance exceeds 25 at any given time.
 - 2) Work space shall include: dispensary and laboratory area. Work;~~work~~ space shall not include classrooms, rest rooms, halls, checkrooms, ~~locker space;~~ conference rooms, storage space or other areas or facilities for school administration.
 - 3) Two restrooms shall be provided.

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- 4) Separate cloak space shall be provided ~~for which may be used both by students and~~ the public.
 - 5) A public waiting area must be provided.
 - 6) Schools shall provide a student lounge area, which shall be separated from the work area, and sufficient space for each student to keep school related and personal items.
 - 7) All areas of the school shall be ventilated and lighted.
- b) Equipment Requirements – All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are:
- 1) An entrance sign designating the name of the school.
 - 2) A school seal.
 - 3) A time clock or other equipment necessary for verification of attendance and hours earned.
 - 4) Four shampoo chairs and 4 shampoo bowls with adequate hot and cold running water.
 - 5) Clinic ~~stations~~station shall have at least 3 feet per student in the class, including electrical outlets, mirror space, ~~wet sanitizer~~ and either a barber chair or styling chair. One wet sanitizer shall be provided for each 10 clinic stations.
 - 6) ~~A Desk/table space and a~~ chair for each student in the classroom and, when appropriate, sufficient desk or table space.
 - 7) ~~Locker space for each student in attendance.~~
 - 78) Adequate covered disposal cans placed at convenient locations.
 - 89) At least one~~One~~ covered container for soiled towels ~~for each 10 students~~ in each~~clinical~~ work space~~area~~.

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940) Closed or covered space~~cabinets~~ equipped for storing towels and having sufficient. ~~Cabinets must have~~ storage space for 10 dozen towels per 20 students in the clinical work area.

10) One bearded mannequin for each student in attendance.

11) One straight razor and strop for each student and a lather machine for every two students.

c) Sanitary Regulations

- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
- 2) All instruments shall be sanitized before and after use on each patron.
- 3) Clean towels shall be used for each patron.
- 4) Shampoo bowls must be sanitized after each use.
- 5) Hands must be cleansed before and after serving each patron.
- 6) After each patron is served, combs and brushes must be cleansed, then immersed in a disinfectant, then rinsed in water and dried. Combs and brushes shall be kept in a closed or covered container or space apart from appliances that have not been disinfected.
- 7) The head rests of any chair shall be protected with a disposable cover or clean towel and changed after each patron.
- 8) Non-disposable head coverings must be laundered and sanitized after each separate use.
- 9) All powders, lotions, creams, and other cosmetics shall be kept in clean, closed containers. All cosmetics shall be applied by sanitary applicators and removed from the container with a sanitary spatula.
- 10) No owner, manager, teacher, or school administrator shall knowingly

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permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.

- 11) No animals or pets, except animal assistants for the physically impaired, shall be permitted on school premises.
 - 12) The floors, walls and furniture shall be kept clean at all times.
 - 13) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials – Textbooks shall be provided for each student in attendance.
 - e) Teachers – The student/teacher ratio shall not exceed a 25 to 1 ratio.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.320 Recordkeeping – Transcripts

- a) Each school shall provide an official transcript showing the entire course work of each student. The official transcript shall contain the following information:
 - 1) School name and address;
 - 2) School seal;
 - 3) School license number;
 - 4) Signature of owner, registrar or director of the school;
 - 5) Student's name, address and social security number;
 - 6) Actual dates student attended;
 - 7) Subject areas, hours earned and grades received;
 - 8) Any transfer hours citing the name and address of school transferred from,

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subject areas, hours earned and grades received;

- 9) Final examination grades; and
 - 10) Graduation date.
- b) The official transcript and school records for each student shall be permanently maintained by the school in the following manner:
- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant cabinet or electronically stored in a secure off-site storage system.
 - 2) If records, whether electronic or paper, cannot be maintained on the premises in locked fire-resistant cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that shall be made known to the Division. The~~Such~~ records shall be accessible to Division officials for inspection.
- c) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations of the student contract as set forth in Section 1175.310.
- d) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 5 years from the student's first day of attendance at the school.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.325 Recordkeeping – Hours Earned

- a) A complete and accurate record of hours of attendance for each student must be recorded and maintained by the school.
- b) If a time clock is used, each student shall punch his/her own time card. No student, teacher or any other person shall punch the time card of another student. If a time clock is not used, there shall be another verifiable method used by the

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school to record student hours. The records shall be in a form that allows the student to receive a written report of hours earned. This written report of hours earned shall be provided to the student on a monthly basis and shall be placed on a cumulative record by the school.

- c) Credit for hours earned away from school premises shall be awarded only if students are supervised by a licensed instructor or by a licensed barber or cosmetologist in the case of an internship. Credit hours for outside study may include workshops, educational programs, films and demonstrations.
- d) Hours earned away from the school premises shall be recorded on school time forms. These forms shall include: the school seal, name of student, event or program attended, date attended, signature of student, signature of supervising licensed instructor.
- e) Instructors shall review the hours earned by each student monthly. Each month the instructor shall issue a signed monthly report to the student showing the actual number of hours earned by the student.
- f) Time cards may be destroyed upon the student's permanent exit from the school and after all hours earned are recorded on the official transcript.
- g) An hour shall be considered 50-60 minutes of instruction.
- h) A licensed instructor shall supervise all classroom and practical instruction. No credit shall be given for unsupervised study.
- i) A barber student is not permitted to serve the public until he/she has successfully completed a combination of a minimum of 150 hours of classroom instruction and practical application that includes hair cutting, sanitation and shaving.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.330 Curriculum Requirements – Barber

Each licensed barber school shall provide a program consisting of a minimum of 1500 clock hours or a 50 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction in general theory and practical application, as follows:

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- a) 150 hours of classroom instruction in general theory that shall be divided into specific subject areas as specified in subsection (b).
- b) 1350 hours shall be at the discretion of the instructor based on the instructor's evaluation of the individual student's needs. However, the training shall cover, at least, the following subject areas:
 - 1) Barber history;
 - 2) Bacteriology;
 - 3) Infection control and safe work practices;
 - 4) Implements, tools and equipment;
 - 5) Anatomy and physiology;
 - 6) Chemistry;
 - 7) Electricity and light therapy;
 - 8) Properties and disorders of the skin;
 - 9) Properties and disorders of the hair and scalp;
 - 10) Treatment of the hair and scalp;
 - 11) Facial and scalp massage;
 - 12) Shaving and facial hair design;
 - 13) Haircutting and styling;
 - 14) Chemical texture services;
 - 15) Hair coloring and lightening;
 - 16) Barbershop management; ~~and~~

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- 17) Pertinent State and local laws and rules; and-
- 18) Workers' Compensation Act.
- c) An internship program is an optional part of the curriculum. Each licensed barber school may choose to set up an internship program and shall follow the guidelines set forth in this subsection.
- 1) An internship program:
- A) May be performed in place of 150 hours of the required 1500 program hours set forth in this Section.
- B) May be part of the curriculum of a licensed barber school and shall be an organized preplanned training program designed to allow a student to learn barbering under the direct supervision of a licensed barber or cosmetologist in a registered barber shop or salon.
- 2) A student in the internship program:
- A) May participate in an internship only after completing 750 hours of training with a minimum average grade of 80. A school may, however, set the average grade higher and set other standards that a student must meet to participate in the internship program.
- B) May not count more than 150 hours in an internship program for credit.
- C) May not be paid while participating in the internship program, as it is a part of the barber curriculum of the school.
- D) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.
- E) Shall be under the direct on-site supervision of a licensed barber or cosmetologist. Only 1 student shall be supervised by 1 licensed barber or cosmetologist.

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- 3) A licensed barber school shall state clearly in the student contract that the school offers an internship program.
- 4) The licensed barber school shall enter into a contract with the student, the registered barber shop or salon, and a licensed barber or cosmetologist. The contract shall contain all the provisions set forth in subsection (c)(2) and any other requirements of the internship established by the school. The contract shall be signed by the student, the school and the licensed barber or cosmetologist. Any party to the contract may terminate the contract at any time.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.335 Curriculum Requirements – Barber Teacher

- a) Each licensed barber school that provides teacher training shall provide a curriculum that includes a minimum of 1000 hours or a 34 credit hour equivalency (1 credit hour equals 30 clock hours) in the following subject areas:
 - 1) Practice of barbering;
 - 2) Theory of barbering;
 - 3) Methods of teaching; and
 - 4) School management.
- b) A minimum of 100 hours in each subject area shall be required. The remaining 600 hours shall be at the discretion of the instructor, based on the instructor's evaluation of the individual student's needs.
- c) The approved curriculum for a 500 hour Teacher Training Course shall be based upon 3 years of practical experience for a barber and shall consist of a minimum of 50 hours in each of the subject areas in subsection (a). The remaining 300 hours shall be at the discretion of the instructor based on the instructor's evaluation of the individual student's needs.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

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Section 1175.345 Change of Ownership

- a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Division the following:
- 1) A signed and completed school application;
 - 2) A floor plan if any expansion is to be done by the new owner;
 - 3) A copy of a lease agreement showing at least a 1 year commitment or certification of school site ownership;
 - 4) A copy of the student contract that will be utilized by the new owner;
 - 5) A copy of the Articles of Incorporation, if the owner is a corporation; if the owner is a limited liability company, a copy of the Articles of Organization;
 - 6) A listing of all partners and their addresses, if the owner is a partnership;
 - 7) A copy of curricula that will be used by the new owner;
 - 8) A sample copy of the school's official transcript;
 - 9) A Commitment Statement, as provided in the licensure application packet, signed and dated by the school's chief managing employer and a statement signed and dated by each partner or each officer of the corporation;
 - 10) List of all the names, addresses and current status of all schools in which the applicant has previously owned any interest, and a declaration as to whether any of these schools were ever denied accreditation or licensing or lost accreditation or licensing from any government body or accrediting agency;
 - 11) A signed inspection report by the local fire inspection authority within 6 months after application approving the school site;
 - 12) A ~~certified~~ financial statement prepared by a certified~~licensed~~ public

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accountant [licensed by the Division pursuant to the Illinois Public Accounting Act \[225 ILCS 450\]](#) who is not an employee of the school, indicating sufficient finances exist to operate the school for 1 full year;

- 13) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and
 - 14) The required fee set forth in Section 1175.100.
- b) Once the items listed in subsection (a) have been received, the Division shall conduct an inspection prior to approval of the change of ownership. Approval will be granted if the requirements of Subpart C have been met.
 - c) If the new owner fails to submit a new application, or if the Division does not approve the school, the school shall remain closed until final Division approval is received.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.350 Change of Location

- a) When the location of an approved school is changed, the school owner shall submit to the Division the following:
 - 1) Written notice to the Division at least 30 days in advance of the school site change;
 - 2) A signed and completed school application;
 - 3) A floor plan;
 - 4) A copy of a lease agreement showing at least a 1 year commitment or certification of ownership of the school site;
 - 5) A signed [fire](#) inspection report by the local fire inspection authority within 6 months prior to application approving the site; and
 - 6) The required fee set forth in Section 1175.100.

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- b) Once the items listed in subsection (a) have been received, the Division shall inspect the premises to determine compliance with this Part. School operations shall not commence at the new location until the owners have received written notice of approval from the Division. Approval will be granted if the requirements of Subpart C have been met.
- c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.
 - 1) The temporary site must be inspected prior to its use and must possess light and ventilation, tables and chairs for the number of students in a classroom, and must be clean.
 - 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements, or delays in equipment delivery.
- d) If the site is not approved, the school shall not solicit new students for this location until the school has been approved.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.360 Expansion

- a) Written notice shall be given to the Division 30 days prior to any expansion of an approved school.
- b) When the expansion will result in an off-site classroom location, a completed school application must be submitted along with:
 - 1) A detailed floor plan;
 - 2) A copy of a lease showing at least a 1 year commitment to the use of the site or certification of ownership of the proposed site;
 - 3) A signed fire inspection report from the local fire inspection authority within the last 6 months giving approval for use of the site as an off-site classroom location;

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- 4) A statement from the school owner outlining the purpose of the off-site classroom location;
 - 5) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;
 - 6) A ~~certified~~ financial statement prepared by a ~~certified~~~~licensed~~ public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient finances exist to operate the school for 1 full year; and
 - 7) The required fee set forth in Section 1175.100.
An off-site classroom location is defined as a separate classroom located within 5 miles of the main school site that serves to provide adequate space in which to train an overflow of students. A clinic may not be operated at an off-site classroom location. A school may establish only one off-site classroom location. All identifying signs and materials must reflect the name of the main school.
- c) When an on-site expansion is to accommodate an increased enrollment, a completed school application shall be submitted along with:
- 1) A detailed floor plan;
 - 2) A statement from the school owner outlining the purpose of the expansion;
 - 3) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
 - 4) The required inspection fee.
- d) Upon receipt of the items listed in subsections (b) and (c), the Division shall inspect the expansion site to determine compliance with this Part. The site shall not be used until ~~thesuch~~ inspection has occurred and the owner has received written notification of approval from the Division. Approval will be granted if all of the requirements of this Subpart C have been met.

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(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.365 Discontinuance of Program

- a) The Division shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.
- b) The school owner shall notify the Division in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.
- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) Each student shall be given a refund equal to or greater than the percentage of time remaining to complete the course of instruction.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.370 Withdrawal of Approval

- a) The Division may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of barbering when the quality of the program has been affected by any of the following causes:
 - 1) Gross or repeated violations of any provisions of the Act or this Part;
 - 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
 - 3) Failure to meet the criteria for school approval in Section 1175.300;
 - 4) Failure to administer the final examination as specified in this Part;

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- 5) Failure to maintain final examination grades for each student and a master of the examination administered by the school as specified in this Part;
 - 6) Fraud or dishonesty in providing transcripts to students;
 - 7) Failure to provide transcripts to students who have fulfilled all obligations under Section 1175.310;
 - 8) A finding by the U.S. Office of Education or Illinois [Student Assistance State Scholarship](#) Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining such monies by providing fraudulent or untruthful information; or
 - 9) Any other violations of the Act or this Part.
- b) Performance Record on Licensing Examination
- 1) When a school's graduates have a 25% or greater failure rate on the licensing examination, Division approval of a school shall be reviewed pursuant to Section 1175.300.
 - 2) The performance record of a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Division when reviewing Division approval of a school.
 - 3) The Division shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Division approval of a school is [proposed to be withdrawn](#)~~being reviewed~~.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.375 Cosmetology Schools Approved to Teach Barbering

- a) [Existing cosmetology schools that wish to provide barbering instruction shall:](#)
- 1) [Provide 200 square feet of space to accommodate 5 work stations and a maximum of 10 students. If attendance exceeds 10 on the clinic floor at any time, an additional 40 square feet is required for each additional work station required by subsection \(a\)\(4\)\(B\). The use of this space shall not](#)

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reduce the square footage for the conduct of an approved cosmetology school below the minimum requirements set forth in Section 1175.505.

- 2) File an application with the Division, on forms provided by the Division, that shall include:
 - A) A detailed floor plan;
 - B) A signed copy of the fire inspection report from the local fire inspection authority conducted within 6 months prior to application, giving approval for use of the site as a school;
 - C) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months;
 - D) A copy of the enrollment agreement to be used by the school;
 - E) A copy of the barbering curriculum;
 - F) A listing of all barber and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
 - G) A copy of the school's official transcript; and
 - H) The required fee set forth in Section 1175.100.
- 3) When the items listed in subsection (a)(2) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance.
- 4) In addition, the school shall have the following:
 - A) At least one work station or position for every 2 students. Every work station shall include electrical outlets, mirror space and either a barber chair or styling chair.

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- B) Every school shall provide sufficient barbering tools, devices and supplies for each student in attendance.
- b) Cosmetology schools approved to teach barbering shall be required to comply with all provisions of this Part except for Section 1175.305(a) and (b).
- c) Cosmetology teachers shall only teach those subjects that are common to barbering and cosmetology.

