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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 preemptory 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 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015

20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015
22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 4
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
4.3	Amendment
4.5	Amendment
4.8	Amendment
4.10	Amendment
4.13	Amendment
4.14	Amendment
4.15	Amendment
4.1005	Amendment
4.1060	Amendment
4.1080	New Section
4.1501	Amendment
4.1510	Amendment
4.1515	Amendment
4.1525	Amendment
4.1535	New Section
4.1550	Amendment
4.1560	Amendment
4.1580	Amendment
4.1595	Amendment
4.2005	Amendment
4.2010	Amendment
4.2012	Amendment
4.2013	Amendment
4.2015	Amendment
4.2020	Amendment
4.2025	Amendment
4.2030	Amendment
4.2035	Amendment
4.2036	Amendment
4.2038	Amendment
4.2039	Amendment
4.2040	Amendment

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4.2043	Amendment
4.2044	Amendment
4.2045	Amendment
4.2046	Amendment
4.2047	Amendment
4.2050	Amendment
4.2055	Amendment
4.2060	Amendment
4.2065	Amendment
4.2067	New Section
4.2080	Amendment
4.2084	Amendment
4.2086	Amendment
4.3005	Amendment
4.4015	Amendment
4.4020	Amendment
4.4025	Amendment
4.4505	Amendment
4.4515	Amendment
4.4520	Amendment
4.4525	Amendment
4.4526	Amendment
4.4530	Amendment
4.4535	Amendment
4.4540	Amendment
4.4545	Amendment
4.4557	Amendment
4.4570	Amendment
4.4575	Amendment
4.4579	Repealed
4.5002	Amendment
4.5005	Amendment
4.5009	Amendment
4.5010	Amendment
4.5011	Amendment
4.5012	Amendment
4.5013	Amendment
4.5014	Amendment

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4.5020	Amendment
4.5021	Amendment
4.5030	Amendment
4.5035	Amendment
4.5036	Amendment
4.5037	Amendment
4.5038	Amendment
4.5039	Amendment
4.5325	Amendment
4.5550	Amendment
4.5560	Amendment
4.5620	Amendment
4.5730	Amendment
4.5740	Amendment
4.7015	Amendment
4.7030	Amendment

- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]
- 5) A Complete Description of the Subjects and Issues Involved: In PA 97-895 and PA 98-1076, the Illinois Procurement Code was amended, following up on and clarifying issues from PA 96-795, which transferred oversight for procurement to independent Chief Procurement Officers appointed by the Executive Ethics Commission and confirmed by the Senate. The statute further established independent State Purchasing Officers and Procurement Compliance Monitors.

The proposed amendments implement the changes of PA 96-795 and PA 98-1076 for the Chief Procurement Office for Public Institutions of Higher Education, further defining terms, the structure and procurement authority oversight of the CPO-HE and SPOs, and providing direction to universities on procurement matters. The proposed amendments allow for CPO-HE access to records to determine if a contract or expenditure is subject to the provisions of the Procurement Code and provide for exemption from the Illinois Procurement Code for certain contracts entered into by the University of Illinois and Southern Illinois University for certain supplies and services. The amendments increase from \$25,000 to \$50,000 the disclosure requirements of subcontractors and clarify vendors' responsibilities when there is a change of 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

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confidentiality; specify the requirements for evaluation committees; specify what discussion may occur with apparent awardees prior to notice of award; provide guidance on the use of contracts with qualified not-for-profit agencies for person 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 conflict of interests; clarify an SPO's obligation to approve (and not sign) contracts by universities; provide for the CPO-HE to be responsible for and publish the Illinois Procurement Bulletin/Chief Procurement Officer for Institutions of Public Higher Education; provide guidance on the establishment and use of a vendor portal; implement publication requirements for awards to other than the 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; provide for the CPO-HE to verify a business entity is in compliance with requirements to register with the State Board of Elections; and allow 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 provide due process when suspected prohibited political contributions are made by vendors.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Chief Procurement Office for Public Institutions of Higher Education relied on PA 97-895 and 98-1076 to compose the rulemaking. Copies are available for review with the Chief Procurement Office for Public Institutions of Higher Education at 401 S. Spring, Room 522 Stratton Office Building, Springfield IL 62706.
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect or create or expand a State mandate under the State Mandates Act.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Chief Procurement Office for Public Institutions of Higher Education will consider all written comments it receives during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40]. Written comments may be submitted within 45 days after the date of publication in the *Illinois Register* to:

Shirley Webb
Deputy Chief Procurement Officer
Chief Procurement Office for Public Institutions of Higher Education
401 S. Spring Street
Room 513 Stratton Office Building
Springfield IL 62706

217/558-2247
shirley.j.webb@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80, and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Chief Procurement Office for Public Institutions of Higher Education at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-20]. These entities shall indicate their status as a small business, small municipality, or not-for-profit corporation as part of any written comments they submit to the Chief Procurement Office for Public Institutions of Higher Education.
- B) Reporting, bookkeeping or other procedures required for compliance: Businesses interested in contracting with the State will be required to meet financial disclosure requirements and to annually recertify compliance documents. Businesses having contracts or proposing to do business with the State of Illinois will be required to provide conflict of interest disclosures, financial interest disclosures and sign certifications. Businesses may be required to obtain a Department of Human Rights Number, be authorized to do business in the State

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of Illinois and register with the State Board of Elections. Requirements for contract execution prior to when deliverables may begin will also impact these organizations.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT
AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER II: CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

PART 4

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION STANDARD PROCUREMENT

SUBPART A: GENERAL

Section

4.1	Title
4.3	Authority
4.5	Policy
4.8	Implementation of This Part
4.10	Application
4.13	Additional Exemptions Applicable to Higher Education
4.14	Certification, Hearing and Registration Waivers Applicable to Higher Education
4.15	Definition of Terms Used in This Part
4.25	Property Rights

SUBPART B: PROCUREMENT RULES, POLICIES AND PROCEDURES

Section

4.525	Rules
4.530	Policies and Procedures

SUBPART C: PROCUREMENT AUTHORITY

Section

4.1005	Procurement Authority
4.1010	Appointment of State Purchasing Officers (Repealed)
4.1011	Procurement Authority of the CPO (Repealed)
4.1030	Other Procurement Authority of the Universities (Repealed)
4.1060	Delegation
4.1080	Illinois Mathematics and Science Academy (Repealed)

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SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	
4.1501	Illinois Procurement Bulletin – Higher Education
4.1510	Publication of Higher Education Bulletin
4.1515	Registration
4.1525	Bulletin Content
4.1535	Vendor Portal
4.1545	Supplemental Notice (Repealed)
4.1550	Error in Notice
4.1560	Alternate and Supplemental Notice
4.1580	Direct Solicitation
4.1585	Notice Time
4.1595	Availability of Solicitation Document

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4.2012	Multi-Step Sealed Bidding
4.2013	Reverse Auctions
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4.2020	Small Purchases
4.2025	Sole Source and Sole Economically Feasible Source Procurement
4.2030	Emergency Procurements
4.2035	Competitive Selection Procedures for Professional and Artistic Services
4.2036	Other Methods of Source Selection
4.2037	Tie Bids and Proposals
4.2038	Modification or Withdrawal of Bids or Proposals
4.2039	Mistakes
4.2040	Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

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4.2043	Suppliers

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- 4.2044 Vendor List
- 4.2045 Vendor Prequalification
- 4.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

- Section
4.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

- Section
4.2050 Specifications and Samples

SUBPART I: CONTRACTS

- Section
4.2055 Types of Contracts
- 4.2060 Duration of Contracts – General
- 4.2065 Cancellation of Contracts
- [4.2067 Contract Amendments and Change Orders](#)

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- 4.2084 Record Retention
- 4.2086 Filing with the Comptroller

SUBPART K: WORKING CONDITIONS

- Section
4.2560 Prevailing Wage
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SUBPART L: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

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4.4010 Authority
4.4015 Method of Source Selection
4.4020 [RFI-RPL Process](#)~~Request for Information-Real Property and Capital Improvement Leases~~
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4.4530 Correctional Industries
4.4535 Qualified Not-for-Profit Agencies for Persons with Severe Disabilities
4.4540 Gas Mileage, ~~and~~ Flex-Fuel, [Biodiesel and Hybrid](#) Requirements
4.4545 Small Business
4.4550 Illinois Agricultural Products
4.4555 Corn-Based ~~Plastics~~[Plastic Products](#)
4.4557 ~~Disabled~~ Veterans [and Service-Disabled Veterans](#)
4.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities
4.4575 Domestic Products
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4.5005 Bribery
4.5009 Felons
4.5010 Prohibited Bidders and Contractors
4.5011 Debt Delinquency
4.5012 Collection and Remittance of Illinois Use Tax
4.5013 Conflicts of Interest Prohibited by the Code
4.5014 Environmental Protection Act Violations
4.5015 Lead Poisoning Prevention Act Violations
4.5016 Negotiations for Future Employment
4.5020 Exemptions
4.5021 Bond Issuances
4.5023 Other Conflicts of Interest
4.5030 Revolving Door Prohibition
4.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
4.5036 Disclosure of Business in Iran
4.5037 Vendor Registration, Certification and Prohibition on Political Contributions
4.5038 Lobbying Restrictions
4.5039 Procurement Communication Reporting Requirement
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4.5325 Concessions

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SUBPART R: PROTESTS

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- 4.5520 Suspension (Repealed)
- 4.5530 Cancellation of Contracts (Repealed)
- 4.5540 Violation of Statute or Rule (Repealed)
- 4.5550 Protests

SUBPART S: SUSPENSION AND DEBARMENT

- Section
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SUBPART T: VIOLATION OF STATUTE OR RULE

- Section
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- 4.5710 Informal Process
- 4.5720 Hearing Officers
- 4.5730 Notice of Hearing
- 4.5740 Written Comments and Oral Testimony
- 4.6500 General (Repealed)
- 4.6510 No Agency Relationship (Repealed)

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- Section
- 4.7000 Severability
- 4.7005 Supply Inventory (Repealed)
- 4.7010 University Furnished Property
- 4.7015 Inspections
- 4.7020 Taxes, Licenses, Assessments and Royalties

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4.7030 No Waiver of Sovereign Immunity

AUTHORITY: Implementing and authorized by Section 5-25 of the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 13905, effective July 1, 1998, for a maximum of 150 days; amended by emergency rulemaking at 22 Ill. Reg. 19096, effective October 1, 1998, for a period to expire November 27, 1998; adopted at 22 Ill. Reg. 20964, effective November 20, 1998; amended at 32 Ill. Reg. 16388, effective September 24, 2008; recodified, pursuant to PA 96-795, from 44 Ill. Adm. Code 526 to 44 Ill. Adm. Code 4 at 35 Ill. Reg. 10151; amended at 36 Ill. Reg. 10951, effective August 6, 2012; recodified Title heading at 39 Ill. Adm. Code 5903; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 4.3 Authority

- a) This Part is promulgated by the Chief Procurement Officer for Public Institutions of Higher Education (CPO-HE) in accordance with the provisions of the Illinois Procurement Code (Code) [30 ILCS 500]. This Part may be amended in accordance with the Code and the Illinois Administrative Procedure Act [5 ILCS 100/5].
- b) Section 10-20 of the Code creates four Chief Procurement Officers: one for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board; one for procurements for all construction, construction-related services, operation of any facility, and the provision of any construction or construction-related services or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation; one for all procurement actions made by a public institution of higher education; and one for all other procurements. For purposes of this Part, any reference to Chief Procurement Officer or CPO-HE means the Independent Chief Procurement Officer for Public Institutions of Higher Education unless the context indicates otherwise. This Part applies to all procurement actions and procurement rulemaking under the jurisdiction of the CPO-HE.

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

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Section 4.5 Policy

The principles of competitive bidding and economical procurement practices shall apply to all purchases and contracts by or for the ~~universities~~Universities, except as otherwise provided by law, this Part and other applicable rules. It is the policy of the CPO-HE 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 39 Ill. Reg. _____, effective _____)

Section 4.8 Implementation of This Part

- a) This Part establishes rules necessary and appropriate to implement the ~~procurement authority~~authorities granted by the Code ~~to the CPO-HE~~ relating to the procurement of supplies, including inventory level, services, real estate and capital improvement leases, and, as applicable, construction and concessions, and necessary rulemaking under the authority of the Code.
- b) ~~Section 10-20 of the Code creates four Chief Procurement Officers: one for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board; one for procurements for all construction, construction-related services, operation of any facility, and the provision of any construction or construction-related services or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation; one for all procurement actions made by a public institution of higher education; and one for all other procurements. For purposes of this Part, any reference to Chief Procurement Officer or CPO-HE means the Independent Chief Procurement Officer for Public Institutions of Higher Education unless the context indicates otherwise. This Part applies to all procurement actions and procurement rulemaking under the jurisdiction of the CPO-HE and any State Purchasing Officer (SPO) appointed by the CPO-HE.~~
- be) This Part is intended to make procurement actions of the public universities uniform and consistent among and within the universities under the jurisdiction of the CPO-HE in order to facilitate participation in procurements, encourage

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competition, and ensure that procurements are conducted in a fair and open manner. Implementation by and within the universities shall be consistent with this Part. Operational interpretations are to be made in a flexible manner designed to secure the universities' needs and protect the interests of the universities and the State of Illinois.

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

Section 4.10 Application

The Code and this Part apply to procurements for which bidders, offerors, potential contractors, contractors or vendors were first solicited on or after July 1, 1998. [30 ILCS 500/1-10(a)] For purposes of this Part, the terms bidder, offeror, potential contractor, contractor or vendor may be used interchangeably unless the context indicates otherwise. The Code and this Part do not apply to:

- a) *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), "governmental bodies" includes the State universities and their governing boards, community colleges and their governing boards and school districts. This provision applies to contracts between governmental entities; it does not apply to State universities use of contracts established by other governmental entities);*
- b) *grants (except for the filing requirements of Section 20-80 of the Code);*
- c) *purchase of care;*
- d) *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;*
- e) *collective bargaining contracts;*
- f) *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*

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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;*

- g) *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 university 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 university.*
- h) *Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, 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;*
- i) *Procurement expenditures by the Illinois Conservation Foundation when only private funds are used;*
- j) *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; [30 ILCS 500/1-10(b)]*
- k) *Except for that part of a record subject to attorney-client privilege, the CPO-HE may access any records necessary to review whether a contract, purchase or other expenditure is exempt under Section 1-10 of the Code. [30 ILCS 500/1-10(i)]-*

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

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Section 4.13 Additional Exemptions Applicable to Higher Education

- a) These additional exemptions *apply to universities regardless of the source of the funds with which contracts are paid, except as provided in this Section.*
- b) *Except as provided in this Section, the Code shall not apply to procurements made by or on behalf of universities for any of the following:*
 - 1) *Memberships in professional, academic, research or athletic organizations on behalf of a university, an employee of a university, or a student at a university.*
 - 2) *Procurement expenditures for events or activities paid for exclusively by revenues generated by the event or activity, gifts or donations for the event or activity, private grants, or any combination thereof.*
 - 3) *Procurement expenditures for events or activities for which the use of specific vendors is mandated or identified by the sponsor of the event or activity, provided that the sponsor is providing a majority of the funding for the event or activity.*
 - 4) *Procurement expenditures necessary to provide artistic or musical services, performances, or productions held at a venue operated by a university.*
 - 5) *Procurement expenditures for periodicals and books, including online periodicals and books procured for use by a university library or academic department, except for expenditures related to procuring textbooks for student use or materials for resale or rental.*
 - 6) *Procurement expenditures for placement of students in externships, practicums, field experiences, and medical residencies and rotations.*
 - 7) *Contracts for programming and broadcast license rights for university-operated radio and television stations.*
- c) *Notice of each contract entered into by a university that is related to the procurement of goods and services identified in subsection (b) shall be published*

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in the Bulletin within 14 days after contract execution. The CPO-HE shall prescribe the form and content of the notice.

- d) *Each university shall provide the CPO-HE, on a monthly basis, in the form and content prescribed by the CPO-HE, a report of contracts that are related to the procurement of goods and services identified in subsection (b). The CPO-HE may structure the required Bulletin publication to serve as the mandatory report. 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-HE immediately upon request.*
- e) *The CPO-HE 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-HE.*
- f) *Except as provided in this subsection, the provisions of the Code and this Part shall not apply to contracts for FDA-regulated supplies, and to contracts for medical services necessary for the delivery of care and treatment at medical, dental, or veterinary teaching facilities utilized by Southern Illinois University or the University of Illinois. Other supplies and services needed for these teaching facilities shall be subject to the jurisdiction of the CPO-HE who may establish expedited procurement procedures and may waive or modify certification, contract, hearing, process and registration requirements required by the Code. All procurements made under this subsection shall be documented in the procurement file and may require publication in the Bulletin.* [30 ILCS 500/1-13]

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

Section 4.14 Certification, Hearing and Registration Waivers Applicable to Higher Education

- a) Procurements *for contracts with a foreign entity necessary for research or educational activities, provided that the foreign entity either does not maintain an office in the United States or is the sole source of the service or product, and procurements required for fulfillment of a grant* made by or on behalf of universities ~~for any of the following~~ shall be made in accordance with the requirements of the Code to the extent practical. ~~as provided in this~~

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~~subsection: 1) Contracts with a foreign entity necessary for research or educational activities, provided that the foreign entity either does not maintain an office in the United States or is the sole source of the service or product. 2) Procurements of FDA-regulated goods, products, and services necessary for the delivery of care and treatment at medical, dental, or veterinary teaching facilities utilized by the University of Illinois or Southern Illinois University. 3) Contracts for programming and broadcast license rights for university-operated radio and television stations. 4) Procurements required for fulfillment of a grant. b) Upon the written request of a university, the CPO-HE may waive registration, certification, and sole source and emergency extension hearing requirements of the Code [for these items](#) if, based on the item to be procured or the terms of a grant, compliance is impractical.~~

- 1) *The university shall provide the CPO-HE with specific reasons for the waiver, including the necessity of contracting with a particular vendor, and shall certify and provide documentation that an effort was made in good faith to comply with the provisions of the Code.*
- 2) *The CPO-HE shall provide written justification for any waivers. Notice of each waiver made under this subsection (b) shall be published in the Bulletin within 14 days after contract execution. The CPO-HE shall prescribe the form and content of the notice.*
- 3) *By November 1 of each year, the CPO-HE shall file a report with the General Assembly identifying each contract approved with waivers and providing the justification given for any waivers for each of those contracts.*

b) For other supplies and services needed for the delivery of care and treatment at medical, dental or veterinary teaching facilities utilized by Southern Illinois University or the University of Illinois that are not FDA-regulated, the CPO-HE may establish expedited procurement procedures and may waive or modify certification, contract, hearing, process and registration requirements required by the Code if, based on the item to be procured or the terms of a grant, compliance is impractical.