(Source: Added at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART D: COSMETOLOGY

Section 1175.420 Endorsement

- a) An applicant who is currently registered or licensed as a cosmetologist in a foreign country or province and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
- 1) An official certification of licensure from the Government Board or Council in the applicant's jurisdiction of original licensure stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received and whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) An official transcript from the school or schools attended by the applicant showing the individual subject areas completed and the hours completed by the applicant with the school seal affixed or an official certification from the Government Board or Council showing the individual subject areas completed and the hours completed by the applicant with the Board or Council seal affixed;
 - 3) An official certification of licensure from the state or country in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a brief description of any

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licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending;

- 4) Evidence that the applicant has practiced cosmetology in another jurisdiction for at least 3 years after completing the requirements to qualify for registration or licensure in that particular jurisdiction. This may be in the form of affidavits from at least 3 clients or business owners who can verify the applicant's practice as a cosmetologist;
 - 5) Any document submitted in a foreign language must be accompanied by an original, notarized English translation. The translator must certify on the translation that he or she is fluent in English and the language of the document. The translator must certify to the accuracy of the translation;
 - 6) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted documents; and
 - 7) The required fee set forth in Section 1175.100.
- b) An applicant who is currently licensed as a cosmetologist in another state or territory of the United States and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
- 1) An official certification of licensure from the state board in the applicant's jurisdiction of original licensure and the state in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted documents; and

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- 3) The required fee set forth in Section 1175.100.
- c) An applicant who is currently registered or licensed as a cosmetology teacher in a foreign country or province and who is seeking licensure as a cosmetology teacher in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
- 1) An official certification of licensure from the Government Board or Council in the applicant's jurisdiction of original licensure stating the applicant's legal name, the cosmetology teacher license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received and whether the applicant's file contains any record of disciplinary action taken or pending;
 - 2) An official transcript from the school or schools attended by the applicant showing the individual subject areas completed and the hours completed by the applicant with the school seal affixed or an official certification from the Government Board or Council showing the individual subject areas completed and the hours completed by the applicant with the Board or Council seal affixed;
 - 3) An official certification of licensure from the state or country in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetologist license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 4) Evidence that the applicant has practiced as a cosmetology teacher in another jurisdiction for at least 3 years after completing the requirements to qualify for registration or licensure in that particular jurisdiction. This may be in the form of affidavits from at least 3 clients or business owners who can verify the applicant's practice as a cosmetology teacher;
 - 5) Any document submitted in a foreign language must be accompanied by an original, notarized English translation. The translator must certify on the translation that he or she is fluent in English and the language of the

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- document. The translator must certify to the accuracy of the translation;
- 6) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted; and
 - 7) The required fee set forth in Section 1175.100.
- d) An applicant who is currently licensed as a cosmetology teacher in another state or territory of the United States and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
- 1) An official certification of licensure from the state board in the applicant's jurisdiction of original licensure and the state in which the applicant is currently licensed and practicing, if other than the original, stating the applicant's legal name, the cosmetology teacher license number, the original issuance date, the expiration date, a brief description of any licensure examination taken to qualify for the license and the grades received, and whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted documents; and
 - 3) The required fee set forth in Section 1175.100.
- e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or training is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide information as may be necessary;
 - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information; and/or

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- 3) Pass an examination pursuant to Section 3-8 of the Act or complete a 250 hour refresher course at a licensed cosmetology or barber school.
- f) An applicant for licensure as a cosmetologist who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as a cosmetologist. To obtain credit for work experience, the applicant must submit verification of employment on forms provided by the Division in support of the work experience. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.
- g) An applicant applying for licensure as a cosmetologist or cosmetology teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination ~~and fulfills the requirements set forth in Section 1175.410(e).~~ The successful completion of the substantially equivalent examination ~~and fulfillment of applicable requalification requirements~~ must occur after the most recently failed examination attempt in Illinois. An applicant may be required to appear before the Board to answer questions about any examination taken by the applicant. The Board may recommend the completion of additional education by an applicant prior to licensure.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.430 Restoration – Cosmetology

- a) Application for Restoration
 - 1) A person applying for restoration of a license as a cosmetologist that has expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division and:
 - A) Pay the required fee set forth in Section 1175.100; and
 - B) Provide evidence of successful completion of 14 hours of continuing education earned within the 2 years immediately preceding the restoration.

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- 2) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a license as a cosmetologist that has been expired or been on inactive status for 5 years or more shall submit an application on forms provided by the Division along with either:
- 1) All of the following:
 - A) Verification of employment as a cosmetologist in another jurisdiction within the 5 years preceding application for restoration;
 - B) Certification of licensure from the licensing authority in the jurisdiction of employment stating that said practice was authorized;
 - C) A completed Restoration Questionnaire;
 - D) Evidence of successful completion of 14 hours of continuing education earned within the 2 years immediately preceding restoration if restoring a cosmetology license; and
 - E) The required fee set forth in Section 1175.100; or
 - 2) A copy of the applicant's DD-214 form and the current renewal fee, if restoring from active military service.
- c) An applicant for restoration under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B) who has not maintained a practice in another jurisdiction shall ~~also~~ submit official transcripts showing successful completion of a 250 hour refresher course from a licensed cosmetology or barber school or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after application for restoration. A cosmetology applicant who completes this refresher course or takes the examination shall not be required to complete 14 hours of continuing education but shall comply with the remaining requirements of subsection (b).

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- d) If an applicant takes and fails the examination, the license will not be restored until ~~such time as~~ he/she has successfully completed the examination.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.435 Restoration – Cosmetology Teacher

- a) A person applying for restoration of a certificate as a licensed cosmetology teacher or cosmetology clinic teacher that has been expired or been on inactive status for less than 5 years shall file an application, on forms provided by the Division. An applicant shall also submit proof of 24 hours of continuing education in accordance with Section 1175.1200 earned within the 2 years preceding the restoration and the required fee set forth in Section 1175.100. If restoring after active military service, an applicant shall submit a copy of his/her DD-214 and the current renewal fee.
- b) A person applying for restoration of a license as a cosmetology teacher or cosmetology clinic teacher that has been expired for 5 years or more shall submit an application on forms provided by the Division, along with either:
- 1) All of the following:
 - A) Verification of employment as a cosmetology teacher or cosmetology clinic teacher in another jurisdiction within the 5 years preceding application for restoration;
 - B) Certification of licensure from the licensing authority in the jurisdiction of employment;
 - C) Evidence of successful completion of 24 hours of continuing education earned within the 2 years immediately preceding the restoration;
 - D) A completed Restoration Questionnaire; and
 - E) The required fee set forth in Section 1175.100; or
 - 2) If restoring after active military service, a copy of the applicant's DD-214

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form and the current renewal fee.

- c) An applicant for restoration of a cosmetology teacher license under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B)~~who has not maintained an active teaching practice in another jurisdiction~~ shall submit official transcripts showing successful completion of a 250 hour cosmetology teacher refresher course or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after application for restoration of a license. Those who successfully complete a 250 hour refresher course or take the examination shall not be required to complete continuing education before restoring a license but shall comply with the remaining requirements of subsection (b).
- d) An applicant for restoration of a cosmetology clinic teacher license under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B)~~who has not maintained an active teaching practice in another jurisdiction~~ shall submit official transcripts showing successful completion of a 60 hour cosmetology teacher refresher course or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after application for restoration of a license. Those who successfully complete a 60 hour refresher course or take the examination shall not be required to complete continuing education before restoring a license but shall comply with the remaining requirements of subsection (b).
- e) If an applicant takes and fails the examination, the license will not be restored until ~~such time as~~ he/she has successfully completed the examination.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART E: COSMETOLOGY SCHOOLS

Section 1175.500 School Approval Application

- a) An applicant for a cosmetology school license shall submit a completed application to the Division with the following information and documentation:
- 1) A detailed floor plan consistent with the requirements of Section 1175.505 of this Part;

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- 2) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the proposed school site;
 - 3) If the owner is a corporation, a copy of the Articles of Incorporation; if the owner is a limited liability company, a copy of the Articles of Organization;
 - 4) If owner is a partnership, a listing of all partners and their current addresses;
 - 5) A signed fire inspection report from the local fire inspection authority within 6 months prior to filing an application giving approval for use of the site as a school;
 - 6) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months;
 - 7) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.510 ~~of this Part;~~
 - 8) A listing of all teachers, including their teacher license numbers, who will be in the school's employ;
 - 9) A copy of the curricula that will be followed;
 - 10) A copy of the school's official transcript; and
 - 11) The required fee set forth in Section 1175.100.
- b) New schools that wish to offer nail technology, barbering and/or esthetics in addition to cosmetology shall comply with Sections 1175.375, Section 1175.805 and /or 1175.1105.
- c) When the ~~above~~ items required by subsections (a) and (b) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not commence nor shall the school in any way solicit student enrollment, until the school has received

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written notice of approval from the Division. Approval will be granted if all of the requirements of Subpart E have been met.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.505 Physical Site Requirements

- a) Space Requirements
- 1) A school shall have a minimum of 1,000 square feet of work space for a maximum of 20 students. An additional 30 square feet of work space is required for each additional student if attendance on the clinic floor exceeds 20 at any given time.
 - 2) Work space shall include: dispensary and laboratory area. Work space shall not include: classrooms, facial areas, rest rooms, halls, checkrooms, ~~locker space~~, conference rooms, storage space or other areas or facilities for school administration.
 - 3) ~~Two Separate~~ restrooms ~~for males and females~~ shall be provided.
 - 4) Cloak space separate from the work space shall be provided ~~for which may be used both by students and~~ the public.
 - 5) A public waiting area must be provided ~~and separated from the work area~~.
 - 6) Schools shall provide a student lounge area ~~that which~~ shall be separated from the work area and sufficient space for each student to keep school related and personal items.
 - 7) All areas of the school shall be ventilated and lighted.
 - 8) ~~Licensed cosmetology schools will not be required to comply with these requirements. However, if an existing licensed school expands, it will be required to comply with subsection (a).~~
- b) Equipment Requirements – All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are:

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- 1) An entrance sign designating the name of the school.
- 2) A school seal.
- 3) A time clock or other equipment necessary for verification of attendance and hours earned.
- 4) Two facial chairs to be placed in an enclosed or screened area. Facial chairs shall only be used for facials and/or waxing.
- 5) One facial supply station~~cabinet~~ containing astringents, lotions, creams, makeup and other necessary supplies for facials.
- 6) Four shampoo chairs and 4 shampoo bowls with adequate hot and cold running water.
- 7) One hood hair dryer for every 10~~5~~ clinic stations.
- 8) Clinic station shall have at least 3 feet per student in the class, including electrical outlets, mirror space, manicuring/pedicuring table, wet sanitizer and either a barber chair or styling chair. One wet sanitizer shall be provided for each 10 clinic stations. If the barber chair or styling chair is not suitable for manicures or pedicures, then a suitable nail patron chair shall be provided.
- 9) A Desk/table space and a chair for each student in the classroom and, when appropriate, sufficient desk or table space.
- ~~10) Locker space for each student in attendance.~~
- ~~1011) Adequate number of covered disposal cans placed at convenient locations.~~
- ~~1112) At least one~~One covered container for soiled towels ~~for each 10 students~~ in ~~the clinical~~ work space~~area~~.
- ~~1213) Closed or covered space~~cabinets equipped for storing towels and having sufficient. ~~Cabinets must have~~ storage space for 10 dozen towels per 20 students in the clinical work area.

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1314) One mannequin for each student in attendance.

c) Sanitary Regulations

- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
- 2) All instruments shall be sanitized before and after use on each patron.
- 3) Clean towels shall be used for each patron.
- 4) Shampoo bowls must be sanitized after each use.
- 5) Hands must be cleansed before and after serving each patron.
- 6) After each patron is served, combs and brushes must be cleansed, then immersed in a disinfectant, then rinsed in water and dried. Combs and brushes shall be kept in a closed or covered container or space apart from appliances that have not been disinfected.
- 7) The head rests of any chair shall be protected with a disposable cover or clean towel and changed after each patron.
- 8) Non-disposable head coverings must be laundered and sanitized after each separate use.
- 9) All powders, lotions, creams and other cosmetics shall be kept in clean, closed containers. All cosmetics shall be applied by sanitary applicators and removed from the container with a sanitary spatula.
- 10) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.
- 11) No animals or pets, except animal assistants for the physically impaired, shall be permitted on school premises.

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- 12) The floors, walls and furniture shall be kept clean at all times.
- 13) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials – Textbooks shall be provided for each student in attendance.
- e) Teachers – The student/teacher ratio during clinical instruction shall not exceed a 25 to 1 ratio.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.520 Recordkeeping – Transcripts

- a) Each school shall provide an official transcript showing the entire program work of each student. The official transcript shall contain the following information:
 - 1) School name and address;
 - 2) School seal;
 - 3) School license number;
 - 4) Signature of the owner, registrar or director of the school;
 - 5) Student's name, address and social security number;
 - 6) Actual dates student attended;
 - 7) Subject areas, hours earned and grades received;
 - 8) Any transfer hours citing the name and address of school transferred from, subject areas, hours earned and grades received;
 - 9) Final examination grades; and
 - 10) Graduation date.

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- b) The official transcript and school records for each student ~~who completed the program~~ shall be permanently maintained by the school in the following manner:
- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant cabinet or electronically stored in a secure off-site storage system.
 - 2) If records, whether electronic or paper, cannot be maintained on the premises in locked fire-resistant cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that shall be made known to the Division. ~~The Such~~ records shall be accessible to Division officials for inspection.
- c) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 57 years from the student's first day of attendance at the school.
- d) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations set forth in the enrollment agreement set forth in Section 3B-12 of the Act.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.530 Curriculum Requirements – Cosmetology

Each licensed cosmetology school shall provide a program consisting of a minimum of 1500 clock hours or a 50 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:

- a) Basic Training – 150 hours of classroom instruction in general theory and practical application shall be provided that shall include a minimum of the following subject areas:
- 1) tools and their use;
 - 2) shampoo;

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- 3) understanding chemicals and use;
 - 4) types of hair;
 - 5) sanitation;
 - 6) hygiene;
 - 7) skin diseases and conditions;
 - 8) anatomy and physiology;
 - 9) electricity;
 - 10) ethics;
 - 11) nail technology;
 - 12) esthetics.
- b) Practical Chemical Application/Hair Treatment – 500 hours of instruction, which shall be a combination of classroom instruction and hands on experience, shall be provided in the following subject areas:
- 1) chemical safety;
 - 2) permanent waving;
 - 3) hair coloring, tinting and bleaching;
 - 4) hair relaxing;
 - 5) hair and scalp conditioning;
 - 6) shampooing, toning and rinsing.
- c) Hair Styling/Hair Dressing – 475 hours of instruction in hair styling, which shall be a combination of classroom instruction and hands on experience, shall be

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provided in the following subject areas:

- 1) cutting;
 - 2) thinning;
 - 3) shaping;
 - 4) trimming;
 - 5) application of electrical/mechanical equipment;
 - 6) curling;
 - 7) hair treatments.
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- d) Shop Management, Sanitation and Interpersonal Relations – 200 hours of classroom instruction shall be provided in the following subject areas:
- 1) labor law;
 - 2) workers' compensation;
 - 3) client relations;
 - 4) bookkeeping;
 - 5) marketing and merchandising;
 - 6) emergency first aid;
 - 7) right-to-know laws;
 - 8) pertinent State and local laws and rules;
 - 9) business ethics;

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- 10) sanitation;
 - 11) electrical devices;
 - 12) personal grooming and hygiene.
- e) Esthetics – 85 hours of instruction shall be provided
 - f) Nail Technology – 55 hours of instruction shall be provided
 - g) Electives – 35 hours
 - h) Internship program is an optional part of the curriculum. Each licensed cosmetology school may choose to set up an internship program and shall follow the guidelines set forth in this subsection (h):
 - 1) An internship program:
 - A) May be substituted for 150 hours of the 1500 hours as set forth in this Section.
 - B) May be part of the curriculum of a licensed cosmetology school and shall be an organized preplanned training program designed to allow a student to learn hair dressing, sanitation, safety and shop management, hair treatment, nail technology, hair braiding, and/or esthetics under the direct supervision of a licensed cosmetologist in a registered salon.
 - 2) A student in the internship program:
 - A) May participate in an internship program only after completing 750 hours of training with a minimum average grade of 80. A school may, however, set the average grade higher and set other standards that a student must meet to participate in the internship program.
 - B) May not spend more than 150 hours in an internship program.
 - C) May not be paid while participating in this internship program as it

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is a part of the cosmetology curriculum of the school.

- D) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.
 - E) Shall be under the direct on site supervision of a licensed cosmetologist. Only 1 student shall be supervised by 1 licensed cosmetologist.
- 3) A licensed cosmetology school shall state clearly in the student contract that the school offers an internship program.
- 4) The licensed cosmetology school shall enter into a contract with the student, the registered salon and licensed cosmetologist. The contract shall contain all the provisions set forth in subsection (h)(2)-~~of this Section~~ and any other requirements of the internship established by the school. The contract shall be signed by the student, the school and the licensed cosmetologist. Any party to the contract may terminate the contract at any time.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.535 Curriculum Requirements – Cosmetology Teacher

- a) An approved school that intends to provide teacher training must utilize a teacher program that includes a minimum of 1000 clock hours or a 34 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:
 - 1) 500 hours of Post-Graduate School Training that includes all subjects in the basic cosmetology curriculum in Section 1175.530, including theory and practice. Presentation of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education.
 - 2) 20 hours of Educational Psychology that shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that relates to teaching. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Educational Psychology at an accredited college or university.