- 1) The university may request and propose an expedited procedure when it determines that use of one of the methods of source selection identified in

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Article 20 of the Code will prevent the university from meeting its needs in this area. Any expedited procedure would be tailored to meet the particular need and may, for example, provide for variations in length of notice, type and extent of vendor response, evaluation method and award processing. All requests for use of an expedited procedure must be prepared on a form prescribed by the CPO-HE and submitted to the SPO for approval to proceed. Notice of the expedited procurement shall be published in the Bulletin.

- 2) If the university requests a waiver, it shall provide the CPO-HE with specific reasons for the waiver, including the necessity of contracting with a particular vendor, and shall certify and provide documentation that an effort was made in good faith to comply with the provisions of the Code. Notice of each waiver made under this subsection (b) shall be published in the Bulletin within 14 days after contract execution. The CPO-HE shall prescribe the form and content of the waiver and the notice.
 - 3) By November 1 of each year, the CPO-HE shall file a report with the General Assembly identifying each contract approved with waivers and providing the justification given for any waivers for each of those contracts.
- c) *Notwithstanding this Section, a waiver of the registration requirements of Section 20-160 does not permit a business entity and any affiliated entities or affiliated persons to make campaign contributions if otherwise prohibited by Section 50-37. The total amount of contracts awarded in accordance with this Section shall be included in determining the aggregate amount of contracts or pending bids of a business entity and any affiliated entities or affiliated persons.*
- d) *Notwithstanding Section 50-10.5(e) of the Code, the CPO-HE, with the approval of the Executive Ethics Commission, may permit a university to accept a bid or enter into a contract with a business that assisted the university in determining whether there is a need for a contract or assisted in reviewing, drafting, or preparing documents related to a bid or contract, provided that the bid or contract is essential to research administered by the university and it is in the best interest of the university to accept the bid or contract. For purposes of this subsection, "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent*

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contractor, director, partner, manager, or shareholder of a business. The Executive Ethics Commission may promulgate rules and regulations for the implementation and administration of the provisions of this subsection (d). [30 ILCS 500/1-13]

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

Section 4.15 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 nonmaterial changes (e.g., change in names of notice contacts or number of periodic status meetings). An amendment may also be a change order as defined in this Section 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.~~

"Best Interest of the State" – For purposes of this Part, best interest of the State also includes best interest of the procuring university.

"Bid" – The response submitted by a bidder in a competitive sealed bidding process to an (Invitation for Bid) or to a multi-step sealed bidding process.~~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

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bid.

"Brand Name or Equal Specification" – A specification that uses one or more manufacturers' names or catalogue numbers to describe the standard of quality, performance and other characteristics needed to meet university 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, window washing services, or ~~services~~ services provided by university employees.

"Bulletin" or "~~Higher Education Bulletin~~" – The volume of the Illinois Procurement Bulletin ~~published by assigned to~~ the CPO-HE, 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, which is determined necessary to address needs that are best met by the contract holder, and 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)]. A change order is an amendment to the contract.

"Chief Procurement Office" – The offices to which the Chief Procurement Officers are appointed pursuant to Section 10-20 of the Code.

"Chief Procurement Officer" or "CPO-HE" – The Chief Procurement Officer for Public Institutions of Higher Education, as created by Section 10-20(3) 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, 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).

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"Construction" – As used in this Part, means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings, or real property.

"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 (including universities) entering into construction contracts as authorized by law or by delegation from the Chief Procurement Officer. [30 ILCS 500/1-15.25]

"Construction Manager Services" – Services provided in the planning, pre-construction and construction phases of a construction project.

"Construction-related Professional Services" – Services performed that are governed by the Architectural, Engineering, and Land Surveying Qualifications-Based Selection Act [30 ILCS 535]. "Professional Services" as used in this Part means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist a university in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a university. 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~~, 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 for which, ~~whether~~ the State is ~~the lessor or~~ lessee, or capital improvements, and including renewals, master contracts, contracts for

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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, bonds, Certificates of Participation or contracts relating to bonds or Certificates of Participation 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 Section 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 of Award or a Notice of Intent to Award to the respective volume of the Illinois Procurement Bulletin after all State agency required and SPO approvals have been obtained.

"Contract Let" – The act of awarding a contract to a bidder that responded to an invitation for bids as part of a letting.

"Contractor" or "Vendor" – An individual, firm, partnership, corporation, joint venture or other legal entity that seeks, or has entered into, a contract with a State agency as defined in Section 1-15.30 of the Code. The terms contractor and vendor are used interchangeably for the purposes of the Code and this Part. In appropriate circumstances, the~~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 or university 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-HE 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-HE or SPO and has the responsibility for taking procurement actions in

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accordance with applicable laws, rules and policies, as limited by the terms of the delegation.

"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 Auditor General and the Procurement Policy Board 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, notice is published on the Illinois Procurement Bulletin identifying the vendor of the required goods or services, or the date the contract is signed by both parties.

"Estimated Cost" – The amount expected to be paid for a procurement transaction. It is representative of all known work and may include potential and expected unscheduled work arising out of the requirements. The total estimated contract cost is not necessarily equivalent to the maximum cost.

"Evaluation Criteria" – The standards or factors by which the vendor and its bid or offer may be evaluated. These criteria may include specialized experience, technical qualifications, 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" – Means 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

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not a grant and is subject to the Code. [30 ILCS 500/1-15.42] When a grantor provides a grant or award to a university that authorizes or allows the university to award subgrants or subawards, the subgrant or subaward shall also be deemed a grant that is made by the university as agent of the grantor; or, for purposes of Section ~~14.134.13-5~~ of this Part, *non-appropriated funding provided by a federal or private entity to support a project or program administered by a public institution of higher education and any non-appropriated funding provided to a sub-recipient of the grant.*[30 ILCS 500/1-13]

"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.

"Letting" – A construction agency's act of advertising an invitation for bids for one or more construction projects.

"Natural Resources Services" – 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 submitted by an offeror in a competitive sealed proposal process or to a Request for Proposals ~~Proposal~~ or Request for Information for real estate or capital improvement leases.

"Offeror" or "Respondent" – A person who responds to a Request for Proposal 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.

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"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" – An individual~~Persons~~ appointed by the Executive Ethics Commission under Section 10-151-50 of the Code to oversee and review procurement processes.

"Procurement Officer" – The Chief Procurement Officer or appropriate State Purchasing Officer who is responsible for the particular procurement action.

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

"Proposal" or "Offer" – The response to a Request for Proposals 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. 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.~~or including a recipient of services from a University medical, educational, psychiatric,~~

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~~vocational, rehabilitation, social, or human services program. Purchase of care includes services provided or arranged to be provided by a vendor in conjunction with the purchase of care. Such services may include administrative 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.~~

"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 at the direction of a Chief Procurement Officer. [30 ILCS 500/1-15.70]*

"Quality Based Selection" or "QBS" – An RFP for the procurement of architectural, engineering and land surveying services, as defined by the Architectural, Engineering and Land Surveying Qualifications Based Selection Act.

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

"Renewal" – Except for real property and capital improvement leases under Section 40-15(b)(5) of the Code, 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]*

"Request for Proposals-Professional and Artistic" or "RFP-P&A" – The process

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by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals for professional and artistic services as defined in Section 1-15.60 of the Code.

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

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

"Site Technician Services" – 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, QBS, RFP, RFP-P&A, or RFI-Real Property Lease) posted to the Procurement Bulletin requesting interested parties

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

"State Agency" – Generally, *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 and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Board of Higher Education. 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 or any other university foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act [110 ILCS 805], and the Illinois Comprehensive Health Insurance Board.* [30 ILCS 500/1-15.100] For purposes of this Part, State agency means only State universities that are under the jurisdiction of the CPO-HE, unless the context indicates otherwise.

"State Purchasing Officer" or "SPO" – [An individual appointed by the CPO-HE pursuant to Section 10-10 of the Code and assigned to exercise procurement](#)

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authority at the direction of the CPO-HE~~The entity created by Section 1-15.105 of the Code.~~

"State Witness" – An employee of the State, designated by the CPO-HE or SPO of 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, if the contract price exceeds \$50,000, 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. For purposes of the Code, a "subcontract" does not include purchases of goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to the Code. [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. For purposes of the Code, a person or entity is not a "subcontractor" if that person only provides goods or supplies that are incidental to the performance of a contract by a person who has a contract subject to the Code. [30 ILCS 500/1-15.108]*

"Subfactor" – A subset of a main evaluation factor. Main evaluation factors are identified in the solicitation.

"Supplies" – *All personal property, including, but not limited to, equipment, materials, printing and insurance and the financing of those supplies that can be procured regularly or are available on the commercial market. [30 ILCS 500/1-15.110] For purposes of this Part, the term "goods" is equivalent to the term "supplies".*

"Supplier" – *Any person or entity providing supplies, including, but not limited to, equipment, materials, printing, and insurance, and the financing of those supplies that can be procured regularly or are available on the commercial market. [30*

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[ILCS 500/1-15.111](#)

"University" – The colleges, universities and institutions under the jurisdiction of the governing boards identified in the definition of "state agency" pursuant to Section 1-15.100 of the Code. Also included is the Illinois Math and Science Academy, in accordance with Section 1-13(f) of the Code.