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- 3) 20 hours of Teaching Methods (Theory) that shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom management, student motivation and classroom climate. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Teaching Methods-Secondary Level at an accredited college or university.
 - 4) 150 hours of Application of Teaching Methods that include preparation and organization of subject matter to be presented on a unit by unit basis and presentation of subject matter through application of varied methods (lecture, demonstration, testing and assignments). Presentations must provide teaching objectives to be accomplished and correlate theoretical with practical application.
 - 5) 50 hours of Business Methods that include inventory, recordkeeping, interviewing, supplies, the ~~Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985~~ and ~~this Part 68 Ill. Adm. Code 1175~~.
 - 6) 260 hours of Student Teaching under the on-site supervision of an Illinois licensed teacher. The student teacher shall present theoretical and practical demonstrations to students in the basic curriculum.
- b) The approved program for a 500 hour Teacher Training Course shall be based on 2 years of practical experience and shall consist of the Teacher Training Curriculum outlined in subsection (a), ~~of this Section~~ with the exception of the 500 hours of post-graduate training.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.536 Curriculum Requirements – Cosmetology Clinic Teacher

- a) An approved school that intends to provide cosmetology clinic teacher training must utilize a teacher program that includes a minimum of 250 clock hours or a 9 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:
 - 1) 20 hours of Educational Psychology that shall include, but not be limited

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to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that relates to teaching. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Educational Psychology at an accredited college or university.

- 2) 20 hours of Teaching Methods (Theory) that shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom clinic management, student motivation and clinic climate. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Teaching Methods – Secondary Level at an accredited college or university.
 - 3) 10 hours of Business Methods that include inventory, recordkeeping, interviewing, supplies, the ~~Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985~~ and [this Part 68 Ill. Adm. Code 1175](#).
 - 4) 200 hours of Student Teaching under the on-site supervision of an Illinois licensed cosmetology teacher. The student teacher shall supervise clinic students and present practical demonstrations to students in the clinic portion of the basic cosmetology curriculum.
- b) Completion of an instructor's institute of 20 hours as provided in Section 3-4 of the Act may be done in lieu of the 250 hour clinic teacher curriculum if an individual has obtained a minimum of 2 years of practical experience working at least 30 full time hours per week as a licensed cosmetologist prior to submitting an application for examination. This institute shall, at a minimum, consist of 10 hours of Educational Psychology and 10 hours of Teaching Methods (Theory).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.545 Change of Ownership

- a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Division the following:
 - 1) An affidavit stating that the contract is contingent on a certificate being

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issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a new certificate is issued;

- 2) A signed and completed school application;
- 3) A floor plan drawn to scale if any expansion is to be done by the new owner;
- 4) A copy of a lease agreement showing at least a 1 year commitment or certification of school site ownership;
- 5) A copy of the enrollment agreement that will be utilized by the new owner;
- 6) A copy of the written, published attendance policy that will be utilized by the new owner;
- 7) A copy of curricula that will be used by the new owner;
- 8) A sample copy of the school's official transcript;
- 9) A Commitment Statement, as provided in the licensure application packet, signed and dated by the school's chief managing employer and a statement signed and dated by each partner or each officer of the corporation;
- 10) List of all the names, addresses and current status of all schools in which the applicant has previously owned any interest, and a declaration as to whether any of these schools were ever denied accreditation or licensing or lost accreditation or licensing from any government body or accrediting agency;
- 11) If the owner is a corporation, a copy of the Articles of Incorporation; if the owner is a limited liability company, a copy of the Articles of Organization;
- 12) If owner is a partnership, a listing of all partners and their addresses;
- 13) A signed fire inspection report by the local fire inspection authority conducted within 6 months prior to application approving the school site;

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- 14) A financial statement prepared by a public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [\[225 ILCS 450\]](#) who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months;
 - 15) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and
 - 16) The required fee set forth in Section 1175.100.
- b) Once the items listed in subsection (a) have been received, the Division shall conduct an inspection prior to approval of the change of ownership. Approval will be granted if all of the requirements of Subpart E have been met.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.550 Change of Location

- a) When the location of an approved school is changed, the school owner shall submit to the Division the following:
- 1) Written notice to the Division at least 30 days in advance of the school site change;
 - 2) A signed and completed school application;
 - 3) A floor plan;
 - 4) A copy of a lease agreement showing at least a 1 year commitment or certification of ownership of school site;
 - 5) A signed [fire](#) inspection report by the local fire inspection authority [conducted](#) within 6 months prior to application approving the site; and
 - 6) The required fee set forth in Section 1175.100.
- b) Once the items listed in subsection (a) have been received, the Division shall inspect the premises to determine compliance with this Part. School operations

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shall not commence at the new location nor may the school in any way solicit student enrollment until the owners have received written notice of approval from the Division. Approval will be granted if all of the requirements of Subpart E have been met.

- c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.
 - 1) The temporary site must be inspected prior to its use and must possess light, ~~and~~ ventilation ~~and~~, tables and chairs for the number of students in a classroom, ~~and~~ must be clean.
 - 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements, or delays in equipment delivery.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.560 Expansion

- a) Written notice shall be given to the Division 30 days prior to any expansion of an approved school.
- b) Off-Site Classrooms
 - 1) When the expansion will result in an off-site classroom location, a completed school application must be submitted along with:
 - A) A detailed floor plan drawn to scale;
 - B) A copy of a lease showing at least a 1 year commitment to the use of the site or certification of ownership of the proposed site;
 - C) A signed fire inspection report from ~~the~~ local fire inspection authority conducted within 6 months prior to application, giving approval for use of the site as a classroom location;
 - D) A statement from the school owner outlining the purpose of the

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classroom location;

- E) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;
 - F) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient finances exist to operate the school for at least 3 months; and
 - G) The required fee set forth in Section 1175.100.
- 2) An off-site classroom location is defined as a separate classroom that is located within 5 miles of the main school site that serves to provide adequate space in which to train an overflow of students. A clinic may ~~not~~ be operated at an off-site classroom location. A school may establish only 1 off-site classroom location. All identifying signs and materials must reflect the name of the main school.
- c) When an on-site expansion is to accommodate an increased enrollment, a completed school application shall be submitted along with:
- 1) A detailed floor plan;
 - 2) A statement from the school owner outlining the purpose of the expansion;
 - 3) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
 - 4) The required inspection fee.
- d) Upon receipt of the items listed in subsections (b) and (c), the Division shall inspect the expansion site to determine compliance with this Part. The site shall not be used until such inspection has occurred and the owner has received written notification of approval from the Division. Approval will be granted if all of the requirements of Subpart E have been met.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

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Section 1175.565 Discontinuance of Program

- a) The Division shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.
- b) The school owner shall notify the Division in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.
- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) Students who have acquired 750 or more clock hours before their school closes shall be allowed to transfer all accumulated hours to another licensed cosmetology school. Schools accepting these hours shall not be credited with the students' pass/fail statistics, set forth in Section 1175.570(b), resulting from their first attempt on the Illinois Cosmetology examination.
- g) Each student shall be given a refund prorated to at least reflect the percentage of time remaining to complete the course of instruction.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.570 Withdrawal of Approval

- a) The Division may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of cosmetology when the quality of the program has been affected by any of the following causes:
 - 1) Gross or repeated violations of any provisions of the Act or this Part;
 - 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;

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- 3) Failure to meet the criteria for school approval in Section 1175.500;
 - 4) Failure to administer the final examination as specified in this Part;
 - 5) Failure to maintain final examination grades for each student and a master of the examination administered as specified in this Part;
 - 6) Fraud or dishonesty in providing transcripts to students who have fulfilled all obligations under Section 1175.510;
 - 7) Failure to provide transcripts to students;
 - 8) A finding by the U.S. Office of Education or Illinois [Student Assistance State Scholarship](#) Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining ~~those~~ monies by providing fraudulent or untruthful information; or
 - 9) Any other violations of the Act and this Part.
- b) Performance Record on Licensing Examination
- 1) When a school's graduates have 25% or greater failure rate on the licensing examination, Division approval of a school shall be reviewed pursuant to Section 1175.500.
 - 2) The performance record of a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Division when reviewing Division approval of a school.
 - 3) The Division shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Division approval of a school is [proposed to be withdrawn](#) ~~being reviewed~~.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART G: ESTHETICS

Section 1175.720 Endorsement

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- a) An applicant who is currently licensed as an esthetician in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
- 1) A certification from the jurisdiction of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and
 - B) Whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) Official transcripts from the schools attended by the applicant showing the programs completed and the hours received with the school seal affixed;
 - 3) Certification of current licensure if other than original licensure;
 - 4) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on attached documents;
 - 5) The required fee set forth in Section 1175.100; and
 - 6) A copy of the licensing Act applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- b) An applicant who is currently licensed as an esthetics teacher or esthetics clinic teacher in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
- 1) A certification from the jurisdiction of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and

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- B) Whether the applicant's file contains any record of disciplinary action taken or pending;
 - 2) Official transcripts from the schools attended by the applicant showing the programs completed and the hours received with the school seal affixed;
 - 3) Certification of current licensure if other than original licensure;
 - 4) One of the Following:
 - A) Two Verification of Employment forms submitted by an applicant who completed a program of at least 500 hours of teacher training. An esthetics teacher applicant shall submit verification of 2 years of lawful practice as an esthetician; or
 - B) Two Verification of Employment forms submitted by an applicant who completed a program of at least 250 hours of clinic teacher training. An esthetics clinic teacher applicant shall submit verification of 2 years of lawful practice as an esthetician; or
 - C) Two Verification of Employment forms indicating 3 years of lawful practice in another jurisdiction submitted by an applicant who is applying as an esthetics teacher or esthetics clinic teacher on the basis of 3 years of lawful practice;
 - 5) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;
 - 6) The required fee set forth in Section 1175.100; and
 - 7) A copy of the licensing Act applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- c) An applicant for licensure as an esthetician who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during

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which he/she was lawfully employed as an esthetician. To obtain credit for work experience, the applicant must submit verification of employment in support of the work experience on forms provided by the Division. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.

- d) An applicant applying for licensure as an esthetician, esthetics teacher or esthetics clinic teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination ~~and fulfills the requirements set forth in Section 1175.710(e).~~ The successful completion of the substantially equivalent examination ~~and fulfillment of applicable requalification requirements~~ must occur after the most recently failed examination attempt in Illinois. An applicant may be required to appear before the Board to answer questions about any examination taken by the applicant. The Board may recommend the completion of additional coursework by an applicant prior to licensure.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.730 Restoration – Esthetics

- a) A person applying for restoration of a license as an esthetician that has been expired for less than 5 years shall submit an application on forms provided by the Division and either:
- 1) All of the following:
 - A) pay the required fee; and
 - B) provide evidence of successful completion of 10 hours of continuing education in accordance with Section 1175.1200, ~~of this Part;~~ earned within the 2 years immediately preceding the restoration.
 - 2) If restoring after active military service, a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.

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- b) A person applying for restoration of a license as an esthetician that has been expired for 5 years or more shall submit an application on forms provided by the Division along with either:
- 1) All of the following:
 - A) Verification of employment attesting to lawful practice in another jurisdiction within the 5 years preceding application for restoration;
 - B) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
 - C) A completed Restoration Questionnaire;
 - D) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding restoration; and
 - E) The required fee set forth in Section 1175.100; or
 - 2) If restoring from active military service, a copy of the applicant's DD-214 and the current renewal fee.
- c) An applicant for restoration under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B) who has not maintained a lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall ~~also~~ submit official transcripts showing successful completion of a 125 hour esthetics refresher course from an approved cosmetology or esthetics school or pass the esthetics licensure examination pursuant to Section 1175.710 within 2 years prior to or within 2 years after application for restoration. An applicant who completes this refresher course or takes the examination shall not also be required to complete 10 hours of continuing education, but shall comply with the remaining requirements of subsection (b).
- d) If an applicant takes and fails the examination, the license will not be restored until ~~such time as~~ he/she has successfully completed the examination.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

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Section 1175.735 Restoration – Esthetics Teacher

- a) A person applying for restoration of a license as an esthetics teacher or esthetics clinic teacher that has been expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division. An applicant shall also submit evidence of successful completion of 20 hours of continuing education in accordance with Section 1175.1210 earned within the 2 years immediately preceding the restoration and the required fee set forth in Section 1175.100. If restoring after active military service, an applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a certificate as an esthetics teacher or esthetics clinic teacher that has been expired for 5 years or more shall submit an application on forms provided by the Division, along with either:
 - 1) All of the following:
 - A) Verification of employment as an esthetics teacher or esthetics clinic teacher in another jurisdiction within the 5 years preceding application for restoration;
 - B) A certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
 - C) Evidence of successful completion of 20 hours of continuing education earned within 2 years immediately preceding restoration;
 - D) A completed Restoration Questionnaire; and
 - E) The required fee set forth in Section 1175.100; or
 - 2) If restoring after active military service, a copy of the applicant's DD-214 form and the current renewal fee.
- c) An applicant for restoration of an esthetics teacher license under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B) who has not maintained a lawful esthetics teaching practice (as determined by the laws

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~~of that jurisdiction) in another jurisdiction~~ shall submit official transcripts showing successful completion of a 125 hour teacher refresher course from an approved esthetics or cosmetology school or pass the esthetics teacher examination in accordance with Section 1175.710 within 2 years prior to application for restoration. An applicant who completes this refresher course shall not also be required to complete 20 hours of continuing education, but shall comply with the remaining requirements of subsection (b).

- d) An applicant for restoration of an esthetics clinic teacher license under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B)~~who has not maintained an active teaching practice in another jurisdiction~~ shall submit official transcripts showing successful completion of a 60 hour teacher refresher course or passage of the examination set forth in Section 1175.710 within 2 years prior to or within 2 years after application for restoration of a license. Those who successfully complete a 60 hour refresher course or take the examination shall not be required to complete continuing education before restoring a license, but shall comply with the remaining requirements of subsection (b).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART H: ESTHETICS SCHOOLS

Section 1175.800 Esthetics School Application

- a) An applicant for an esthetics school license shall submit a completed application to the Division with the following information and documentation:
- 1) A detailed floor plan consistent with the requirements of Section 1175.810(a)(1)~~of this Part~~;
 - 2) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the proposed school site;
 - 3) If the owner is a corporation, a copy of the Articles of Incorporation; if the owner is a limited liability company, a copy of the Articles of Organization;
 - 4) If the owner is a partnership, a listing of all partners and their current addresses;

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- 5) A signed fire inspection report from the local fire [inspection](#) authority [conducted](#) within 6 months prior to application giving approval for use of the site as a school;
 - 6) A financial statement prepared by a [certified](#) public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [[225 ILCS 450](#)] who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months;
 - 7) A copy of the official enrollment agreement to be used by the school, which shall be consistent with the requirements of Section 1175.815-~~of this Part~~;
 - 8) A listing of all esthetics and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
 - 9) A copy of the curricula that will be followed;
 - 10) A copy of the school's official transcript; and
 - 11) The required fee set forth in Section 1175.100.
- b) When the items listed in subsection (a) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not commence nor shall the school in any way solicit student enrollment, until the school has received written notice of approval from the Division. Approval will be granted if all of the requirements of this Subpart H have been met.
- c) Esthetics schools shall only offer instruction in esthetics and esthetics teacher education.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.805 Cosmetology Schools Approved to Teach Esthetics

- a) Existing cosmetology schools that wish to provide esthetics instruction shall:

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- 1) provide 200 square feet of space to accommodate 5 work stations and a maximum of 10 students. If attendance exceeds 10 on the clinic floor at any time, an additional 40 square feet is required for each additional work station required by subsection (a)(4)(B) ~~of this Section~~. The use of this space shall not reduce the square footage for the conduct of an approved cosmetology school below the minimum requirements set forth in this Part.
- 2) File an application with the Division, on forms provided by the Division, which shall include:
 - A) A detailed floor plan;
 - B) A signed copy of the fire inspection report from the local fire inspection authority conducted within 6 months prior to application, giving approval for use of the site as a school;
 - C) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months;
 - D) A copy of the enrollment agreement to be used by the school;
 - E) A copy of the esthetics curriculum;
 - F) A listing of all esthetics and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
 - G) A copy of the school's official transcript; and
 - H) The required fee set forth in Section 1175.100.
- 3) When the items listed in subsection (a)(2) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance.
- 4) In addition, the school shall have the following:

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- A) At least one work station or position for every 2 students. Every work station shall include 1 facial chair, 1 steamer, 1 magnification lamp and 1 wood lamp.
 - B) Every school shall also have 1 set of facial equipment to include manual, mechanical, or electrical apparatus as follows:
 - i) Brushing;
 - ii) Vacuum/spray machine;
 - iii) Glass electrode or high frequency current; and
 - iv) Disencrustation machine.
 - D) Provide an esthetics curriculum in accordance with Sections 1175.835 and 1175.840.
- b) Cosmetology schools approved to teach esthetics shall be required to comply with all provisions in this Part, except for Section 1175.810(a) and (b).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.810 Physical Site Requirements

- a) Space Requirements
 - 1) A school shall have a minimum of 1,800 square feet for a maximum of 20 students. An additional 40 square feet is required for each additional student if attendance exceeds 20 on the clinic floor at any given time.
 - 2) The school shall be partitioned to provide for the following areas:
 - A) Dispensary;
 - B) Student ~~spa~~;Spa
 - C) Classrooms;

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- D) ~~Two~~ Separate restrooms; ~~for males and females~~
 - E) Cloak space for the public;
 - F) Public waiting area; ~~separated from the work area~~
 - G) Student lounge area separated from the work area and sufficient space for each student to keep school related and personal items;
 - H) Storage space;
 - ~~I) Locker space~~
 - ~~J) Conference room~~
 - ~~K) Other areas for school administration~~;
 - ~~L) Work stations.~~
- 3) All areas of the school shall be ventilated and lighted.
- b) Equipment Requirements – All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are:
- 1) An entrance sign designating the name of the school;
 - 2) A school seal;
 - 3) A time clock or other equipment necessary for verification of attendance and hours earned;
 - 4) A minimum of 5 work stations. Every work station shall include 1 facial chair, 1 steamer, 1 magnification lamp and 1 wood lamp;
 - 5) Every school shall also have 1 set of facial equipment to include manual, mechanical, or electrical apparatus as follows:

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- A) Brushing;
 - B) Vacuum/spray machine;
 - C) Glass electrode or high frequency current; and
 - D) Disencrustation machine;
- 6) Trays for facial supplies;
 - 7) One dry sterilizer per 2 work stations;
 - 8) One facial supply ~~station~~cabinet containing astringents, lotions, creams, makeup and other necessary supplies for facials;
 - 9) ~~A Desk/table space and a~~ chair for each student in the classroom and, when appropriate, sufficient desk or table space;
 - 10) Adequate covered disposal cans placed at convenient locations;
 - 11) ~~At least one~~One covered container for soiled towels ~~for each 10 students~~ in ~~a~~clinical work area;
 - 12) Closed or covered space ~~cabinets~~ equipped for storing 5 dozen clean towels for every 10 students in the work area; and
 - 13) One head form or chart per class.
- c) Sanitary Regulations
- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
 - 2) All instruments shall be sanitized before and after use on each patron.
 - 3) Clean towels shall be used for each patron.
 - 4) Hands must be cleansed before and after serving each patron.

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- 5) After each patron is served, electrical equipment must be sanitized according to manufacturer's specifications. All other equipment should be washed in water and sanitized before use.
 - 6) The head rests of any chair shall be protected with a disposable cover or clean towel and changed after each patron.
 - 7) Non-disposable head coverings must be laundered and sanitized after each separate use.
 - 8) All powders, lotions, creams, and other cosmetics shall be kept in clean, closed containers. All cosmetics shall be applied by sanitary applicators and removed from the container with a sanitary spatula.
 - 9) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease, as defined in 77 Ill. Adm. Code 690, to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.
 - 10) No animals or pets, except animal assistants for the physically impaired, shall be permitted on school premises.
 - 11) The floors, walls and furniture shall be kept clean at all times.
 - 12) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials – Textbooks shall be provided for each student in attendance.
 - e) Teachers – The student/teacher ratio during clinical instruction shall not exceed a 25 to 1 ratio.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.825 Recordkeeping – Transcripts

- a) Each school shall provide an official transcript showing the entire program work of each student. The official transcript shall contain the following information:

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- 1) School name and address;
 - 2) School seal;
 - 3) School license number;
 - 4) Signature of owner, registrar or director of the school;
 - 5) Student's name, address and social security number;
 - 6) Actual dates student attended;
 - 7) Subject areas, hours earned and grades received;
 - 8) Any transfer hours citing the name and address of school transferred from, subject areas, hours earned and grades received;
 - 9) Final examination grades; and
 - 10) Graduation date.
- b) The official transcript and school records for each student shall be permanently maintained by the school in the following manner:
- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant cabinet or electronically stored in a secure off-site storage system.
 - 2) If records, whether electronic or paper, cannot be maintained on the premises in locked fire-resistant cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that shall be made known to the Division. The~~Such~~ records shall be accessible to Division officials for inspection.
- c) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 57 years from the student's

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first day of attendance at the school.

- d) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations established in the enrollment agreement as set forth in Section 1175.815.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.835 Curriculum Requirements – Esthetics

- a) Each licensed cosmetology school teaching an esthetics curriculum and each licensed esthetics school shall provide a program consisting of a minimum of 750 clock hours or a 25 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:
- 1) Basic Training – 75 hours of classroom instruction in general theory and practical application shall be provided which shall be divided into the following subject areas:
 - A) history of skin care;
 - B) personal hygiene and public health;
 - C) professional ethics;
 - D) sterilization and sanitation;
 - E) introduction to skin analysis and skin care and facial treatments.
 - 2) Scientific Concepts – 150 hours of classroom instruction shall be provided in the following subject areas:
 - A) cells, metabolism and body systems;
 - B) bacteriology;
 - C) physiology and histology of the skin;

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- D) human anatomy;
 - E) chemistry – understanding chemicals and their use;
 - F) disorders of the skin and special esthetics procedures.
- 3) Practices and Procedures – 500 hours of instruction, which shall be a combination of classroom instruction and clinical application, shall be provided in the following subject areas:
- A) non-therapeutic massage, excluding the scalp;
 - B) nutrition and health of skin;
 - C) skin analysis;
 - D) cleansing the skin;
 - E) mask therapy and facial treatments;
 - F) facial treatments without the aid of machines;
 - G) electricity, machines and apparatus;
 - H) facial treatments with the aid of machines;
 - I) hair removal; including tweezer method, depilators, waxing and their use;
 - J) professional makeup techniques;
 - K) product knowledge as it relates to esthetics.
- 4) Business Practices – 25 hours of classroom instruction shall be provided in the following subject areas:
- A) ~~The Illinois Barber, Cosmetology, Esthetics and Nail Technology Act and this Part;~~ Rules management

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B) Management;

C) OSHA standards relating to chemical use; and

D) Workers' Compensation Act.

- 5) Internship Program is an optional part of the curriculum. Each licensed esthetics school may choose to set up an internship program and shall follow the guidelines set forth in this subsection (a)(5):
- A) An internship program:
- i) May be substituted for 75 hours of the 750 hours set forth in this subsection (a).
 - ii) May be part of the curriculum of a licensed esthetics school and shall be an organized preplanned training program designed to allow a student to learn esthetics under the direct supervision of a licensed cosmetologist or licensed esthetician in a registered salon.
- B) A student in the internship program:
- i) May participate in an internship program only after completing 375 hours of training and have a minimum average grade of 80. A school may set the average grade higher and set other standards that a student must meet to participate in the internship program.
 - ii) May not spend more than 75 hours in an internship program.
 - iii) May not be paid while participating in this internship program as it is a part of the esthetics curriculum of the school.
 - iv) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.

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- v) Shall be under the direct on-site supervision of a licensed cosmetologist or licensed esthetician. Only 1 student shall be supervised by 1 licensed cosmetologist or licensed esthetician.
 - C) A licensed esthetics school shall state clearly in the student contract or enrollment agreement that the school offers an internship program.
 - D) The licensed esthetics school shall enter into a contract with the student, the registered salon and licensed cosmetologist or licensed esthetician. The contract shall contain all of the provisions set forth in this subsection (a)(5) and any other requirements of the internship program established by the school. The contract shall be signed by the student, the school and the licensed cosmetologist or licensed esthetician. Any party to the contract may terminate the contract at any time.
- b) An esthetics student is not permitted to practice on the public until the successful completion of 75 hours of basic training specified in subsection (a)(1).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.840 Curriculum Requirements – Esthetics Teacher

- a) An approved school that intends to provide teacher training must utilize a teacher curriculum that includes a program consisting of a minimum of 750 clock hours or a 25 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:
 - 1) 250 hours of Post-Graduate School Training that includes: all subjects in the basic esthetics curriculum in Section 1175.835, including theory and practice. Presentation of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education.
 - 2) 20 hours of Educational Psychology that shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that

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relates to teaching. These hours shall be waived on behalf of esthetics teacher students who have completed a course in Educational Psychology at an accredited college or university.

- 3) 20 hours of Teaching Methods (Theory) that shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom management, student motivation and classroom climate. These hours shall be waived on behalf of esthetics teacher students who have completed a course in Teaching Methods-Secondary Level at an accredited college or university.
 - 4) 150 hours of Application of Teaching Methods that include: preparation and organization of subject matter to be presented on a unit by unit basis; and presentation of subject matter through application of varied methods (lecture, demonstration, testing and assignments). Presentations must provide teaching objectives to be accomplished and correlate theoretical with practical application.
 - 5) 50 hours of Business Methods that include: Inventory, recordkeeping, interviewing, supplies, the ~~Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985~~ and ~~this Part 68 Ill. Adm. Code 1175~~.
 - 6) 260 hours of Student Teaching under the on-site supervision of an Illinois licensed teacher. The student teacher shall present theoretical and practical demonstrations to students in the basic curriculum.
- b) The approved program for a 500 hour Teacher Training Course shall be based upon 2 years of practical experience and shall consist of the Teacher Training Curriculum outlined in this Section with the exception of the 250 hours of Post-Graduate Training.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.841 Curriculum Requirements – Esthetics Clinic Teacher

- a) An approved school that intends to provide esthetics clinic teacher training must utilize a teacher curriculum that includes a program consisting of a minimum of 250 clock hours or a 9 credit hour equivalency (1 credit hour equals 30 clock

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hours) of instruction as follows:

- 1) 20 hours of Educational Psychology that shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that relates to teaching. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Educational Psychology at an accredited college or university.
 - 2) 20 hours of Teaching Methods (Theory) that shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom clinic management, student motivation and clinic climate. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Teaching Methods – Secondary Level at an accredited college or university.
 - 3) 10 hours of Business Methods that include inventory, recordkeeping, interviewing, supplies, the [Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985](#) and [this Part 68 Ill. Adm. Code 1175](#).
 - 4) 200 hours of Student Teaching under the on-site supervision of an Illinois licensed teacher. The student teacher shall supervise clinic students and present practical demonstrations to students in the clinic portion of the basic cosmetology curriculum.
- b) Completion of an instructor's institute of 20 hours, as provided in Section 3A-3 of the Act, may be done in lieu of the 250 hour clinic teacher curriculum if an individual has obtained a minimum of 2 years of practical experience working at least 30 full time hours per week as a licensed esthetician prior to submitting an application for examination. This institute shall, at a minimum, consist of 10 hours of Educational Psychology and 10 hours of Teaching Methods (Theory).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.850 Change of Ownership

- a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Division

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the following:

- 1) An affidavit stating that the contract is contingent on a certificate being issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a new certificate is issued;
- 2) A signed and completed school application;
- 3) A floor plan if any expansion is to be done by the new owner;
- 4) A copy of a lease agreement showing at least a 1 year commitment or certification of school site ownership;
- 5) A copy of the enrollment agreement that will be utilized by the new owner;
- 6) A copy of the written, published attendance policy that will be utilized by the new owner;
- 7) A copy of curricula that will be used by the new owner;
- 8) A sample copy of the school's official transcript;
- 9) A Commitment Statement, as provided in the licensure application packet, signed and dated by the school's chief managing employer and a statement signed and dated by each partner or each officer of the corporation;
- 10) List of all the names, addresses and current status of all schools in which the applicant has previously owned any interest, and a declaration as to whether any of these schools were ever denied accreditation or licensing or lost accreditation or licensing from any government body or accrediting agency;
- 11) If the owner is a corporation, a copy of the Articles of Incorporation; if the owner is a limited liability company, a copy of the Articles of Organization;
- 12) If owner is a partnership, a listing of all partners and their addresses;

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- 13) A signed [fire](#) inspection report by the local fire inspection authority [conducted](#) within 6 months prior to application approving the school site;
 - 14) A financial statement prepared by a [certified](#) public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [\[225 ILCS 450\]](#) who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months;
 - 15) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and
 - 16) The required fee set forth in Section 1175.100.
- b) Once the items listed in subsection (a) have been received, the Division shall conduct an inspection prior to approval of the change of ownership. Approval will be granted if the requirements of [this](#) Subpart H have been met.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.855 Change of Location

- a) When the location of an approved school is changed, the school owner shall submit to the Division the following:
- 1) Written notice to the Division at least 30 days in advance of the school site change;
 - 2) A signed and completed school application;
 - 3) A floor plan;
 - 4) A copy of a lease agreement showing at least a 1 year commitment or certification of ownership of school site;
 - 5) A signed [fire](#) inspection report by the local fire inspection authority [conducted](#) within 6 months prior to application approving the site; and
 - 6) The required fee set forth in Section 1175.100.

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- b) Once the items listed in subsection (a) have been received, the Division shall inspect the premises to determine compliance with this Part. School operations shall not commence at the new location, nor may the school in any way solicit student enrollment, until the owners have received written notice of approval from the Division. Approval will be granted if the requirements of [this](#) Subpart H have been met.
- c) If the change of location is due to natural destruction of the original premises, a temporary site may be used to teach theory classes only.
 - 1) The temporary site must be inspected prior to its use and must possess light, ~~and~~ ventilation ~~and~~, tables and chairs for the number of students in a classroom, and must be clean.
 - 2) The temporary site may be used for a period of 2 months. The 2 month period can be extended for good cause. Good cause includes, but is not limited to, unexpected delays in construction, delays in lease arrangements or delays in equipment delivery.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.865 Expansion

- a) Written notice shall be given to the Division 30 days prior to any expansion of an approved school.
- b) When the expansion will result in an off-site classroom location, a completed school application must be submitted along with:
 - 1) A detailed floor plan;
 - 2) A copy of a lease showing at least a 1 year commitment to the use of the site or certification of ownership of the proposed site;
 - 3) A signed fire inspection report from the local fire [inspection](#) authority [conducted](#) within 6 months prior to application giving approval for use of the site as an off-site classroom location;
 - 4) A statement from the school owner outlining the purpose of the classroom

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location;

- 5) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;
- 6) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; and
- 7) The required fee set forth in Section 1175.100.

c) An off-site classroom location is defined as a separate classroom that is located within 5 miles of the main school site that serves to provide adequate space in which to train an overflow of students. A clinic may ~~not~~ be operated at an off-site classroom location. A school may establish only one off-site classroom location. All identifying signs and materials must reflect the name of the main school.

de) When an on-site expansion is to accommodate an increased enrollment, a completed school application shall be submitted along with:

- 1) A detailed floor plan;
- 2) A statement from the school owner outlining the purpose of the expansion;
- 3) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
- 4) The required inspection fee set forth in Section 1175.100.

ed) Upon receipt of the items listed in subsections (b) and (c), the Division shall inspect the expansion site to determine compliance with this Part. The site shall not be used until such inspection has occurred and the owner has received written notification of approval from the Division. Approval will be granted if all of the requirements of this Subpart H have been met.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.870 Discontinuance of Program

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- a) The Division shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.
- b) The school owner shall notify the Division in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.
- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) Each student shall be given a refund prorated to at least reflect the percentage of time remaining to complete the course of instruction.~~All refunds shall be given to students in accordance with the refund provisions set forth in the enrollment agreement.~~

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.875 Withdrawal of Approval

- a) The Division may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of cosmetology or esthetics school when the quality of the program has been affected by any of the following causes:
 - 1) Gross or repeated violations of any provisions of the Act or this Part;
 - 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
 - 3) Failure to meet the criteria for school approval in Section 1175.800;
 - 4) Failure to administer the final examination as specified in this Part;
 - 5) Failure to maintain final examination grades for each student and a master

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of the examination administered by the school as specified in this Part;

- 6) Fraud or dishonesty in providing transcripts to students who have fulfilled all obligations under Section 1175.815;
 - 7) Failure to provide transcripts to students;
 - 8) A finding by the U.S. Office of Education or Illinois Student Assistance Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining such monies by providing fraudulent or untruthful information; and
 - 9) Any other violations of the Act or this Part.
- b) Performance Record on Licensing Examination
- 1) When a school's graduates have a 25% or greater failure rate on the licensing examination, Division approval of a school shall be reviewed pursuant to Section 1175.800.
 - 2) The performance record of a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Division when reviewing Division approval of a school.
 - 3) The Division shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Division approval of a school is proposed to be withdrawnbeing reviewed.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART J: NAIL TECHNOLOGY

Section 1175.1030 Restoration – Nail Technician

- a) A person applying for restoration of a nail technician license that has been expired or placed on inactive status for less than 5 years shall submit an application on forms provided by the Division and:
 - 1) Pay the required fee as set forth in Section 1175.100; and

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- 2) Provide evidence of successful completion of 10 hours of continuing education in accordance with Section 1175.1200(c).
- b) A person applying for restoration of a nail technician license that has been expired or placed on inactive status for 5 years or more shall submit an application on forms provided by the Division along with:
- 1) Verification of employment, attesting to lawful practice in another jurisdiction within the 5 years preceding application for restoration;
 - 2) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed. ~~An applicant for restoration who has not maintained lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 60 hour nail technology refresher course from an approved cosmetology or nail technology school or pass the examination set forth in Section 1175.1010 within 2 years prior to or within 2 years after the restoration application. An applicant who completes this refresher course or takes the examination shall not also be required to complete 10 hours of continuing education;~~
 - 3) A completed Restoration Questionnaire;
 - 4) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding restoration; and
 - 5) The required fee as set forth in Section 1175.100.
- c) If restoring after active military service, the applicant shall submit a copy of his/her Honorable Discharge form (DD-214) and the current renewal fee.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.
- e) An applicant for restoration under subsection (b) who is unable to comply with one or both of subsections (b)(1) and (2) shall submit official transcripts showing successful completion of a 60 hour nail technology refresher course from an approved cosmetology or nail technology school or pass the examination set forth

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in Section 1175.1010 within 2 years prior to or within 2 years after the restoration application. An applicant who completes this refresher course or takes the examination shall not also be required to complete 10 hours of continuing education, but shall comply with the remaining requirements of subsection (b).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1035 Restoration – Nail Technology Teacher or Nail Technology Clinic Teacher

- a) A person applying for restoration of a nail technology teacher or nail technology clinic teacher license that has been expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division. An applicant shall also submit evidence of successful completion of 20 hours of continuing education in accordance with Sections 1175.1200 and 1175.1210 earned within 2 years immediately preceding the restoration and the required fee set forth in Section 1175.100.
- b) A person applying for restoration of a nail technology teacher or nail technology clinic teacher license that has been expired for 5 years or more shall submit an application on forms provided by the Division along with:
 - 1) Verification of employment as a nail technology teacher or nail technology clinic teacher in another jurisdiction within the 5 years preceding application for restoration;
 - 2) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
 - 3) A completed Restoration Questionnaire;
 - 4) Evidence of successful completion of 20 hours of continuing education earned within the 2 years immediately preceding restoration; and
 - 5) The required fee as set forth in Section 1175.100.
- c) An applicant for restoration of a nail technology teacher license under subsection (b) who is unable to comply with one or both of subsections (b)(1) and (2) who has not maintained lawful practice (as determined by the laws of that jurisdiction)

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~~in another jurisdiction~~ shall ~~also~~ submit official transcripts showing successful completion of a 125 hour nail technology teacher refresher course from an approved cosmetology or nail technology school or pass the teacher examination set forth in Section 1175.1010 within 2 years prior to or within 2 years after the restoration application. An applicant who completes this refresher course or takes the examination shall not also be required to complete 20 hours of continuing education, but shall comply with the remaining requirements of subsection (b).