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

"Vendor" – An individual, firm, partnership, corporation, joint venture or other legal entity that seeks, or has entered into, a contract with a State agency as defined in Section 1-15.30 of the Code. The terms contractor and vendor are used interchangeably for the purposes of the Code and this Part. In appropriate circumstances, the term shall also include subcontractors.

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

SUBPART C: PROCUREMENT AUTHORITY

Section 4.1005 Procurement Authority

- a) The ~~CPO-HE~~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 ~~universities~~State agencies under the jurisdiction of ~~the each~~ CPO. The Executive Ethics Commission may appoint a temporary acting CPO to act in the absence of ~~the CPO-HE~~any CPO, such as during illness, vacation or other extended leave.
- b) The ~~CPO-HE's~~CPOs' procurement authority extends to supplies, services, construction not under the jurisdiction of the Capital 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, approval or rejection of proposed contracts, dispute resolution and records subsequent to identification of need, except as otherwise provided for in the Code.

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- c) Any reference in the Code or this Part directing or authorizing a university to take procurement action is subject to the overall procurement authority of the CPO-HE and SPO as set forth in the Code and this Part.
- d) The CPO-HE exercises procurement authority through one or more SPOs or temporary acting SPOs and university and other staff assigned to the procurement function. The CPO-HE may assign ana SPO to one or more universities or may make assignments on a functional basis. The CPO-HE may appoint a temporary acting SPO with limited authority to act with an appointed SPO. In the absence of an appointed SPO, the CPO-HE may exercise the procurement authority of ana SPO or may appoint a temporary acting SPO. Unless the Code or this Part prohibits a designee from performing a procurement action, the CPO-HE may delegate procurement action to ana SPO or other designee to a university. The CPO-HE may reserve certain procurement activities to the CPO-HE and reserves the right to review and modify or overturn any action of ana SPO or any other designee.
- e) AnA SPO will exercise procurement authority in accordance with direction and limitations established by the CPO-HE. The SPO will act primarily to review, authorize and approve university procurement actions. The CPO-HE, in consultation with a representative of the several universities, will determine and identify, in writing, procurement activities that must be conducted by the CPO-HE or ana SPO and those that may be delegated to the universities. Activities not reserved to the CPO-HE or SPO will be conducted by the university staff with CPO-HE/SPO oversight.
- f) Each university shall determine an appropriate number of qualified staff and related resources to meet the procurement needs of the university. University staff remain university employees at all times, including while acting under authority of the CPO-HE.
- g) The university is responsible for determining the need for a particular procurement. If the SPO or CPO-HE has a question regarding the need for a particular procurement, the SPO or CPO-HE may require a signed statement from a university official outside the procurement office confirming that the proposed procurement for the stated need is in the best interest of the university.
- h) University procurement staff are responsible for:

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- 1) ensuring that all procurement activities, including those submitted to the SPO or CPO-HE for review, authorization or approval, are in accordance with the Code, this Part, other applicable laws and rules, the policy direction of the CPO-HE and internal policies of the university; and
 - 2) obtaining all State and university approvals applicable to the particular stage of the procurement process.
- i) The CPO-HE and, pursuant to Section 10-10 of the Code, the SPO at the direction of the CPO-HE has the authority to approve or reject proposed~~shall enter into contracts for a purchasing agency.~~ In addition to this authority, the CPO-HE may authorize a university to enter into contracts without specific approval ~~or signature~~ of the CPO-HE or SPO.
- 1) The CPO-HE shall determine in writing which contracts must be reviewed by the CPO-HE or SPO for approval or rejection prior to execution by the university~~signed or approved by the CPO-HE or SPO.~~ These approval~~signature~~ authorities may be modified or revoked at any time by the CPO-HE or the SPO, when appropriate. In the absence of written direction, the university shall enter into contracts for its needs.
 - 2) Any written determination regarding approval~~signature~~ authorization by the CPO-HE or SPO shall be maintained by the CPO-HE and distributed to the SPO, university head, university purchasing director and the State Comptroller.
 - 3) Because all fiscal authority for the universities is vested in their governing boards under their organizing statutes, only those contracts signed in accordance with board of trustees procedures are valid obligations of a university. If the CPO-HE or SPO ~~signs or~~ approves a proposed contract, the university must ~~also~~ sign in order for the contract to be legally binding on the university. The university may decline to sign a contract even if ~~signed and~~ approved by the CPO-HE or SPO.
 - 4) If the CPO-HE or SPO ~~signs or~~ approves a proposed contract for a university, in no event shall the CPO-HE or SPO have or assume any responsibility or obligation under the contract, financial or otherwise, to

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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 process, having access to records and systems, and attending any procurement meeting.
 - 2) Each university shall recognize these statutory roles and shall cooperate with PCMs in the conduct of their actions. Cooperation includes providing 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 university and in certain cases may require reporting to the Office of the Executive Inspector General.
 - 3) Should a PCM request review of a contract before final execution, the university shall not execute the contract until approved by the SPO after consultation with the PCM and the university.
- k) [Inquiries Expedited Response](#)
Any offeror, respondent, SPO, State agency, university, subcontractor or person may contact the CPO-HE at <http://www.cpohe.illinois.gov> ~~<http://www2.illinois.gov/epo/HigherEd/Pages/default.aspx>~~ concerning any procurement matter and obtain information concerning the procurement process or a pending procurement to meet the objectives of Section 1-5 of the Code and Section 4.5 of this Part. The CPO-HE 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 and in compliance with Section 50-39 of the Code.

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

Section 4.1060 Delegation

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- a) Procurement actions not reserved in writing by the CPO-HE or delegated to ana SPO or other designee shall be conducted by the university.
- b) The CPO-HE may delegate to any SPO or other designee or, in consultation with a university, to a university authority to conduct certain procurement actions or functions. The CPO-HE may also delegate to any SPO the CPO-HE's authority to conduct on behalf of the CPO-HE specific procurements or classes of procurements for multiple university use. AnA SPO may request that the CPO-HE delegate further authority to that SPO. The SPO and university delegated authority shall remain subject to the authority of the CPO-HE and SPO as applicable.
- c) Any exercise of delegated authority shall be in accordance with the Code and this Part.
- d) Delegations shall be in writing and shall specify:
 - 1) the action or function authorized or not 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 39 Ill. Reg. _____, effective _____)

Section 4.1080 Illinois Mathematics and Science Academy ~~(Repealed)~~

The Illinois Mathematics and Science Academy shall procure supplies and services for the operation of the Academy through the CPO-HE. All such procurement for the Academy shall be made in accordance with the requirements of this Part.

(Source: Old Section 4.1080 repealed at 36 Ill. Reg. 10951, effective August 6, 2012; new Section 4.1080 added at 39 Ill. Reg. _____, effective _____)

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SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 4.1501 Illinois Procurement Bulletin – Higher Education

- a) The Illinois Procurement Bulletin consists of four volumes, one for each of the Chief Procurement Officers designated in the Code. Each volume will contain information relating to procurements under the authority of the appropriate CPO. In relation to the CPO-HE volume, the official title of the volume is The Illinois Procurement Bulletin/Public Institutions for Higher Education. In common use, this Bulletin may be referred to as the Public Higher Education Bulletin or as otherwise designated by the CPO-HE. References in this Part to Bulletin ~~mean~~means the Higher Education volume unless the context indicates a different meaning.
- b) The CPO-HE will consult with the universities regarding the Bulletin as necessary, but the CPO-HE shall have all rights in and to his or her volume of the Bulletin and shall publish this volume of the Bulletin. The CPO-HE shall determine~~publishes and determines~~ the content, design, form, ~~and~~ function, organization and structure of this volume of the Illinois Procurement Bulletin and shall make revisions as necessary or desirable. To the extent the universities provide funding for the Bulletin, the CPO-HE will not direct charges payable from these funds that exceed these funds—Higher Education Volume.
- c) The CPO-HE may, through agreement with one or more other Chief Procurement Officers, publish the Higher Education volume of the Bulletin jointly with one or more other volumes of the Illinois Procurement Bulletin, in accordance with the Intergovernmental Cooperation Act [5 ILCS 220].

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

Section 4.1510 Publication of Higher Education Bulletin

The CPO-HE will publish the Bulletin in electronic form at least one time per month and may update the Bulletin as needed. A link to the Bulletin can be found on the CPO-HE maintained website at <http://www.cpohe.illinois.gov>~~http://www2.illinois.gov/cpo/HigherEd.~~

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

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Section 4.1515 Registration

Prospective vendors and other interested parties must complete the Bulletin registration screens in order to download solicitations and other procurement-related documents [and to receive email notices, including notices of award](#).

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

Section 4.1525 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-HE's website. [SPOs shall publish all notices to the Bulletin, unless otherwise delegated by the CPO-HE.](#)
- b) Notice of each procurement [published](#) shall contain at least the following information, [as applicable](#):
 - 1) the name of the purchasing university;
 - 2) a brief ~~purchase~~-description [of the supplies or services sought in the particular solicitation](#);
 - 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 university person on the purchasing staff assigned to the procurement (university buyer);

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- 8) instructions on how to obtain a comprehensive purchase description and any disclosure and contract forms;
- 9) encouragement to prospective vendors to hire qualified:
 - A) Veterans~~veterans~~;
 - B) Illinois minorities, women, persons with disabilities; and
 - C) Residents discharged from any Illinois adult correctional center.~~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 each contract let or awarded that was subject of a notice in subsection (b) shall be placed in the Bulletin and shall be immediately issued electronically to those bidders or offerors submitting responses to the solicitation. Bidders and offerors must register (see Section 4.1515) and sign up for email notices. Should the Bulletin 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 75-business days.
- d) The SPO shall publish the notice of award to the Bulletin for a minimum of 14 days prior to execution of the contract, unless a shorter time is authorized by the Code or this Part. This notice shall contain at least the following information:
 - 1) all the information published in subsection (b)(1) through (7);
 - 2) the name of the vendor selected for award;
 - 3) the contract price;
 - 4) the total number of vendors who responded;
 - 54) the number of unsuccessful ~~responsive~~ vendors;

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- 65) for each vendor who submitted a response, including the awarded vendor:
- A) the vendor's name;
 - B) the bid amount (for IFBs);
 - C) the percentage of business to be performed by a certified Business Enterprise Program (BEP) vendor as reflected in the utilization plan~~disadvantaged business utilization plan~~;
 - D) 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~~enterprise program utilization plan~~;
- 76) the total number of Veteran Owned Small Businesses and Service Disabled Veteran Owned Small Businesses that submitted responses~~the total number of veteran owned small businesses and the number of service disabled veteran owned small businesses that submitted bids~~; and
- 87) other disclosures required to be published in the Bulletin.
- ~~d)~~ ~~In addition to the notice requirements of subsection (c), the university shall post notice of the award on its website the next business day and may include a link to the Bulletin for the detailed information~~
- e) If a university wishes to award to other than the lowest responsive and responsible vendor pursuant to Section 20-10(g) of the Code, an SPO must make a written determination that awarding to the lowest responsive and responsible vendor is not in the best interest of the university and must post in the Bulletin a written explanation with the notice of award. The written explanation must also be filed with the Legislative Audit Commission and must include:
- 1) a description of the university's needs;
 - 2) a determination that the anticipated cost will be fair and reasonable;

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- 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.
- fe) Notice of each contract renewal shall be approved by an SPO and posted in the Bulletin within 1410-business days after the determination by the university to renew the contract. The date of the determination to renew shall be the date of the last approval required by the university to move forward with the renewal. Each university 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 include all of the information required under subsection (b) or shall reference this information electronically. The notice may include attachment of or reference to the original Bulletin notice.
- g) Notice of renegotiated contracts and change orders, or series of 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 university shall post notice of the renegotiated contract and change order to its website the next business day after notice is posted to the Bulletin (may be a link to the Bulletin for the detailed information of the renegotiated contract or change order).
- hf) The following information regarding emergency procurements shall be published in the Bulletin within 53 business days after emergency contract awardcommencement of performance under the emergency contract:
- 1) name of the procuring university;
 - 2) name of the vendor selected for award;
 - 3) brief description of what services or supplies the vendor intends to provide;
 - 4) total costprice (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);

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- 5) reasons for using the emergency method of source selection;
 - 6) name of the CPO, SPO and name of the university buyer in charge of the procurement; ~~and~~
 - 7) name of the university person who authorized the emergency contract action; and;
 - 8) affidavit of emergency procurement, if available, and, if not available, to be published as an amendment to the notice within 10 days after the emergency procurement.
- ig) In addition to the requirements of subsection (hg), notice of hearing to extend an emergency contract must be posted in the Bulletin no later than at least 14 days prior to the hearing. A completed emergency extension justification form as prescribed by the CPO-HE shall be published as part of the notice of hearing.
- jh) The following information regarding sole source procurements shall be published in the Bulletin at least 14 days prior to the required public hearing:
- 1) name of the purchasing university;
 - 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 university buyer 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 person registers to attend; and
 - 6) a completed sole source justification form as prescribed by the PPB.
- ki) Each university 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 university submits its report to the Business Enterprise Council pursuant to Section 6(c) of the Business Enterprise for

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Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

- lj) The CPO-HE shall allow the universities to post in the Bulletin, at least annually, the reports of the granting of university concession required by Section 53-25 of the Code.
- mk) Notice of other matters shall be published as required by law or at the direction of the CPO-HE.
- nl) The CPO-HE 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 39 Ill. Reg. _____, effective _____)

Section 4.1535 Vendor Portal

- a) In consultation with the PPB and universities, the CPO-HE may establish a vendor portal, use another CPO's vendor portal, or jointly operate a vendor portal with other CPOs if a single portal better serves the needs of State agencies and the vendor community. A vendor portal shall allow potential 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 that the vendor portal information is accurate and current, as part of the vendor's response to a competitive solicitation or other contracting process, and with the understanding that the universities will be relying on the information when evaluating solicitation responses and awarding contracts.
- b) Once the CPO-HE establishes a vendor portal, each university shall utilize the vendor portal information as directed by the CPO-HE.
- c) The CPO-HE may accept the registration number of a vendor from another CPO's vendor portal provided that the vendor certifies that vendor portal information is current.

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- d) Once registered in the vendor portal, vendors must re-register annually in order to continue utilizing their vendor portal number in lieu of paper and this annual update satisfies the annual recertification for multi-year contracts and subcontracts required by Section 50-2 of the Code.
- e) A vendor is not required to register in the vendor portal as a condition of conducting business with any university.

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

Section 4.1550 Error in Notice

- a) 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.
- b) The SPO must approve any correction that results in a change of procurement method or a material change in the requirements set forth in a solicitation. These corrections may require extension of the time to respond to the original solicitation or cancellation of the solicitation in appropriate circumstances.

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

Section 4.1560 Alternate and Supplemental Notice

- a) If the ~~electronic~~ electronic Bulletin cannot be published, the CPO-HE may publish notice in one of the other CPO's Procurement Bulletins on an interim basis. If no electronic version of the Bulletin can be published, the CPO-HE may designate its website as its volume of the Bulletin. If necessary, the CPO-HE may designate the Official State Newspaper or other newspaper of general circulation as its volume of the Bulletin. All newspaper notices will be published in the Bulletin when it becomes available, but that publication will not extend any procurement-related timeframes.
- b) Publication in the Bulletin may be supplemented by publication elsewhere at the discretion of the CPO-HE or SPO. Examples include publication in:

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- 1) the Official State Newspaper;
- 2) a newspaper of general circulation;
- 3) a newspaper of local circulation in the area pertinent to the procurement;
- 4) industry media; or
- 5) agency website.

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

Section 4.1580 Direct Solicitation

In addition to giving notice in the Bulletin, the SPO or university staff authorized by the SPO may directly contact prospective vendors by providing copies of solicitations or other procurement information. Direct solicitation may be oral or in writing, but all vendors shall receive the same information as provided in the Bulletin. No direct solicitation shall be made prior to publication of the date any required notice ~~first appears~~ in the Bulletin.

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

Section 4.1595 Availability of Solicitation Document

Procurements that require notice shall not be distributed to vendors prior to publication of the date the notice ~~is first published~~ in the Bulletin. A copy of the solicitation shall be made available for public inspection at the university procurement office. This copy shall be available as of the date and time the solicitation is published in the Bulletin.

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

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 4.2005 General Provisions

- a) Method of Source Selection. Unless otherwise authorized by law, all State contracts shall be awarded by competitive sealed bidding, in accordance with Section 20-10 of the Code, except as provided elsewhere in the Code. The CPO-

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HE may determine the method of solicitation and contract for all procurements pursuant to the Code. The CPO-HE shall have the sole authority to develop and distribute uniform documents for the solicitation, review and acceptance of all bids, offers and responses and the award of contracts. [30 ILCS 500/20-5, 20-155]

ba) 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 as instructed.

- 1) All bids/offers received shall be date and time stamped and stored in a secure manner (e.g., locked file cabinet, safe, locked room or other secure location) by the person responsible for receiving bids and offers.
- 2) No information regarding bids/offers received shall be disclosed to anyone prior to opening, except as authorized by the SPO. University personnel may confirm receipt of the bid or offer to the bidder or offeror, but no information is to be given otherwise.
- 3) If a bid or 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 bid or offer shall be re-sealed until the time set for the opening of the solicitation.

cb) Late Bids or Proposals, Late Withdrawals and Late Modifications

- 1) Any bid or proposal (include 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 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 determines it would

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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 submission 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) Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.

de) Solicitation Modifications~~Extension of Solicitation Due Date~~

- 1) The SPO may, prior to the date or time for submitting ~~or modifying~~ a bid or proposal, approve an extension of~~extend~~ the date or time for the convenience of the university.
- 2) The SPO may approve modification to the bid or proposal for reasons other than extending the date or time.
- 3) If notice cannot be made at least 72 hours in advance of the time the responses are due, the SPO shall approve an extension of time to respond for a reasonable period of time or shall authorize cancellation of the solicitation.
- 4) All notices under this subsection (d) shall be published in the Bulletin.

ed) 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 university may accept the bids or

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proposals, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit bids or proposals.

f) Electronic and Fax Submissions and Communications

- 1) Solicitations and other procurement-related communications may be made in electronic form. The CPO-HE shall establish or approve the method of submission of electronic communication, including, without limitation, use of internet or e-mail. These communications must be submitted to the electronic location established or approved by the CPO-HE. 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) If electronic responses to a solicitation are authorized, responses must be submitted to a secure electronic lock box that may only be opened at the designated time by an authorized person. In order for an electronic response to be considered received and valid, the response must be submitted to the lock box and no other location. Electronic submissions authorized by specific language in the solicitation will be opened in accordance with electronic security measures in effect at the university at the time of opening.
- 3) Procurement-related communications that reflect final agreements or settlements in relation to protests, suspensions, debarments or contract matters must be signed by submitting a scanned copy of an original signature or by digital signature using an approved security process. Other procurement-related communications may be submitted using password protected e-mail. Electronic communications must meet the same substantive requirements as paper communications except as allowed to reflect the different means of communication.
- 4) Electronic signatures must meet the minimum security requirements if established by the Department of Central Management Services [5 ILCS 175/25-101(c)] and the accompanying regulations (14 Ill. Adm. Code 105.300).