- d) An applicant for restoration of a nail technology clinic teacher license under subsection (b) who is unable to comply with one or both of subsections (b)(1) and (2)~~who has not maintained lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction~~ shall ~~also~~ submit official transcripts showing successful completion of a 60 hour nail technology clinic teacher refresher course from an approved cosmetology or nail technology school or pass the teacher examination set forth in Section 1175.1010 within 2 years prior to or within 2 years after the restoration application. An applicant who completes the refresher course or takes the examination shall not also be required to complete 20 hours of continuing education, but shall comply with the remaining requirements of subsection (b).
- e) If restoring after active military service, the applicant shall submit a copy of his/her Honorable Discharge form (DD-214) and the current renewal fee.
- f) If an applicant takes and fails the examination, the license will not be restored until ~~such time as~~ he/she has successfully completed the examination.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART K: NAIL TECHNOLOGY SCHOOLS

Section 1175.1100 Nail Technology School Application

- a) An applicant for a nail technology school license shall submit a completed application to the Division with the following information and documentation:
- 1) A detailed floor plan consistent with requirements of Section 1175.1110(a)(1) ~~of this Part~~;
 - 2) A copy of a lease showing at least a 1 year commitment to the use of the

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school site or certification of ownership of the proposed school site;

- 3) If the owner is a corporation, a copy of the Articles of Incorporation; if the owner is a limited liability company, a copy of the Articles of Organization;
 - 4) If the owner is a partnership, a listing of all partners and their current addresses;
 - 5) A signed fire inspection report from the local fire inspection authority conducted within 6 months prior to the application giving approval for use of the site as a school;
 - 6) A ~~certified~~ financial statement prepared by a ~~certified~~licensed public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months;
 - 7) A copy of the official enrollment agreement to be used by the school that shall be consistent with the requirements of Section 1175.1115 ~~of this Part~~;
 - 8) A listing of all nail technology and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
 - 9) A copy of the curriculum that will be followed;
 - 10) A copy of the school's official transcript; and
 - 11) The required fee set forth in Section 1175.100.
- b) When the items listed in subsection (a) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not begin, nor shall the school in any way solicit student enrollment, until the school has received written notice of approval from the Division. Approval shall be granted if all the requirements of this Subpart K have been met.

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- c) Nail technology schools shall only offer instruction in nail technology and nail technology teacher education.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1105 Cosmetology Schools Approved to Teach Nail Technology

- a) Existing cosmetology schools that wish to provide nail technology instruction shall:
- 1) Provide at least 200 square feet of space to accommodate 5 work stations. If attendance exceeds 10 on the clinic floor at any time, an additional 30 square feet is required for each additional work station required by subsection (a)(4)(A). The use of this space shall not reduce the square footage for the conduct of an approved cosmetology school below the minimum requirements set forth in this Part.
 - 2) File an application with the Division, on forms provided by the Division, that shall include:
 - A) A detailed floor plan;
 - B) A signed copy of a fire inspection report from the local fire inspection authority conducted within 6 months prior to the application giving approval for use of the site as a school;
 - C) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months;
 - D) A copy of the enrollment agreement to be used by the school;
 - E) A copy of the nail technology curriculum;
 - F) A listing of all nail technology and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;

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- G) A copy of the school's official transcript; and
 - H) The required fee set forth in Section 1175.100.
- 3) When the items listed in subsection (a)(2) have been received, the Division shall inspect the school premises, prior to approving the school, to determine compliance.
 - 4) In addition, the school shall meet the following:
 - A) At least 1 patron work station, including patron chair, manicuring table and student chair, for every 2 students enrolled.
 - B) Every work station shall have a disinfectant tray and disinfectant solution.
 - C) Provide a nail technology curriculum in accordance with Sections 1175.1135 and 1175.1140.
- b) Cosmetology schools approved to teach nail technology shall be required to comply with all provisions in this Part except Section 1175.1110(a) and (b).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1110 Physical Site Requirements

- a) Space Requirements
 - 1) A nail school shall have a minimum of 500 square feet of work space for a maximum of 10 students. An additional 30 square feet is required for each additional work station if attendance exceeds 10 students in the clinic area at any given time.
 - 2) Work space shall include the dispensary area but shall not include classrooms, restrooms, halls, checkrooms, ~~locker space~~, storage areas, student lounge, cloak space, public waiting area or other areas or facilities for administration.

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- 3) The school shall be partitioned to provide for the following areas:
 - A) Dispensary;
 - B) Classrooms;
 - C) Two~~Separate~~ restrooms;~~for males and females~~
 - D) Cloak space for the public;
 - E) Public waiting area;~~separated from the work area~~
 - F) Student lounge area, separated from the work area, and sufficient space for each student to keep school related and personal items;
 - G) Storage space;
 - ~~H)~~ Locker space
 - ~~HF)~~ Other areas for school administration;
 - ~~IF)~~ Work stations.
 - 4) All areas of the school shall be ventilated and lighted.
- b) Equipment Requirements – All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are:
- 1) An entrance sign designating the name of the school;
 - 2) A school seal;
 - 3) A time clock or other equipment necessary for verification of attendance and hours earned;
 - 4) A minimum of 5 patron work stations. For enrollment over 10, 1 patron work station per 2 students;

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- 5) Every patron work station shall include a patron chair, manicuring table and student chair for every 2 students enrolled;
 - 6) Every patron work station shall have a disinfectant tray and disinfectant solution;
 - 7) Trays for nail technology supplies;
 - 8) Eye guards, protective garments and masks should be available for patrons and students upon request;
 - 9) ~~A Desk/table space and a chair~~ for each student in the classroom and, when appropriate, sufficient desk or table space;
 - 10) Adequate number of covered waste and linen disposal cans placed at convenient locations;
 - 11) Closed ~~or covered space~~cabinets for storing 5 dozen clean towels for every 10 students in the work area; and
 - 12) A mannequin hand for each student.
- c) Sanitary Regulations
- 1) Clean outer garments must be worn at all times.
 - 2) All instruments shall be disinfected before and after use on each patron.
 - 3) Clean towels shall be used for each patron.
 - 4) Hands must be cleansed with an antimicrobial agent before and after serving each patron.
 - 5) After use on each patron, implements and electrical equipment must be disinfected according to manufacturer's specifications. All other equipment should be washed in water and sanitized before use.
 - 6) Manicuring table coverings must be disposed of or laundered and sanitized after each patron.

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- 7) All products shall be kept in clean, closed containers and be applied by sanitary applicators.
 - 8) All nail chemicals must be kept in labeled containers.
 - 9) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease as defined in 77 Ill. Adm. Code 690 to work on the premises or knowingly permit a student to serve a patron with a serious communicable disease.
 - 10) No animals or pets, except animal assistants for the physically impaired, shall be permitted on school premises.
 - 11) The floors, walls and furniture shall be kept clean at all times.
 - 12) An adequate supply of hot and cold running water shall be available for school operation.
- d) Textbooks/Teaching Materials – Textbooks shall be provided for each student in attendance.
 - e) Teachers – The student/teacher ratio during clinical instruction shall not exceed a 25 to 1 ratio.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1125 Recordkeeping – Transcripts

- a) Each school shall provide an official transcript showing the entire program work of each student. The official transcript shall contain the following information:
 - 1) School name and address;
 - 2) School seal;
 - 3) School license number;
 - 4) Signature of the owner, registrar or director of the school;

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- 5) Student's name, address and social security number;
 - 6) Actual dates student attended;
 - 7) Subject areas, hours earned and grades received;
 - 8) Any transfer hours, citing the name and address of the school transferred from, subject areas, hours earned and grades received;
 - 9) Final examination grades; and
 - 10) Graduation date.
- b) The official transcript and school records for each student shall be permanently maintained by the school in the following manner:
- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant cabinet or electronically stored in a secure off-site storage system.
 - 2) If records, whether electronic or paper, cannot be maintained on the premises in locked, fire-resistant cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that shall be made known to the Division. TheSueh records shall be accessible to Division officials for inspection.
- c) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school provided the student has met all financial obligations in the enrollment agreement as set forth in Section 1175.1115.
- d) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 57 years from the student's first day of attendance at the school.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

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Section 1175.1135 Curriculum Requirements – Nail Technology

- a) Each licensed cosmetology school teaching a nail technology curriculum and each licensed nail technology school shall provide a program consisting of a minimum of 350 clock hours or a 12 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:
 - 1) Basic Training – 50 hours of classroom instruction in general theory practical application (i.e., practicing nail technology on the public) and technical application (e.g., practicing the technical application on mannequin fingers or on the fingers of another student) shall be provided in the following subject areas:
 - A) History of nail care;
 - B) Personal hygiene and public health;
 - C) Professional ethics;
 - D) Sterilization and disinfection;
 - E) Bacteriology;
 - F) Disorders of the nails;
 - G) OSHA standards relating to material safety data sheets (MSDS) on chemicals;
 - H) Chemicals and their use; and
 - I) Technical applications of chemicals.
 - 2) Related concepts – 15 hours of classroom instruction shall be provided in the following subject areas:
 - A) Cells, metabolism and body systems;
 - B) Theory of massage; and

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- C) People skills.
- 3) Practices and Procedures – 255 hours of instruction, which shall be a combination of classroom instruction and clinical practical application, shall be provided in the following subject areas:
- A) Fabric procedures;
 - B) Sculpting procedures;
 - C) Light cured gels;
 - D) Machines or apparatus used in nail technology;
 - E) Manicures;
 - F) Pedicures;
 - G) Hand, arm and foot massage;
 - H) Other procedures as they relate to nail technology; and
 - I) Product knowledge as it relates to nail technology.
- 4) Business Practices – 30 hours of classroom instruction shall be provided in the following subject areas:
- A) ~~The Act~~Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act and this Part~~Rules~~;
 - B) Management;
 - C) OSHA standards relating to chemical use; and
 - D) Workers' Compensation Act.
- 5) Internship Program is an optional part of the curriculum. Each licensed nail technology school may choose to set up an internship program and shall follow the guidelines set forth in this subsection (a)(5).

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- A) An internship program:
 - i) May be substituted for 35 hours of the 350 hours set forth in this subsection (a).
 - ii) May be part of the curriculum of a licensed nail technology school and shall be an organized preplanned training program designed to allow a student to learn nail technology under the direct supervision of a licensed cosmetologist or licensed nail technician in a registered salon.

- B) A student in the internship program:
 - i) May participate in an internship only after completing 175 hours of training and have a minimum average grade of 80. A school may set the average grade higher and set other standards that a student must meet to participate in the internship program.
 - ii) May not spend more than 35 hours in an internship program.
 - iii) May not be paid while participating in the internship program as it is a part of the nail technology curriculum of the school.
 - iv) May work a maximum of 8 hours a day and shall be required to spend 1 day a week at the school.
 - v) Shall be under the direct on-site supervision of a licensed cosmetologist or licensed nail technologist. Only 1 student shall be supervised by 1 licensed cosmetologist or licensed nail technologist.

- C) A licensed nail technology school shall state clearly in the student contract that the school offers an internship program.

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- D) The licensed nail technology school shall enter into a contract with the student, the registered salon and licensed cosmetologist or licensed nail technologist that contains all of the provisions set forth in this Section and any other requirements of the internship established by the school. The contract shall be signed by the student, the school and the licensed cosmetologist or licensed technologist. Any party to the contract may terminate the contract at any point.
- b) A nail technology student is not permitted to practice on the public until he/she has successfully completed the 50 hours of general theory and practical application specified in subsection (a)(1).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1140 Curriculum Requirements – Nail Technology Teacher

- a) An approved school that intends to provide teacher training must utilize a teacher program that includes a minimum of 625 clock hours or a 21 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:
- 1) 125 hours of post-graduate school training that includes all subjects in the basic nail technology curriculum in Section 1175.1135, including theory and practice. Presentation of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education.
 - 2) 20 hours of Educational Psychology that shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that relates to teaching. These hours shall be waived on behalf of nail technology teacher students who have completed a course in Educational Psychology at an accredited college or university.
 - 3) 20 hours of Teaching Methods (Theory) that shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom management, student motivation and classroom climate. These hours shall be waived on behalf of nail technology students who have completed a

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course in Teaching Methods-Secondary Level at an accredited college or university.

- 4) 150 hours of Application of Teaching Methods that include: preparation and organization of subject matter to be presented on a unit by unit basis; and presentation of subject matter through application of varied methods (lecture, demonstration, testing and assignments). Presentations must provide teaching objectives to be accomplished and correlate theoretical with practical application.
 - 5) 50 hours of Business Methods that include inventory, recordkeeping, interviewing, supplies, the ~~Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act, of 1985 and this Part and the Workers' Compensation Act~~ 68 Ill. Adm. Code 1175.
 - 6) 260 hours of Student Teaching under the on-site supervision of an Illinois licensed teacher. The student teacher shall present theoretical and practical demonstrations to students in the basic curriculum.
- b) The approved program for a 500 hour Teacher Training Course shall be based upon 2 years of practical experience and shall consist of Teacher Training Curriculum outlined in Section 1175.1140, with the exception of the 125 hours of post-graduate training.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1141 Curriculum Requirements – Nail Technology Clinic Teacher

- a) An approved school that intends to provide nail technology clinic teacher training must utilize a teacher program that includes a minimum of 250 clock hours or a 9 credit hour equivalency (1 credit hour equals 30 clock hours) of instruction as follows:
 - 1) 20 hours of Educational Psychology that shall include, but not be limited to, topics in educational objectives, student characteristics and development, the learning process and an evaluation of learning that relates to teaching. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Educational Psychology at an accredited college or university.