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~~53)~~ ~~Fax or email submissions are acceptable for small purchases 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.~~

~~g~~f) **Only One Bid or Proposal Received**
If only one bid or proposal is received, 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~~g) **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 4.2025 (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~~h) **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.

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- ~~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.
- ~~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 ~~university~~~~SPO~~ may request that a vendor clarify its bid or proposal as a part of the evaluation process. ~~A copy of the clarification request must be provided to the SPOA 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 material changes or for submission of best and final offers as authorized elsewhere in this Part.
- ~~m~~) ~~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.~~
- ~~n~~) ~~Increase in Quantity on Definite Quantity Contracts~~
- ~~1~~) ~~This subsection (n) 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;~~

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- ~~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.~~
 - ~~2) Notices of supplementary purchases in excess of the small purchase limits of Sections 20-20 and 35-35 of the Code shall be published in the 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 4.2020) threshold.~~
- n) Assignment, Novation or Change of Name
- 1) Assignment and Novation. All assignments and novations must be in writing. No university contract may be assigned or novation entered into is assignable without the prior written consent of the CPO-HE or SPO, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. The assignee or transferee, except in the case of assignment of payment only, must meet all requirements for contracting with the universityState. Any purported assignment or novation without prior written consent shall be null and void.
 - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the universityState, a successor in interest may be recognized in a written 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 universityState;
 - C) the transferor waives all rights under the contract as against the universityState, and it is understood that the university does not waive any applicable right or remedy against the transferor unless expressly stated in the Novation Agreement; and

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- D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the [universityState](#), furnish a satisfactory performance bond.
- 3) Change of Name. A vendor may submit ~~to the university~~[to the SPO](#) a written request to change the name in which it holds a contract with the [universityState](#). The name change shall not alter [the parties](#), any of the terms and conditions of the contract or the obligations of the vendor.
- ~~op~~) 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.
- ~~qf~~) Use of Source Selection Method that is Not Required
If a university 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 university is bound to compliance with the Code and rules governing the method of source selection used.
- ~~rs~~) 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 the SPO.
- ~~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 use of competitive procedures. [When a pattern of repetitive purchases is identified, the university shall take steps to issue a competitive solicitation.](#)
- ~~tt~~) Confidential Data

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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 proprietary information belonging to the vendor.

- 1) The vendor~~and~~ must identify the basis of the claim of exemption from FOIA~~specific Section of FOIA applicable to the claimed exemption~~ and show how that basis~~Section~~ applies to the request for exemption information claimed to be exempt. Information submitted without a claim of exemption from FOIA may be disclosed to the public without notice or permission.
- 2) Information submitted with a claim of confidentiality~~or claimed~~ exemption from FOIA may still be disclosed to the public if determined under applicable law that the claim~~or claimed~~ exemption does not meet the requirements for withholding the information under FOIA. ~~The CPO-HE 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.~~

uv) 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. [30 ILCS 500/20-120(a)]
- 2) If, at any time during the term of the contract, a contractor desires to add~~adds~~ or change~~changes~~ any subcontractors with subcontracts with an annual value of more than \$50,000, the contractor shall promptly notify the university, in writing, ~~the SPO~~ 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. ~~The contractor shall provide the SPO with a copy of any subcontract with an annual value~~

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~~of more than \$25,000 within 20 days after the execution of the State contract and after the execution of the subcontract.~~

- 3) No contractor shall change a subcontractor listed in the original bid or proposal, except for documented good cause. Any substitute subcontractor must meet all requirements of the Code applicable to subcontractors.
- A) A request of a contractor for a substitution of a listed subcontractor shall be submitted in writing to the university and shall include the reasons for the request. Consent of the university for a substitution shall be made in writing and be included in the procurement file. Any substitution of an approved BEP subcontractor must be approved in accordance with 44 Ill. Adm. Code 10.
- B) Failure of a contractor to comply with this Section is a breach of contract.
- ~~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 the names and addresses of all subcontractors known at the time of execution with an annual value of more than \$25,000 and the expected amount of money each will receive under the contract.~~
- vw) Pre-Solicitation Assistance
- 1) *For purposes of this subsection (vw), "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) Except as provided in subsection (vw)(5), Section 50-10.5(e) of the Code prohibits any person or business from submitting a bid or proposal or entering into a contract if the person or business ~~assisted a university in determining whether there was a need for a contract or~~ assisted an

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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 contract ~~university~~ by reviewing, drafting, *directing* or preparing any IFB, RFP or RFI 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)]-

- 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 university 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 university~~State~~ for the purposes of providing information to evaluate new products, services or technologies.
 - C) ~~Provided~~Received or possessed written material to a university employee 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 university~~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 university that represent industry trends and innovation and is not specifically tailored to meet the university's needs.
- 4) Prohibited Acts

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- A) Specifications. ~~With the exception of standard specifications that a vendor makes available to any potential purchaser, a person or business may not submit specifications to a university for a particular transaction unless requested by a university employee. An SPO or person designated by the SPO must approve an employee's request for the specifications.~~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, 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 University 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 university who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a contract. Assistance to a university 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) Drafting~~Draft~~ (writes or assists the university~~State~~ with writing all or part of the procurement document);
 - ii) Reviewing~~Review~~ (reads the document or comments on the procurement document or signified approval or disapproval);
 - iii) Directing (any activity relating to giving instructions or commands or in supervising or overseeing the preparation of the procurement document);
 - iv) Preparing~~Prepare~~ (any activity relating to organizing or distributing the documents, including through the Procurement Bulletin); or

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~~vi~~) ~~Providing~~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 university to write specifications for a particular procurement may not submit a bid or proposal or receive a contract or subcontract for that procurement.

- 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.
- 6) *Notwithstanding ~~subsection (e)~~ of Section 50-10.5(e) of the Code, the Chief Procurement Officer, with the approval of the Executive Ethics Commission, may permit a public institution of higher education to accept a bid or proposal, or enter into a contract with a business that assisted the public institution of higher education in determining whether there is a need for a contract or assisted in reviewing, drafting, or preparing documents related to a bid, proposal or contract, provided that the bid, proposal or contract is essential to research administered by the public institution of higher education and it is in the best interest of the public institution of higher education to accept the bid, proposal or contract. For purposes of this subsection, "business" includes all individuals, with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder of a business. The Executive Ethics Commission may promulgate rules and regulations of the implementation and administration of the provisions of this subsection. [30 ILCS 500/1-13]*

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

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~~shall~~~~ould~~ 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. Amendments shall be supplied to all those prospective vendors through posting on the Bulletin.

- ~~xy~~) Federally Funded Purchases
For purchases funded in whole or in part by United States Government funds, the solicitation will identify the federal agency providing the funds, the name of the fund and contact information where interested parties can obtain requirements for contracting in relation to those funds.

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

Section 4.2010 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 ~~each~~~~every~~ procurement required to be conducted by competitive sealed bidding.
- b) Invitation for Bids
- 1) Use. An Invitation for Bids 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 university;

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- 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~~
 - D) State mandated certifications, disclosures and registration requirements; and-
 - E) A form or format that will specify or organize the manner of price submission.
- 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 they amend.
 - 2) Distribution. Amendments shall be made available ~~by 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, the solicitation shall be cancelled and reissued or the SPO shall 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

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- 1) Procedure. Bids may be modified or withdrawn by written notice received at 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 opened 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 name of each bidder, the bid price, and such other information as is deemed appropriate by the CPO-HE or SPO shall be recorded and read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.
- 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 on the basis of any requirements or criteria that are not disclosed in the IFB.
 - 2) Responsibility. Responsibility of prospective vendors is covered by Section 4.2046 (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

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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 or 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 IFB. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

- 4) Price 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 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. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

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- 5) No Disclosure of Information. Until an award recommendation is made, no university personnel or contractual agents other than the evaluators and those assigned to the procurement may review the bids. The university conducting the procurement shall not disclose any information contained in any bid with any other bidder other than information that was recorded, read and made publicly available at the opening of the bids. After completion of the evaluation and award recommendation, the university may conduct discussions with management and board of trustees if necessary to obtain approval for award prior to publishing the award in the Bulletin. If discussions within the university are necessary to evaluate the bids, the SPO may require that confidentiality and conflict of interest statements be executed.
- 5) ~~Price Negotiation.~~ Negotiations are permitted with the low bidder to obtain a lower price for the item bid.
- g) ~~Award to Other than Low Responsible and Responsive Bidder~~
The SPO, but not a designee, may authorize the State to award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. A description of the agency's needs, a determination that the anticipated cost will be fair and reasonable, a listing of all responsible and responsive bidders, and the name of the bidder selected, pricing and the reasons for selecting this bidder instead of the low responsive and responsible bidder must be published in the Bulletin and notice shall be filed with the Legislative Audit Commission and the PPB. This information shall be made available for inspection by the public within 30 days after the agency's decision to award the contract.
- h) ~~Publicizing Award.~~
- 1) ~~Bidders shall be notified of contract award. 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 IFB process shall be published in the Bulletin prior to the execution of a contract. Failure to provide this notice to all bidders shall result in extending the time for filing a bid protest up to 5 business days. If the contract is awarded to other than the lowest bidder, the notice shall include an explanation of the award. Notice of the award shall be posted on the~~

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~~university's website the next business day. The winning bid shall be available for public inspection after award, along with a record of each unsuccessful bid.~~

- 2) ~~The notice of award must include the information identified in Section 4.1525.~~

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

Section 4.2012 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 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 revisions/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 4.2005(v*) (Pre-Submission Conference) may be conducted by the SPO or designee.

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- 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 4.2010 (Competitive Sealed Bidding), except as otherwise provided in this subsection (d). In addition to the requirements set forth in Section 4.2010, 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.
 - 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 4.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) 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.

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- 4) Evaluation of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the IFB.
 - 5) Unacceptable Unpriced Technical Offer. When the SPO determines a bidder's unpriced technical offer does not meet criteria, the offer shall be rejected.
 - 6) Discussions. The university, in consultation with the SPO, may conduct discussions with a bidder to determine in greater detail the bidder qualifications and to explore with the bidder its ability to provide the specific supply or service and the bidder proposed method of performance. Each bidder shall be given fair opportunity to make revisions authorized as a result of discussions.
- 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.
 - 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except that only price and related factors are evaluated.

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

Section 4.2013 Reverse Auctions

- a) CPO-HE Authorization
A university 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

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professional services) through means of a reverse auction if the CPO-HE has made a determination that use of a reverse auction is in the best interests of the State. The CPO-HE shall publish in the Bulletin that bids will be received in an electronic auction manner as part of the notice of IFB.

b) Reverse Auction Process

The CPO-HE~~SPO~~ or designee shall conduct a reverse auction through a two-~~step~~two-step IFB 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; addressing 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.

2) Price

- A) An IFB 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 IFB. The IFB shall establish any minimum bid increments.
- B) Prices shall be submitted electronically. The CPO-HE or~~designee~~SPO 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.

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- C) When the low price is substantially lower than other prices submitted, the CPO-HESPO 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-HESPO 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-HE 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-HE 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.

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

Section 4.2015 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 ~~(note)~~ that the following services, if they are professional and artistic, must be procured pursuant to Section 4.2035. ~~of this~~

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Part):

- 1) electronic data processing equipment, software and services;
 - 2) telecommunications equipment, software and services;
 - 3) consulting services;
 - 4) employee benefits and management of those benefits; and
 - 5) insurance and banking services.
- c) Competitive Sealed Proposals may be used on a case-by-case basis to procure other needs when it is determined in writing by the SPO that competitive sealed bidding is either not practicable or advantageous.
- d) 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;
 - 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

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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.

e) Content of the Request for Proposals

The RFP shall be prepared in accordance with Section 4.2010 (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 of when and how price should be submitted; ~~and;~~
- 3) a statement that revisions may be requested, after discussions, for the purpose of obtaining best and final offers.

f) Receipt and Registration 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 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 university 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 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

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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. Until an award recommendation is made, no university personnel or contractual agents, other than the evaluation committee and those assigned to the procurement, may review the proposals. The university conducting the procurement shall not disclose any information contained in any proposal with any other offeror other than information that was recorded, read and made publicly available at the opening of the proposals. After completion of the evaluation and award recommendation, the university may conduct discussions with management and board of trustees if necessary to obtain approval for award prior to publishing the award in the Bulletin. If discussions within the university are necessary to evaluate the proposals, the SPO may require confidentiality and conflict of interest statements be executed. ~~Only authorized university personnel and contractual agents may review the proposals prior to award.~~

gf) Evaluation of Proposals

- 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 university, 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 necessary to complete all evaluations and attend any necessary evaluation meetings. Scoring and recommendation of any committee member who does not complete the entire evaluation and scoring will not be considered in determining the final scores. The evaluation committee members may be removed by the SPO for failure to comply with instructions or directions of the SPO or to

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ensure the integrity of the procurement. The SPO shall state in writing his or her reasons for removing a committee member. The SPO has the right to attend any and all evaluation meetings.

- 32) Evaluation. The evaluation shall be based solely on the evaluation factors set forth in the RFP and no other factors shall be considered, 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 identified at the opening. Proposals shall be submitted in two parts: the first, covering items except 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 read and evaluate the first part individually and independently of all other members. After completion of the individual evaluations, the evaluation committee should meet to confirm the individual scores and reach consensus. The evaluation committee shall consider significant or substantial variance of scores, divergent scoring comments, or other information that suggests the need for further discussion. No committee member shall attempt to unduly influence another member's scores by virtue of his or her individual or organizational rank within the university. After consideration of comments, individual evaluators may, for good cause, adjust their scores. Evaluation of the first and second part may be conducted simultaneously, provided different evaluators are used to evaluate each part and no information is exchanged between the two sets of evaluators prior to completion of the evaluation. The price proposal shall be opened in the presence of a State witness and distributed to the appropriate evaluators.

hg) Proposal Discussions with Individual Offerors

- 1) Purposes of Discussions. Discussions are held to:
 - A) promote understanding of the University's requirements and the offerors' proposals (e.g., determine in greater detail milestones, deliverables and timelines for completion of work); and

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- 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. Discussion may be conducted by the university, in consultation with the SPO, with vendors reasonably susceptible of being awarded a contract based on qualifications and price. If during the discussions it is determined there is a need for any substantial revision of, or change to, the RFP, the RFP shall be canceled 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 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 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 university'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.
- i) Award
An award shall be made by the SPO pursuant to a written determination showing 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. After the most advantageous finding is presented to the SPO, the universitySPO may request a reduction in the price only term of the proposal.
- i) ~~Publicizing Awards~~

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- 1) ~~Offerors shall be notified of contract award. 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 RFP process shall be published in the Bulletin prior to the execution of a contract. Failure to provide this notice to all offerors shall result in extending the time for filing a bid protest up to 5 business days. Notice of the award shall be posted on the university's website the next business day. The winning proposal shall be available for public inspection after award, along with a record of each unsuccessful proposal.~~
- 2) ~~The notice of award must include the information identified in Section 4.1525.~~

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

Section 4.2020 Small Purchases

- a) The CPO-HE may establish policies and procedures regarding the use of the small purchase method of source selection to ensure compliance with policies, including promotion of small business, diversity and transparency. The CPO-HE may delegate in writing to each university the authority to make small purchases.
- b) Application
 - 1) Individual procurements of \$50,000 or less for supplies or services, other than professional and artistic, may be made without the notice or level of competition otherwise required of competitive sealed solicitations. These small purchase maximums shall be subject to the annual cost of living increases set forth in subsection (b)(3).
 - 2) Procurements for construction and construction-related services of \$70,000 or less may be made without the notice or level of competition otherwise required of competitive sealed solicitations. These small purchase maximums shall be subject to the annual cost of living increases set forth in subsection (b)(3), or as increased to reflect increases in the consumer price index as determined by the CPO-HE.
 - 3) The CPO-HE shall announce any change identified by the United States

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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 July 1. The CPO-HE shall publish on the Bulletin the current small purchase maximums.

- 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 the prior notice or level of competition otherwise required of competitive sealed solicitations. Notice of award of these small professional and artistic service contracts must be published in the Bulletin within 14 days after contract execution, and shall include the name of the SPO, reason for the exception, description of the procurement, name of the university decision maker, contract reference number and contract price.

c)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, and the value of any renewals, determined in good faith, shall be utilized. When the value is 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 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.
- e) ~~The CPO-HE may establish policies and procedures regarding the use of the small purchase method of source selection to ensure compliance with policies, including promotion of small business, diversity and transparency.~~

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- d) Repetitive Need
If there is a repetitive need for small procurements of the same type (which may be evidenced by a pattern of small purchases), the university 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 39 Ill. Reg. _____, effective _____)

Section 4.2025 Sole Source and Sole Economically Feasible Source Procurement

- a) Application
The provisions of this Part apply to procurements~~procurement~~ from a sole source and sole economically feasible source (~~referred to as sole source~~) unless the estimated amount of the procurement is within the limit set in Section 4.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 4.2030 (Emergency Procurements), in which case those other procedures may be used.
- b) Conditions for Use of Sole Source and Sole Economically Feasible Source Procurement Method
Sole source procurement is permissible when a requirement is available from only a single supplier. Sole economically feasible source is permissible~~or~~ when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if ~~there is~~ more than one vendor is authorized to provide that item. The following are examples of circumstances that could necessitate sole source and sole economically feasible source procurement, but are 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 a specific product or service;
 - 3) item is for commercial resale and obtained from the manufacturer or sole authorized distributor;
 - 4) non-competitive public utility services;

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- 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;~~
 - 89) except as exempted pursuant to Section 1-13 of the Code and Section 4.13 of this Part, procurements related to participation in mandated educational, professional, research, public service or athletic activities of organizations of which the university is a member. These procurements may include, but are not limited to, dues and membership fees, travel and lodging and facility usage fees;
 - 910) federal or State grant requires a specific named vendor as a condition of the grante contract with named vendor;
 - 1011) items required by an existing franchise agreement; changes to existing contracts (see subsection (c)).
 - 11) items that are required for research and no other source is able to meet the need as documented by the principal researcher; or
 - 12) new, latest edition textbooks that are only available from the publisher or sole distributor in classroom quantities.
- e) Changes
- 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.~~

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- 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 4.2020, or that is an emergency as defined in Section 4.2030, 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.~~
- cd) Sole Source Determination
- 1) Once a need is identified by the university, the procurement department must be contacted and, in conjunction with the SPO, shall determine the appropriate procurement method. The final 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 university. 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 university to enter into a contract based on the sole source or sole economically feasible source request, the CPO-HE shall offer to conduct 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 hearing is made, the hearing will be cancelled. No sole source or sole economically feasible source procurement may proceed without final approval by the CPO-HE.
 - 2) To support a sole source request, the university may use research material available from the internet, trade shows, publications, peer networking and

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similar sources. A justification must be provided detailing why the need could not be obtained through a competitive process. That a vendor has supplied samples, demonstrated its product, or engaged in a pilot project is not sufficient justification to support a sole source.