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- 2) 20 hours of Teaching Methods (Theory) that shall include, but not be limited to, topics in individual differences in learning, lesson planning and design, lesson delivery, assessment of learning performance, classroom clinic management, student motivation and clinic climate. These hours shall be waived on behalf of cosmetology teacher students who have completed a course in Teaching Methods-Secondary Level at an accredited college or university.
 - 3) 10 hours of Business Methods that include inventory, recordkeeping, interviewing, supplies, the ~~Illinois Barber, Cosmetology, Esthetics, and Nail Technology Act, of 1985 and this Part and the Workers' Compensation Act~~ 68 Ill. Adm. Code 1175.
 - 4) 200 hours of Student Teaching under the on-site supervision of an Illinois licensed teacher. The student teacher shall supervise clinic students and present practical demonstrations to students in the clinic portion of the basic cosmetology curriculum.
- b) Completion of an instructor's institute of 20 hours, as provided in Section 3C-3 of the Act, may be done in lieu of the 250 hour clinic teacher curriculum if an individual has obtained a minimum of 2 years of practical experience working at least 30 full time hours per week as a licensed nail technician prior to submitting an application for examination. This institute shall, at a minimum, consist of 10 hours of Educational Psychology and 10 hours of Teaching Methods (Theory).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1150 Change of Ownership

- a) When the ownership of an approved school changes, the new owner shall, within 5 working days from the date title to the school is transferred, mail to the Division the following:
 - 1) An affidavit stating that the contract is contingent on a certificate being issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a new certificate is issued;
 - 2) A signed and completed school application;

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- 3) A floor plan if any expansion is to be done by the new owner;
- 4) A copy of a lease agreement showing at least a 1 year commitment or certification of school site ownership;
- 5) A copy of the enrollment agreement that will be utilized by the new owner;
- 6) A copy of the written, published attendance policy that will be utilized by the new owner;
- 7) A copy of curricula that will be used by the new owner;
- 8) A sample copy of the school's official transcript;
- 9) A Commitment Statement, as provided in the licensure application packet, signed and dated by the school's chief managing employer and a statement signed and dated by each partner or each officer of the corporation;
- 10) List of all the names, addresses and current status of all schools in which the applicant has previously owned any interest, and a declaration as to whether any of these schools were ever denied accreditation or licensing or lost accreditation or licensing from any government body or accrediting agency;
- 11) If the owner is a corporation, a copy of the Articles of Incorporation; if the owner is a limited liability company, a copy of the Articles of Organization;
- 12) If the owner is a partnership, a listing of all partners and their addresses;
- 13) A signed fire inspection report by the local fire inspection authority conducted within 6 months prior to application approving the school site;
- 14) A ~~certified~~ financial statement prepared by a ~~certified~~licensed public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least

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3 months;

- 15) If a name change is to also occur, the new owner must submit a sample of the new school seal and a photo of the new school sign; and
 - 16) The required fee set forth in Section 1175.100.
- b) Once the items listed in subsection (a) have been received, the Division shall conduct an inspection prior to approval of the change of ownership. Approval will be granted if all of the requirements of [this](#) Subpart K have been met.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1165 Expansion

- a) Written notice shall be given to the Division 30 days prior to any expansion of an approved school.
- b) Off-Site Classroom
 - 1) When the expansion will result in an off-site classroom location, a completed application must be submitted along with:
 - A) A detailed floor plan drawn to a scale specified on the drawing;
 - B) A copy of a lease showing at least a 1 year commitment to the use of the site or certification of ownership of the proposed site;
 - C) A signed fire inspection report from the local fire [inspection](#) authority [conducted](#) within 6 months prior to application giving approval for use of the site as a classroom location;
 - D) A statement from the school owner outlining the purpose of the classroom location;
 - E) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion;
 - F) A financial statement prepared by a [certified](#) public accountant

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licensed by the Division pursuant to the Illinois Public Accounting Act [\[225 ILCS 450\]](#) who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months; and

- G) The required fee set forth in Section 1175.100.
- 2) An off-site classroom location is defined as a separate classroom located within 5 miles of the main school site that serves to provide adequate space in which to train an overflow of students. A clinic may not be operated at an off-site classroom location. A school may establish only 1 off-site classroom location. All identifying signs and materials must reflect the name of the main school.
- c) When an on-site expansion is to accommodate an increased enrollment, a completed application shall be submitted along with:
 - 1) A detailed floor plan drawn to a scale specified on the drawing;
 - 2) A statement from the school owner outlining the purpose of expansion;
 - 3) A listing of any and all additional teachers who will be added to the teaching staff as a result of the expansion; and
 - 4) The required inspection fee as set forth in Section 1175.100.
- d) Upon receipt of the items listed in subsections (b) and (c), the Division shall inspect the expansion site to determine compliance with this Part. The site shall not be used until the inspection has occurred and the owner has received written notification of approval from the Division. Approval will be granted if all of the requirements of [this](#) Subpart K have been met.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1170 Discontinuance of Program

- a) The Division shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.

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- b) The school owner shall notify the Division in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.
- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) Each student shall be given a refund prorated to at least reflect the percentage of time remaining to complete the course of instruction.~~All refunds shall be given to students in accordance with the refund provisions set forth in the enrollment agreement.~~

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1175 Withdrawal of Approval

- a) The Division may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a school of cosmetology or nail technology school when the quality of the program has been affected by, but not limited to, any of the following causes:
 - 1) Gross or repeated violations of any provisions of the Act or this Part;
 - 2) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
 - 3) Failure to meet the criteria for school approval in Section 1175.1100;
 - 4) Failure to administer the final examination as specified in this Part;
 - 5) Failure to maintain final examination grades for each student and a master of the examination administered as specified in this Part;
 - 6) Fraud or dishonesty in providing transcripts to students who have fulfilled

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all obligations under Section 1175.1115;

- 7) Failure to provide transcripts to students;
 - 8) A finding by the U.S. Office of Education or Illinois Student Assistance Commission that a school has misappropriated or misused grant or loan monies or has aided in obtaining such monies by providing fraudulent or untruthful information; or
 - 9) Any other violation of the Act or this Part.
- b) Performance Record on Licensing Examination
- 1) When a school's graduates have a 25% or greater failure rate on the licensing examination, Division approval of a school shall be reviewed pursuant to Section 1175.1100.
 - 2) The performance record of a school's graduates on the licensing examination as compared with the statewide performance record shall be considered by the Division when reviewing Division approval of a school.
 - 3) The Division shall give written notice and a hearing pursuant to 68 Ill. Adm. Code 1110 when Division approval of a school is proposed to be withdrawnbeing reviewed.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART M: SALON OR SHOP REGISTRATION

Section 1175.1300 Application for a Barber Shop or Cosmetology, Nail Technology, Hair Braiding or Esthetics Salon Certificate of Registration

- a) Pursuant to Article IIID of the Act, all cosmetology, nail technology, hair braiding or esthetics salons and barber shops shall obtain a certificate of registration from the Division in order to operate in Illinois. The owner shall file an application with the Division, on forms supplied the Division. The application shall include the following:

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- 1) If the application is for a change of ownership, the salon or shop registration number of previous owner, a signed, dated statement from previous owner, and original salon or shop certificate registration;
- 2) Ownership structure: individual/sole proprietorship, corporation, limited liability company (LLC) or partnership;
- 3) Name, address and telephone number of owner. If a corporation, LLC, or partnership, the name, address and telephone number of chief executive officer (CEO) or managing partner;
- 4) Federal employer identification number (FEIN) of owner;
- 5) Name, address and telephone number of salon or shop;
- 6) Franchise disclosure;
- 7) Name and license number of any owner, managing partner or CEO holding an Illinois license in any profession regulated under the Act;
- 8) If an Illinois corporation, a copy of the entire Articles of Incorporation as filed with the Illinois Secretary of State;
- 9) If a foreign corporation, a copy of the entire Articles of Incorporation as filed with the jurisdiction where the corporation is registered and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
- 10) If an LLC, a copy of the entire Articles of Organization as filed with the Illinois Secretary of State;
- 11) If a foreign LLC, a copy of the entire Articles of Organization as filed with the jurisdiction where the LLC is organized and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
- 12) If a partnership, a copy of the signed and dated partnership agreement including the name of the partnership, business address and name of each partner;

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- 13) If a franchise, a copy of the signed and dated franchise agreement showing that franchisee has been granted the right to use trade name, trademark, service name, service mark or any other right to the exclusive use of names or symbols;
 - 14) If using an assumed name, a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name;
 - 15) The required fee set forth in Section 1175.100.
- b) **Registration Requirements.** The requirement to obtain a certificate of registration from the Division is only applicable to salons or shops offering cosmetology, esthetics, nail technology, hair braiding or barbering services. A separate certificate of registration is required for each salon or shop location. A separate application, fee and supporting documents shall be submitted to the Division. Any physical location dedicated to providing cosmetology, esthetics, nail technology, hair braiding, or barbering services, including but not limited to kiosks, trailers or motor vehicles, is subject to registration. The Division may reject any application including a business name that states or implies a service that cannot be legally offered by the business, which is misleading to consumers, or is otherwise inconsistent with the purposes of the Act.
 - c) **Change of Location.** The owner shall file written notice with the Division at least 30 days in advance of the change of location of a salon or shop. The notice shall include the owner's name and signature, date, FEIN, name of salon or shop, previous address of salon or shop, new address of salon or shop and effective date of change. The notice shall be accompanied by the original certificate of registration and a \$20 reprint fee. The Division shall reprint the certificate of registration with the new salon or shop address.
 - d) **Change of Ownership.** When the ownership of a salon or shop changes, the new owner shall, within 5 working days after the date of sale, file with the Division an affidavit stating that the sale is contingent on a certificate of registration being issued to the new owner. If this is not provided, the salon or shop must close and remain closed until a certificate of registration is issued to the new owner. The new owner shall obtain a certificate of registration from the Division as set forth

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in subsection (a) ~~of this Section~~.

- e) Change of Name. The owner shall file written notice with the Division at least 30 days in advance of the change of name of a salon or shop. The notice shall include the owner's name and signature, date, FEIN, previous name of salon or shop, address of salon or shop, new name of salon or shop and effective date of change. The notice shall be accompanied by the original certificate of registration, a \$20 reprint fee, and if using an assumed name, a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name.
- f) Renewal. All certificates of registration shall expire on November 30 of even numbered years. A salon or shop may renew the certificate of registration during the 2 months preceding the expiration date by paying the required fee.
- g) Restoration. An owner seeking restoration of a certificate of registration that has expired or been placed on inactive status shall file written notice with the Division. The notice shall include the owner's name and signature, date, FEIN, name of salon or shop, previous address of salon or shop, current address of salon or shop, and \$40 fee. If using an assumed name, the notice shall also include a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART N: HAIR BRAIDING

Section 1175.1430 Restoration – Hair Braider

- a) Application for Restoration
 - 1) A person applying for restoration of a license as a hair braider that has expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division and:
 - A) Pay the required fee set forth in Section 1175.100; and

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- B) Provide evidence of successful completion of 10 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200, within the 2 years prior to the application for restoration.
- 2) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a license as a hair braider that has been expired or been on inactive status for 5 years or more shall submit an application on forms provided by the Division along with either:
 - 1) All of the following:
 - A) Verification of lawful employment as a hair braider in another jurisdiction within the 5 years preceding application for restoration;
 - B) Certification of licensure from the licensing authority in the jurisdiction of employment stating that the practice was authorized;
 - C) A completed Restoration Questionnaire;
 - D) Evidence of successful completion of 10 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200 ~~of this Part~~, within the 2 years prior to the application for restoration; and
 - E) The required fee set forth in Section 1175.100; or
 - 2) A copy of the applicant's DD-214 form and the current renewal fee, if restoring from active military service.
- c) A person applying for restoration under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B) ~~has not maintained lawful employment as a hair braider in another jurisdiction~~ shall also submit evidence of successful completion of at least 65 hours of relevant training in health, safety, hygiene and business management, in accordance with the requirements of

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Section 3E-2 of the Act, within the 2 years prior to the application for restoration. An applicant who completes this training shall not be required to complete 10 hours of continuing education, but shall comply with the remaining requirements of subsection (b).

- d) Practicing or operating on a license that has expired shall be consider unlicensed activity and shall be grounds for discipline pursuant to Section 4-7 of the Act.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1435 Restoration – Hair Braiding Teacher

- a) Application for Restoration
- 1) A person applying for restoration of a license as a hair braiding teacher that has expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division and:
 - A) Pay the required fee set forth in Section 1175.100; and
 - B) Provide evidence of successful completion of 20 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200, within the 2 years prior to the application for restoration.
 - 2) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a license as a hair braiding teacher that has been expired or been on inactive status for 5 years or more shall submit an application on forms provided by the Division along with either:
- 1) All of the following:
 - A) Verification of lawful employment as a hair braiding teacher in another jurisdiction within the 5 years preceding application for restoration;

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- B) Certification of licensure from the licensing authority in the jurisdiction of employment stating that the practice was authorized;
 - C) A completed Restoration Questionnaire;
 - D) Evidence of successful completion of 20 hours of continuing education from a sponsor registered with the Division, in accordance with Section 1175.1200, within the 2 years prior to the application for restoration; and
 - E) The required fee set forth in Section 1175.100; or
- 2) A copy of the applicant's DD-214 form and the current renewal fee, if restoring from active military service.
- c) A person applying for restoration under subsection (b) who is unable to comply with one or both of subsections (b)(1)(A) and (B)~~has not maintained lawful employment as a hair braiding teacher in another jurisdiction~~ shall also submit evidence of successful completion of at least 65 hours of relevant training in health, safety, hygiene and business management, in accordance with the requirements of Section 3E-2 of the Act, within the 2 years prior to the application for restoration. An applicant who completes this training shall not be required to complete 20 hours of continuing education, but shall comply with the remaining requirements of subsection (b).
- d) Practicing or operating on a license that has expired shall be ~~considered~~consider unlicensed activity and shall be grounds for discipline pursuant to Section 4-7 of the Act.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

SUBPART O: HAIR BRAIDING SCHOOLS

Section 1175.1500 Hair Braiding School Application

- a) An applicant for a hair braiding school license shall submit a completed application to the Division with the following information and documentation:

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- 1) Name, address and telephone number of the person, corporation or other entity that owns the school;
- 2) If the school is owned by a legal entity other than an individual, the name, address and telephone number of the chief executive officer of the corporation or other legal entity that owns the school;
- 3) Name, address and telephone number of the school;
- 4) Name, address and telephone number of the chief managing employee;
- 5) If the school is owned by a legal entity formed in Illinois (domestic), a copy of the required business filing with the Illinois Secretary of State;
- 6) If the school is owned by a legal entity formed outside of Illinois (foreign), a copy of the required filing from that jurisdiction and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
- 7) If the school is owned by a partnership, a copy of the signed and dated partnership agreement including the name of the partnership and the name, address and telephone number of each partner;
- 8) If the school name is different from the owner's full legal name, a certificate from the Illinois Secretary of State showing authorization to transact business under an assumed name or certificate from the county clerk's office where the assumed name is filed;
- 9) A Commitment Statement from each officer of a corporation, each manager or member of a limited liability company or each member of partnership;
- 10) A listing of all teachers who will be in the school's employ, showing a sufficient number of qualified teachers who are holders of a current hair braiding teacher license or cosmetology teacher license issued by the Division;

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- 11) A detailed floor plan consistent with the requirements of Section 1175.1510. Floor plan must be drawn to a scale specified on the floor plan and show each detail of the school site;
 - 12) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the school site;
 - 13) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as a school;
 - 14) A [financial](#) statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [\[225 ILCS 450\]](#) who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months after the school license is approved;
 - 15) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.1515;
 - 16) A copy of the curricula to be used by the school, which shall be consistent with the requirements of this Part;
 - 17) A copy of the transcript to be used by the school, which shall be consistent with the requirements of Section 1175.1525;
 - 18) A copy of the final examination to be used by the school, which shall be consistent with the requirements of Section 1175.1545;
 - 19) A sample of the school seal to be used by the school;
 - 20) A photograph of the school sign to be used by the school; and
 - 21) The required fee set forth in Section 1175.100.
- b) When the items listed in subsection (a) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not begin nor shall the school in any way solicit student enrollment until the school has received notice of approval

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from the Division. Approval shall be granted if all the requirements of this Subpart O have been met.

- c) Hair braiding schools shall only offer instruction in hair braiding and hair braiding teacher education.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1505 Cosmetology Schools Approved to Teach Hair Braiding

- a) Existing cosmetology schools that wish to provide a course of instruction in hair braiding shall:
 - 1) Provide at least 200 square feet of work space to accommodate 5 work stations. If attendance exceeds 10 in the work space at any time, an additional 40 square feet is required for each additional work station required by subsection (a)(4)(E). The use of this space shall not reduce the square footage for the conduct of an approved cosmetology school below the minimum requirements set forth in this Part.
 - 2) File an application with the Division, on forms provided by the Division, that shall include:
 - A) A detailed floor plan consistent with the requirements of this Section. The floor plan must be drawn to a scale specified on the floor plan and show each detail of the school site;
 - B) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as a school;
 - C) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [225 ILCS 450] who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months after the school license is approved;

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- D) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.1515;
 - E) A copy of the curricula to be used by the school, which shall be consistent with the requirements of this Part;
 - F) A listing of all teachers who will be in the school's employ, showing a sufficient number of qualified teachers who are holders of a current hair braiding teacher license or cosmetology teacher license issued by the Division;
 - G) A copy of the transcript to be used by the school, which shall be consistent with the requirements of Section 1175.1525; and
 - H) The required fee set forth in Section 1175.100.
- 3) When the items listed in subsection (a)(2) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. The school shall not solicit student enrollment for the hair braiding program until the school has received notice of approval from the Division. Approval shall be granted if all the requirements of this Section have been met.
- 4) In addition, the school shall have the following:
- A) Desk/table space and chairs suitable for demonstrating hair braiding practices for each licensed teacher in the classroom.
 - B) 1 mannequin practice table to accommodate at least 5 students.
 - C) 1 shampoo bowl and chair with adequate hot and cold running water.
 - D) 1 dryer and chair.
 - E) At least 1 work station, including a styling chair for every 2 students in attendance.

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- F) 1 mannequin for each student in attendance.
 - G) Sufficient hair braiding tools, devices and supplies for each student in attendance.
 - H) 1 cape for each student in attendance.
- b) Cosmetology schools approved to teach hair braiding shall be required to comply with all provisions in this Part except Section 1175.1510(a) and (b).

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1510 Physical Site Requirements

- a) Space Requirements
- 1) A hair braiding school shall have a minimum of 650 square feet of work space for a maximum of 10 students. If attendance exceeds 10 in the work space at any time, an additional 40 square feet is required for each additional work station required by subsection (b)(10).
 - 2) Work space shall include only the dispensary and laboratory area.
 - 3) A hair braiding school shall have at least 1 classroom of no less than 150 square feet for a maximum of 10 students. If attendance exceeds 10 in the classroom at any time, an additional 30 square feet of classroom space is required for each additional student.
 - 4) Classroom shall be equipped with desk/table space and chairs suitable for classroom work and demonstrating hair braiding practices.
 - ~~5) Locker space shall be provided for the number of students in attendance at any time.~~
 - 56) A student lounge area shall be provided that is separated from the work space and sufficient space shall be provided for each student to keep school related and personal items.
 - ~~67)~~ Two ~~Separate~~ restrooms ~~for males and females~~ shall be provided.

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- 78) A public waiting area shall be provided that is separated from the work space.
- 89) Cloak space shall be provided ~~for that may be used both by students and~~ the public. Cloak space must be separated from the work space.
- 910) All areas of the school shall be lighted and ventilated, ~~except for storage closets.~~
- b) Equipment Requirements – All equipment shall be in working condition and sufficient for the number of students enrolled. Minimum requirements for school equipment are:
- 1) An entrance sign designating the name of the school.
 - 2) A school seal.
 - 3) A time clock or other equipment necessary for verification of attendance and hours earned.
 - 4) ~~A~~Desk/table space and a chair suitable for classroom work for each student ~~and, when appropriate, sufficient desk or table space~~ in the classroom.
 - 5) Desk/table space and chairs suitable for demonstrating hair braiding practices for each licensed teacher in the classroom.
 - ~~6) Locker space for each student in attendance.~~
 - 67) 1 mannequin practice table to accommodate at least 5 students.
 - 78) 1 shampoo bowl and chair with adequate hot and cold running water.
 - 89) 1 dryer and chair.
 - 910) 5 work stations with styling chairs. If attendance exceeds 10 in the work space at any time, at least 1 additional work station with a styling chair for every 2 students.

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- 1044) One mannequin for each student in attendance.
 - 1142) Sufficient hair braiding tools, devices and supplies for each student in attendance.
 - 1243) One cape for each student in attendance.
 - 1344) Storage drawers for hair braiding tools, devices and supplies.
 - 1445) Adequate covered waste disposal containers placed at convenient locations.
 - 1546) Closed or covered space equipped for storing clean towels. Space shall be large and sturdy enough to store 5 dozen towels per 10 students in the work area.
 - 1647) At least one covered container for soiled towels ~~for each 10 students~~ in the work area. Containers shall be large and sturdy enough to store soiled towels.
 - 1748) Adequate lighting and ventilation shall be provided as required by the city, county or municipality.
- c) Sanitary Regulations
- 1) Clean outer garments must be worn at all times. No open toed shoes shall be worn by students.
 - 2) New or cleaned and disinfected tools and devices shall be used for each patron.
 - 3) After each patron is served, combs, brushes and scissors must be cleaned, then immersed in a disinfectant as specified by the manufacturer's instructions, then rinsed in water and dried. They shall be kept in a closed container separately from items that have not been disinfected.
 - 4) Clean towels shall be used for each patron.

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- 5) A neck strip or towel shall be placed around the patron's neck, and changed after each use, to prevent direct contact between a common use hair cloth or cape and the patron's skin.
- 6) The head rests of each styling chair shall be protected with a head cover or a cleaned and disinfected towel. Disposable head covers shall be changed after each patron. Non-disposable head covers shall be cleaned and disinfected before use on a patron. Towels shall be cleaned and disinfected before use on a patron.
- 7) Teachers and students shall observe and follow thorough hand washing with soap and water or any equally effective cleansing solution or waterless hand sanitizer before and after serving each patron.
- 8) Shampoo bowls and sinks shall be clean and free of hair and residue after each use.
- 9) All disinfecting agents shall be kept at adequate strengths to maintain effectiveness, be free of residue and be available for immediate use at all times the school is open for business.
- 10) Oils and other items used within the field of practice that are subject to cross-contamination shall be kept in clean, closed containers. They shall be dispensed from containers to prevent contamination of the unused portion.
- 11) All clean towels shall be kept in a closed or covered space, separately from soiled towels, that is equipped for storing towels.
- 12) All soiled towels shall be kept in a covered container. Containers shall be large and sturdy enough to store soiled towels after use.
- 13) Storage drawers for clean tools, devices and supplies shall be kept clean and free of residue and used only for clean tools, devices and supplies.
- 14) Storage cabinets, work stations and vanities shall be kept clean and free of residue.
- 15) Floor surfaces shall be kept clean, orderly and in good repair.

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- 16) Walls, doors, windows and ceilings shall be clean and free of excessive spots, mildew, condensation or peeling paint.
 - 17) Equipment, mirrors, lights and similar closures, furnishings, attached equipment, decorative materials and fixtures shall be kept clean and in good repair.
 - 18) Outer surfaces of waste disposal containers shall be kept clean.
 - 19) All schools shall provide adequate ventilation as required by the city, county or municipality to keep the school free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes.
 - 20) All schools shall provide a safe and adequate supply of continuous hot and cold running water from an approved source. Sinks located in the restroom do not qualify as a water source.
 - 21) No owner, manager, teacher or school administrator shall knowingly permit any person suffering from a serious communicable disease, as defined in 77 Ill. Adm. Code 690, to work on the premises, or knowingly permit a student to serve a patron with a serious communicable disease.
 - 22) Pets or other animals shall not be permitted in a school at any time. This prohibition does not apply to an animal assistant for the physically impaired.
- d) Textbooks/Teaching Materials – Textbooks shall be provided for each student in attendance.
 - e) Teachers – The student/teacher ratio during clinical instruction shall not exceed a 25 to 1 ratio.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1525 Recordkeeping – Transcripts

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- a) Each hair braiding school shall provide an official transcript showing the entire program work of each student. The official transcript shall contain the following information:
- 1) School name and address;
 - 2) School seal;
 - 3) School license number;
 - 4) Signature of the owner, registrar or director of the school;
 - 5) Student's name, address and social security number;
 - 6) Actual dates student attended;
 - 7) Subject areas, hours earned and grades received;
 - 8) Any transfer hours citing the name and address of the school transferred from, subject areas, hours earned and grades received;
 - 9) Final examination grades; and
 - 10) Graduation date.
- b) The official transcript and school records for each student who completed the program shall be permanently maintained by the school in the following manner:
- 1) If maintained on the school premises, they shall be maintained in a locked, fire-resistant cabinet. If official transcripts are maintained on a computer system, history tapes or discs of all official records must be stored in a locked, fire-resistant cabinet or electronically stored in a secure off-site storage system.
 - 2) If records, whether electronic or paper, cannot be maintained on the premises in locked fire-resistant cabinets, duplicate student records, including the official transcripts, shall be maintained at a separate location that shall be made known to the Division. The records shall be accessible to Division officials for inspection.

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- c) An official transcript and school records for students who withdrew or dropped out of a program shall be maintained by the school for 57 years from the student's first day of attendance at the school.
- d) A copy of the transcript shall be given to the student upon graduation or other permanent exit from the school, provided the student has met all financial obligations set forth in the enrollment agreement set forth in Section 3B-12 of the Act.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1550 Change of Ownership

- a) When the ownership of a licensed hair braiding school changes, the new owner shall, within 5 working days from the date the title to the school is transferred, file with the Division an affidavit stating that the sale is contingent on a license being issued to the new owner. If this is not provided, the school must close on the date of the transfer and remain closed until a hair braiding school license is issued to the new owner. The new owner shall file an application with the Division, on forms supplied by the Division, with the following information and documentation:
 - 1) Name, address and telephone number of the person, corporation or other entity that owns the school;
 - 2) If the school is owned by a legal entity other than an individual, the name, address and telephone number of the chief executive officer of the corporation or other legal entity that owns the school;
 - 3) Name, address and telephone number of the school;
 - 4) Name, address and telephone number of the chief managing employee;
 - 5) If the school is owned by a legal entity formed in Illinois (domestic), a copy of the required business filing with the Illinois Secretary of State;
 - 6) If the school is owned by a legal entity formed outside of Illinois (foreign), a copy of the required filing from that jurisdiction and a copy of the

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certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;

- 7) If the school is owned by a partnership, a copy of the signed and dated partnership agreement including the name of the partnership and the name, address and telephone number of each partner;
- 8) If the school name is different from the owner's full legal name, a certificate from the Illinois Secretary of State showing authorization to transact business under an assumed name or certificate from the county clerk's office where the assumed name is filed;
- 9) A Commitment Statement from each officer of the corporation, each manager or member of the limited liability company or each member of the partnership;
- 10) A listing of all teachers who will be in the school's employ, showing a sufficient number of qualified teachers who are holders of a current hair braiding teacher license or cosmetology teacher license issued by the Division;
- 11) A detailed floor plan consistent with the requirements of Section 1175.1510. The floor plan must be drawn to a scale specified on the floor plan and show each detail of the school site;
- 12) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the school site;
- 13) A signed fire inspection report from the local fire inspection authority, conducted in the 6 months immediately preceding application, giving approval for use of the site as a school;
- 14) A financial statement prepared by a certified public accountant licensed by the Division pursuant to the Illinois Public Accounting Act [[225 ILCS 450](#)] who is not an employee of the school, showing that the owner has sufficient finances to operate the school for at least 3 months after the school license is approved;

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- 15) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.1515;
 - 16) A copy of the curricula to be used by the school, which shall be consistent with the requirements of this Part;
 - 17) A copy of the transcript to be used by the school, which shall be consistent with the requirements of Section 1175.1525;
 - 18) A copy of the final examination to be used by the school, which shall be consistent with the requirements of Section 1175.1545;
 - 19) A sample of the school seal to be used by the school;
 - 20) A photograph of the school sign to be used by the school; and
 - 21) The required fee set forth in Section 1175.100.
- b) When the items listed in subsection (a) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. Approval shall be granted if all the requirements of this Subpart O have been met.
 - c) Hair braiding schools shall only offer instruction in hair braiding and hair braiding teacher education.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1570 Discontinuance of Program

- a) The Division shall receive a minimum of 30 days written notice of a school's intent to discontinue its program. The notice shall include the exact location where the student records are to be stored.
- b) The school owner shall notify the Division in writing of the actual closing date of the school.
- c) All school records shall be maintained after the school closes.

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- d) The school must continue to meet the requirements of the Act and this Part until the actual closing date.
- e) Each student enrolled at the time of discontinuation must be provided an official transcript of all hours earned while enrolled in the program.
- f) Each student shall be given a refund prorated to at least reflect the percentage of time remaining to complete the course of instruction.~~All refunds shall be given to students in accordance with the refund provisions set forth in the enrollment agreement.~~

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

Section 1175.1575 Withdrawal of Approval

The Division may withdraw, suspend or place on probation, pursuant to 68 Ill. Adm. Code 1110, the approval of a of licensed hair braiding school or cosmetology school when the quality of the program has been affected by any of the following:

- a) Gross or repeated violations of any provisions of the Act or this Part;
- b) Fraud or dishonesty in furnishing transcripts or documentation for evaluation of the school;
- c) Failure to meet the criteria for school approval specified in this Part;
- d) Failure to administer the final examination specified in this Part;
- e) Failure to maintain final examination grades for each student and a master copy of the examination administered by the school, as specified in this Part;
- f) Fraud or dishonesty in providing transcripts to students who have fulfilled all obligations under Section 1175.1515;
- g) Failure to provide transcripts to students;
- h) A finding by the U.S. Office of Education or Illinois Student Assistance Commission that a school has misappropriated or misused grant or loan monies or

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has aided in obtaining monies by providing fraudulent or untruthful information;
and

- i) Any other violations of the Act or this Part.

(Source: Amended at 38 Ill. Reg. 21098, effective November 7, 2014)

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- 1) Heading of the Part: Prohibited Conduct
- 2) Code Citation: 11 Ill. Adm. Code 423
- 3) Section Number: 423.10 Adopted Action:
New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: November 1, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 14811; July 18, 2014.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the letter issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other proposed rulemakings pending in this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted rule adds Section 423.10, which suspends licensees (both harness and thoroughbred) who pay an obligation to the Board (i.e., check) that is returned by the bank unpaid (NSF), until the amount is paid in full.
- 16) Information and questions regarding this adopted rule shall be directed to:

Mickey Ezzo
Illinois Racing Board

ILLINOIS RACING BOARD

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100 West Randolph
Suite 5-700
Chicago IL 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 423
PROHIBITED CONDUCT

Section

423.10	Dishonored Check
423.20	Sale of Products
423.30	Political Contributions

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

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. 8409, effective June 1, 2005; amended at 38 Ill. Reg. 21232, effective November 1, 2014.

[Section 423.10 Dishonored Check](#)

ILLINOIS RACING BOARD

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A licensee who pays a license fee, fine or other claim to the Board with a check, cashier's check or money order that is returned unpaid or dishonored shall be suspended until the amount of the check, cashier's check or money order is paid in full.

(Source: Added at 38 Ill. Reg. 21232, effective November 1, 2014)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Fines, Suspension, and Expulsion
- 2) Code Citation: 11 Ill. Adm. Code 1322
- 3) Section Number: 1322.100 Adopted Action:
Repealed
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: November 1, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's central office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 14815; July 18, 2014.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the letter issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other proposed rulemakings pending in this Part? No
- 15) Summary and Purpose of Rulemaking: This adopted rule repeals Section 1322.100 and moves it to Part 423 because dishonored checks apply not only to harness licensees, but also to thoroughbred licensees.
- 16) Information and questions regarding this adopted rule shall be directed to:

Mickey Ezzo
Illinois Racing Board

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

100 West Randolph
Suite 5-700
Chicago IL 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1322
FINES, SUSPENSION, AND EXPULSION

Section	
1322.10	Suspension Until Paid
1322.20	Fines and Penalties Recorded
1322.30	Definition of Suspension
1322.40	No Right to Compete
1322.50	Fraudulent Transfer
1322.60	Track Enforcement of Penalties
1322.70	Use of Track Grounds
1322.80	Exclusion
1322.90	Track Officers
1322.100	Dishonored Check (Repealed)

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); codified at 5 Ill. Reg. 10950; amended at 38 Ill. Reg. 21236, effective November 1, 2014.

Section 1322.100 Dishonored Check ([Repealed](#))

~~Any person who pays an entry, a fine or other claim to the Board by a draft, check, order or other paper, which upon presentation is protested, payment refused or otherwise dishonored, shall be subject to a fine not exceeding the amount of said draft, check, or order. Said persons and horses shall be suspended until the dishonored amount and fine are paid.~~

(Source: Repealed at 38 Ill. Reg. 21236, effective November 1, 2014)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3) Section Number: 1650.410 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/16]
- 5) Effective Date of Rule: October 21, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rules are on file in the Teachers' Retirement System's principal office and are available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 27, 2014, 38 Ill. Reg. 13203
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various punctuation changes recommended by JCAR were made in the final version.
- 12) Have all the changes agreed upon by the Agency and JCAR been as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted revision strikes all portions of the rule that involved an alternate refund calculation for members retiring with more than 34 years of service credit. TRS now calculates all refunds for service credit over 34 years using the 2.2 upgrade refund amount provided in Pension Code Section 16-129.1(b), and no longer calculates the optional service refund for that purpose. The optional service

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

refund described in this amendment will remain applicable where the member has purchased more optional service than he or she is able to claim at the date of retirement or death under Pension Code Section 16-127(b)(2).

- 16) Information and questions regarding this adopted rule shall be directed to:

Cynthia M. Fain, Assistant General Counsel
Teachers' Retirement System
2815 West Washington, P.O. Box 19253
Springfield IL 62794-9253

217/753-0375

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements (Repealed)
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits – Application Procedure; Effective Date
1650.202 Disability Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

	Rates (Repealed)
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.315	Verifying Service Credit
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 1650.380 Definition of Actuarial Equivalent (Repealed)
- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.417 Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
- 1650.420 Interest on Deficiencies (Repealed)
- 1650.430 Installment Payments (Repealed)
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments (Repealed)
- 1650.450 Compensation Recognized As "Salary"
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% and Excess Sick Leave Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% – Receipt of Bill

SUBPART F: ANNUITANTS AND BENEFICIARIES

Section

- 1650.505 Beneficiary (Repealed)
- 1650.510 Re-entry Into Service (Repealed)
- 1650.511 Separation from Service
- 1650.512 Verification of Compliance with Post-Retirement Employment Limitations
- 1650.520 Suspension of Benefits
- 1650.530 Power of Attorney

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

1650.540	Conservators/Guardians
1650.550	Presumption of Death
1650.560	Benefits Payable on Death
1650.561	Valid Beneficiary Designations
1650.570	Survivors' Benefits
1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section

1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)
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SUBPART H: ADMINISTRATIVE REVIEW

Section

1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section

1650.710	Amendments
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SUBPART J: RULES OF ORDER

Section

1650.810	Parliamentary Procedure
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SUBPART K: PUBLIC RECORD REQUESTS

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

Section

1650.910	Summary and Purpose (Repealed)
1650.920	Definitions (Repealed)
1650.930	Submission of Requests
1650.940	Form and Content of FOIA Requests (Repealed)
1650.950	Appeal of a Denial (Repealed)
1650.960	Executive Director's Response to Appeal (Repealed)
1650.970	Response to FOIA Requests (Repealed)
1650.980	Inspection of Records at System Office
1650.990	Copies of Public Records
1650.995	Materials Immediately Available

SUBPART L: BOARD ELECTION PROCEDURES

Section

1650.1000	Nomination of Candidates
1650.1001	Elections Date/Election Day – Defined
1650.1010	Petitions
1650.1020	Eligible Voters
1650.1030	Election Materials
1650.1040	Marking of Ballots
1650.1050	Return of Ballots
1650.1060	Observation of Ballot Counting
1650.1070	Certification of Ballot Counting
1650.1080	Challenges to Ballot Counting
1650.1090	Special Election to Fill Un-Expired Term of Elected Trustee

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

1650.1110	Definitions
1650.1111	Requirements for a Valid Qualified Illinois Domestic Relations Order
1650.1112	Requirements for a Valid QILDRO Calculation Order
1650.1113	Required Forms
1650.1114	Filing a QILDRO or a Calculation Order with the System
1650.1115	Benefits Affected by a QILDRO
1650.1116	Effect of a Valid QILDRO
1650.1117	QILDROs Against Persons Who Became Members Prior to July 1, 1999

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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1650.1118	Alternate Payee's Address
1650.1119	Electing Form of Payment
1650.1120	Automatic Annual Increases
1650.1121	Reciprocal Systems QILDRO Policy Statement (Repealed)
1650.1122	Providing Benefit Information for Divorce Purposes
1650.1123	Suspension and Expiration of a QILDRO
1650.1124	Income Tax Reporting
1650.1125	Lump-Sum Death Benefit Allocation to Alternate Payee

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section	
1650.1200	Payroll Deduction Program Guidelines
1650.1201	Employer Responsibility Under the Payroll Deduction Program
1650.1202	Payroll Deduction Agreements – Suspensions and Terminations
1650.1203	Payroll Deduction Program – Full Time Employment Defined
1650.1204	Payroll Deduction Program – Disability Defined
1650.1205	Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

SUBPART O: RETIREMENT BENEFITS

Section	
1650.2900	Excess Benefit Arrangement

SUBPART P: COMPETITIVE SELECTION PROCEDURES
FOR INVESTMENT SERVICES

Section	
1650.3000	Summary and Purpose
1650.3005	Definitions
1650.3010	Public Markets Manager Database
1650.3015	Emerging Investment Managers
1650.3020	Public Market Searches
1650.3025	Small and Mid Cap Equity Searches
1650.3030	Private Market and Commingled Fund Searches
1650.3032	Co-Investment Opportunities
1650.3035	Private Market Real Estate Separate Account Searches
1650.3040	Consultant Searches

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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1650.3045 Evaluation by Investment Committee

SUBPART Q: PLAN QUALIFICATION

Section

1650.3100	Summary and Purpose
1650.3105	Exclusive Benefit Rule
1650.3110	USERRA (Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4335)) Compliance
1650.3115	Required Minimum Distributions
1650.3120	Federal Contribution and Benefit Limitations
1650.3125	Mortality Tables and Interest Rates

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002;

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. 4073, effective February 28, 2008; amended at 32 Ill. Reg. 7979, effective May 6, 2008; amended at 32 Ill. Reg. 13534, effective August 6, 2008; amended at 33 Ill. Reg. 4401, effective March 3, 2009; amended at 33 Ill. Reg. 15863, effective November 2, 2009; amended at 34 Ill. Reg. 4900, effective March 22, 2010; amended at 34 Ill. Reg. 7787, effective May 21, 2010; amended at 35 Ill. Reg. 2413, effective January 21, 2011; amended at 35 Ill. Reg. 2788, effective January 25, 2011; amended at 35 Ill. Reg. 3781, effective February 18, 2011; amended at 35 Ill. Reg. 19541, effective November 18, 2011; amended at 36 Ill. Reg. 7688, effective May 4, 2012; amended at 36 Ill. Reg. 18914, effective December 14, 2012; amended at 37 Ill. Reg. 5150, effective April 4, 2013; amended at 38 Ill. Reg. 21239, effective October 21, 2014.

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section 1650.410 Return of Contributions for Duplicate or Excess Service

- a) In the event contributions to the System are made in error for service covered by another public employee pension system in Illinois, such contributions shall be returned to the member.
- b) If a member contributes to the System for optional teaching service, but is unable to claim all of this service at the date of retirement or death because the service is determined to be excess service, then the contributions for such excess service or a portion thereof may upon request be returned to the member or the member's beneficiaries.
 - 1) The term "excess service" shall mean:
 - A) ~~that period of service in excess of the number of years of service necessary for members retiring under 40 ILCS 5/16-133.2(b) to receive the 75% maximum benefit under Section 16-133(e) of the Illinois Pension Code [40 ILCS 5/16-133(e)] if the member elected pursuant to Section 16-129.1 [40 ILCS 5/16-129.1] to upgrade the retirement benefit based upon pre July 1998 service; or~~

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- ~~B)~~ that period of service exceeding the amount of service allowed to be purchased under Section 16-127(b)(2) [40 ILCS 5/16-127(b)(2)].~~;~~~~or~~
- ~~C)~~ that period of service in excess of 35 years of creditable service (34 years if the member is over age 60 or retires reciprocally and the System is not the last employer) if the member elected pursuant to 40 ILCS 5/16-129.1 to upgrade the retirement benefit based upon pre July 1998 service.
- ~~2)~~ To determine the amount of contributions to be returned to a member pursuant to subsection (b)(1)(A) of this Section, the System shall apply the following formula:
- ~~A)~~ divide the total cost of all optional teaching service purchased by the member by the total amount of optional teaching service purchased.
- ~~B)~~ multiply the resulting average cost of optional teaching service by the amount of excess service the member requests to be returned.
- ~~C)~~ the resulting figure shall be the amount returned to the member at retirement.
- ~~23)~~ The return of contributions under subsection (b)(1)(B) of this Section shall be limited to the amount attributable to the purchase of optional service under Section 16-127 [40 ILCS 5/16-127].
- ~~4)~~ If a member elects to receive a return of contributions under subsection (b) of this Section, he or she may not utilize the optional service removed from the member's service record due to the return of contribution as a basis for receiving the 25% return of contributions for each year of service over 34 years provided in 40 ILCS 5/16-129.1.
- ~~35)~~ No interest shall be payable upon the amount returned.

(Source: Amended at 38 Ill. Reg. 21239, effective October 21, 2014)

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: Jerry L. Judd, Prairie State Plumbing & Heating, Inc.
3. Date of Violation: June 9, 2014.
4. Description of Violation: Jerry L. Judd, an affiliated person of the business entity Prairie State Plumbing & Heating, Inc., made a contribution of \$250.00 to Citizens for Rauner, a campaign committee established to support the election of Bruce Rauner to Governor. At the time of the contribution, Bruce Rauner was a declared candidate for the office of Governor, and Prairie State Plumbing & Heating, Inc. had contracts with the Capital Development Board valued in total over \$50,000.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Capital Development Board has notified the entity of the apparent violation, reviewed responsive material, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by the entity of the violation and its understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Citizens for Rauner is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: Thomas Rakow, IHC Construction Companies LLC.
3. Date of Violation: May 15, 2014.
4. Description of Violation: Thomas Rakow, an affiliated person of the business entity, IHC Construction Companies LLC, made a contribution of \$1,000.00 to Citizens for Rauner, a campaign committee established to support the election of Bruce Rauner to Governor. At the time of the contribution, Bruce Rauner was a declared candidate for the office of Governor, and IHC Construction Companies LLC had contracts with the Illinois Toll Highway Authority and a bid on a Capital Development Board project, which valued in total over \$50,000.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Capital Development Board has notified the entity of the apparent violation, reviewed responsive material, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by the entity of the violation and its understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer finds that voiding affected CDB contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Citizens for Rauner is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of October 21, 2014 through October 27, 2014. The rulemakings are scheduled for review at the Committee's November 6, 2014 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>
12/4/14	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	8/29/14 38 Ill. Reg. 18131	11/6/14
12/5/14	<u>Department of Human Services</u> , Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 Ill. Adm. Code 50)	8/29/14 38 Ill. Reg. 18065	11/6/14
12/6/14	<u>Department of Natural Resources</u> , Youth Hunting Seasons (17 Ill. Adm. Code 685)	8/15/14 38 Ill. Reg. 17253	11/6/14
12/6/14	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys-Spring Season (17 Ill. Adm. Code 710)	8/15/14 38 Ill. Reg. 17261	11/6/14
12/6/14	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Firearms (17 Ill. Adm. Code 650)	8/15/14 38 Ill. Reg. 17223	11/6/14
12/6/14	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill. Adm. Code 670)	8/15/14 38 Ill. Reg. 17233	11/6/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

12/6/14	<u>Department of Natural Resources, White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)</u>	8/15/14 38 Ill. Reg. 17229	11/6/14
12/6/14	<u>Department of Natural Resources, Procedure for Conducting Examinations for Persons Seeking Certificates of Competency (62 Ill. Adm. Code 230)</u>	7/18/14 38 Ill. Reg. 14804	11/6/14
12/6/14	<u>Department of Natural Resources, General Hunting and Trapping on Department-Owned or -Managed Sites (17 Ill. Adm. Code 510)</u>	8/15/14 38 Ill. Reg. 17195	11/6/14
12/6/14	<u>Department of Natural Resources, Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 Ill. Adm. Code 530)</u>	8/15/14 38 Ill. Reg. 17203	11/6/14
12/6/14	<u>Department of Natural Resources, Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)</u>	8/15/14 38 Ill. Reg. 17216	11/6/14
12/7/14	<u>Department of Healthcare and Family Services, Covering All Kids Health Insurance Program (89 Ill. Adm. Code 123)</u>	7/18/14 38 Ill. Reg. 14656	11/6/14
12/7/14	<u>Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)</u>	8/1/14 38 Ill. Reg. 16096	11/6/14
12/7/14	<u>Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)</u>	8/29/14 38 Ill. Reg. 18022	11/6/14
12/7/14	<u>Department of Healthcare and Family Services, Hospital Services (89 Ill. Adm. Code 148)</u>	8/29/14 38 Ill. Reg. 18052	11/6/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

12/7/14	<u>Department of Healthcare and Family Services,</u> Medical Assistance Programs (89 Ill. Adm. Code 120)	7/18/14 38 Ill. Reg. 14654	11/6/14
12/7/14	<u>Department of Healthcare and Family Services,</u> Medical Payment (89 Ill. Adm. Code 140)	7/18/14 38 Ill. Reg. 14658	11/6/14

EXECUTIVE ORDER

2014-11
EXECUTIVE ORDER CREATING AN
EBOLA VIRUS TASK FORCE

WHEREAS, protecting the health and safety of all people in the State of Illinois is a fundamental responsibility of government and a core priority of this Administration; and

WHEREAS, the Ebola virus is currently affecting several countries in western Africa and has now appeared in isolated cases within the United States; and

WHEREAS, the centralized coordination and communication among various entities at the State, in partnership with stakeholders representing key sectors in healthcare and emergency response, is essential to strengthen the State's ability to respond to the challenges presented by the Ebola virus; and

WHEREAS, the Illinois Department of Public Health ("IDPH") has as its core mission the prevention of disease, and has already established a working partnership among public and private stakeholders from all disciplines and regions of the State in order to facilitate the coordination of resources and the communication of information essential to preventing additional cases of the Ebola virus; and

WHEREAS, IDPH has established a 24-hour Ebola Hotline call center at the Illinois Poison Center; and

WHEREAS, IDPH has created a dedicated website with public information regarding the Ebola virus, and has committed to providing information to the public in the event of any verified case of infection of the Ebola virus; and

THEREFORE, I, Pat Quinn, Governor of Illinois, pursuant to the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

I. ESTABLISHMENT OF THE ILLINOIS EBOLA VIRUS TASK FORCE

- a. There is hereby established the Illinois Ebola Virus Task Force ("Task Force") as an advisory body, reporting directly to the Governor.
- b. The Director of IDPH and the Deputy Governor shall serve as Co-Chairs of the Task Force.
- c. The Task Force shall consist of up to twenty-three (23) voting members, including the following:
 - i. Deputy Governor;
 - ii. Director of IDPH;

EXECUTIVE ORDER

- iii. One representative from IDPH, appointed by the Director;
 - iv. One representative from the Illinois Emergency Management Agency, appointed by the Director;
 - v. One representative from the Illinois Office of State Fire Marshal, appointed by the Fire Marshal;
 - vi. One representative from the Illinois State Board of Education, appointed by the Superintendent;
 - vii. One representative from the Illinois State Police, appointed by the Director;
 - viii. One representative from the Illinois Environmental Protection Agency, appointed by the Director.
 - ix. Up to fifteen (15) members, recommended by the Director of IDPH and appointed by the Governor. Such members may include, but are not limited to, state, Cook County, and City of Chicago representatives, representatives of hospitals, nurses, doctors, and other medical providers, and other local, regional, and state partners. All members shall serve at the discretion of the Governor.
- d. The Task Force Co-Chairs shall have the authority and discretion to create subcommittees. At the Co-Chairs' discretion, the Task Force Co-Chairs may designate and allow the participation of non-Task Force members to participate in, and be voting members of, any subcommittees.
 - e. Members of the Task Force shall serve without compensation, but may receive travel reimbursement from IDPH as permitted by applicable State or federal guidelines.
 - f. IDPH shall provide administrative support for the Task Force, including but not limited to, providing an Ethics Officer to the Task Force, responding to FOIA requests on behalf of the Task Force, and assisting the Task Force in complying with the requirements of the Open Meetings Act.

II. DUTIES OF THE TASK FORCE

- a. The Task Force shall conduct a comprehensive examination of and make recommendations regarding the State's public health regulatory powers and communicable disease authorities, including, but not limited to, a review of all applicable statutes and administrative regulations.
- b. The Task Force shall develop strategies to address any potential gaps in the State's public health regulatory authorities and ability to respond to infectious or communicable disease outbreaks and public health emergencies.
- c. The Task Force shall make recommendations to assist in the development of agency, regulatory, and legislative changes to improve the State's ability to respond to infectious or communicable disease outbreaks and public health emergencies.

EXECUTIVE ORDER

- d. The Task Force shall assess supply availability and resource allocation, including personal protective equipment and medical supplies for health care providers and first responders.
- e. The Task Force shall consider and recommend guidance for public and private employers relative to employees exposed or potentially exposed to the Ebola virus.
- f. The Task Force shall consider issues specific to diverse populations, including, but not limited to, the dissemination of educational materials for these populations.
- g. The Task Force shall develop policies and make recommendations to the Director of IDPH and the Office of the Governor relating to the facilitation of communication and information sharing, coordination of public messages, designation of treatment centers, and assessing sector readiness and response, as needed.
- h. The Task Force shall share all recommendations and findings with IDPH and the Office of the Governor.
- i. The Task Force shall seek input, as appropriate, from federal agencies, including but not limited to: the United States Centers for Disease Control and Prevention, the Federal Emergency Management Agency, the United States Department of Health and Human Services, and the United States Department of Homeland Security.

III. TERM

The Task Force shall be dissolved on June 30, 2015, subject to renewal by a succeeding Executive Order from the Governor.

IV. TRANSPARENCY

In addition to any other applicable laws, rules, or regulations, all aspects of the Task Force shall be governed by the Freedom of Information Act (5 ILCS 140/1, *et seq.*) and the Open Meetings Act (5 ILCS 120/1, *et seq.*). This section shall not be construed so as to preclude other statutes from applying to the Task Force or its activities.

V. SAVINGS CLAUSE

Nothing in this Executive Order shall be construed to contravene any state or federal law. Nothing in this Executive Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

VI. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other

EXECUTIVE ORDER

provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

VII. EFFECTIVE DATE

This Executive Order shall be in full force and effect upon its filing with the Secretary of State.

Issued by Governor: October 22, 2014

Filed with Secretary of State: October 22, 2014

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 38, Issue 45 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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**EXECUTIVE ORDERS AND
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