- e) Hearing
Any hearing required shall be conducted in accordance with Subpart U.

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

Section 4.2030 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 4.2020 (Small Purchases) made under emergency conditions. A university shall have the authority to make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods.
- b) Statutory Emergency Conditions
A statutory emergency condition exists:
- 1) when~~if~~ there exists a threat to public health or public safety;
 - 2) when immediate expenditure is needed for repairs to university property in order to protect against further loss or damage to university property;
 - 3) to prevent or minimize serious disruption in critical university services that affect health, safety, or collection of substantial State revenues; or
 - 4) to ensure the integrity of university records.
- c) Quick Purchase. The quick purchase emergency method of source selection is allowed in certain~~additional~~ situations, including. ~~These include~~ but ~~are~~ not limited to:
- 1) protecting~~protect~~ the health and safety of any person;

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- 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;
 - 3) rare items, such as articles of historical value or art collections, are available for a limited time;
 - 4) the opportunity to obtain entertainment, speakers and athletic and other events or performances (not exempt under Section 1-13 of the Code) 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 those 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. ~~Whenever, 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 recognizing the need to obtain the item in time to meet the emergency need. Documentation of any efforts made to obtain competition shall be made part of the procurement file.
- f) **Determination and Record of Emergency Procurement**
 - 1) **Determination.** The university shall make a written determination stating the basis for an emergency procurement, showing that the situation meets criteria for an emergency established by the Code and this Part and providing the reason for selecting the selection of the particular vendor. These determinations shall be kept in the contract file.

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- 2) Emergency Contract Award. For purposes of an emergency contract, an emergency contract is awarded on the earliest of the date a university communicates to a vendor when to start work, the date of publication on the Illinois Procurement Bulletin identifying the selected vendor of the required goods or services, or the date the contract is signed by both parties. Documentation of the contract award date shall be part of the procurement file.
- 32) Affidavit Record. ~~The university shall prepare an~~ An affidavit ~~for~~ each emergency procurement (including statutory, quick purchases and extensions of emergency contracts beyond 90 days) ~~and shall file it~~ ~~be filed by the university~~ with the CPO-HE, PPB and Auditor General within 10 days after the contract is awarded. ~~The affidavit 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) Publication. Notice of the emergency procurement shall be published in the Bulletin ~~by the university~~ as specified in Sections 15-25(c) and 20-30 of the Code no later than ~~53 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. A copy of the affidavit must be attached to the notice, if available and, if not available, must be attached as an amendment to the notice within 10 days after the emergency procurement.

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- 4) ~~The university shall be responsible for making the filings required in Section 20-30 of the Code and providing copies to the CPO-HE.~~
- 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-HE 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~~the 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 ~~at least 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 vendor, and 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 ~~requested~~made by ~~the university, a SPO~~ in the form of an extension request submitted to the SPO using the form prescribed by the CPO-HE. 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~~the PPB and members of the public~~ may present testimony. The CPO-HE may conduct the hearing or may authorize a hearing officer to hold the hearing and make a recommendation. The CPO-HE shall make a final determination as required by Section 20-30(a) of the Code. The final determination shall be published in the Bulletin. The term of the proposed contract extension may be shortened or lengthened as determined by the CPO-HE.
- h) Contract Extension Hearing
The hearing shall be conducted in accordance with Subpart U.

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

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Section 4.2035 Competitive Selection Procedures for Professional and Artistic Services

- a) Application
- 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 university by a person or business, acting as an independent contractor, qualified by education, experience and technical ability* [30 ILCS 500/1-15.60].
- b) Professional and artistic services are further defined as follows:
- 1) "Qualified by education" means the individual who would perform the services must have the level of experience appropriate to the task, as 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 demonstrates 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 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.

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- 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.
 - 7) When a university 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 the 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 the 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; and
 - 6) custom-produced art.
- 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.

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- e) Conditions for Use of Competitive Selection Procedures. Except as authorized under Section 20-25 (Sole Economically Feasible 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 of less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 4.2020 (Small Purchases) of this Part, except notice of the contract must be published as provided in subsection (m).
- 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-HE 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

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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;
- 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 university after completion of services and before final payment and made part of the procurement file.
- 2) Evaluation. Proposals shall be evaluated 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.

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- 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 shall state the reason for the error. 2) Proposals shall be submitted to and opened by the university unless otherwise directed by the CPO-HE or SPOCPO HE, SPO or the CPO HE's designee.~~
- 1A) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP.
- 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 service item offered. The record of proposals shall be open to public inspection after award of the contract.
- 3C) ~~Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Until an award recommendation is made, no university personnel or contractual agents other than the evaluation committee and those assigned to the procurement may review the proposals. The university conducting the procurement shall not disclose any information contained in any proposal with any other offeror other than information that was recorded, read and made publicly available at the opening of the bids. After completion of the evaluation and award recommendation, the university may conduct discussions with management and board of trustees if necessary to obtain approval for award prior to publishing the award in the Bulletin. If discussions within the university are necessary to evaluate the proposals, the SPO may require that confidentiality and conflict of interest statements be executed~~Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only authorized State personnel and contractual agents may review the proposals prior to award.
- 3) ~~Transmission to the SPO. The CPO HE will forward timely proposals to the responsible SPO of the university along with any pertinent information~~

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~~contained in the files of the CPO-HE regarding the vendors who submitted proposals.~~

- 4) ~~The CPO-HE may require that the SPO be present at and assist in the opening and registration of proposals.~~

h) Discussions

- 1) Discussions Permissible. The CPO-HE or SPO 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 CPO-HE or SPO may request revisions after discussions for the purpose of obtaining best and final offers 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 university conducting the procurement shall not disclose any information contained in any proposals with any other offeror until after award of the proposed contract.

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.

j) Evaluation of Pricing Data

Pricing submitted for all acceptable proposals shall be 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

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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 SPO or designee shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. 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
 - 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

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by the 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 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, daily, etc.);
- iii) the rate of remuneration; 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 SPO shall advise the offeror of the termination of negotiations.
- B) Upon failure to successfully negotiate a contract with the best qualified offeror, the SPO may enter into negotiations with the next most qualified offeror.

1) Multiple Awards

The SPO may authorize a solicitation for professional and artistic services that includes an intent to make multiple awards based upon a need demonstrated by the university to have multiple vendors under contract. The solicitation must state this intent and describe the type of multiple award in detail and the methodology for determining which vendor from among the multiple awardees will receive an individual task order on an as-needed basis.~~The SPO may enter into negotiations with the next most qualified vendor or vendors when the university has a need that requires multiple vendors under contract.~~

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- 1) Primary with Alternates
A multiple award may be made to a primary and one or more alternate vendors when there is a need for multiple vendors to ensure immediate performance. The primary vendor shall have first refusal for all task orders with others contacted in rank order. Ranking of the alternates shall be by qualification. To supplement a "Primary with Alternates" award, a multiple award may be made for the same service to promote statutory preferences, goals, policies and programs (e.g., small business set-aside).

- 2) Pool of Vendors
When it may be more efficient or appropriate based on the need for services to establish a pool of qualified vendors and then select from among that pool as particular needs arise, the university may use an RFP to identify vendors who meet the criteria set in the solicitation. The university may select those vendors ranked most qualified to be the pool, but the pool shall not exceed 10. Once selected, these vendors shall be considered of equal rank. When there is a particular need, the university shall use one of the following selection methods:
 - A) Select the vendor who submitted the low price in the initial submission;

 - B) Discuss the particular need with each pool vendor and select the most qualified for the need; or

 - C) If it is not practicable for the university to discuss the particular need with each pool vendor, the university may, with SPO approval, select the two most qualified based on the initial selection of the pool to discuss the particular need. The university must detail the reasons for the final selection and obtain SPO approval. Documentation to the procurement file must contain the reason why pre-selection discussions with all pool vendors were not practicable.

- 3) In making its selection, the university may consider the State's public policy to promote and encourage participation of minority and female-

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owned and -operated businesses, small businesses, small veteran-owned businesses and other such programs in contracts awarded by the State.

4) Exception for Conflict or Capacity

If there is a known conflict of interest or the vendor otherwise eligible for the task order is not available to perform, the next most qualified vendor shall be offered the task order.

5) Type of Contract

Multiple award contracts shall be considered master ordering agreements. Services ordered under these contracts shall be documented on the task order that refers to that agreement. A multiple award contract is not a requirements contract and does not guarantee any level of ordering activity by the university.

m) Notice of Award

Notice of award shall be in accordance with Section 4.1525(b) and (c). Notice of award of professional and artistic service contracts under \$20,000 must be published in the Bulletin within 5 days after execution of the contract and in accordance with Section 35-35(b) of the Code. The notice shall include the name of the SPO and a brief explanation of the procurement.

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.

o) Priced Qualifications

As an alternative to awarding based on qualifications only, the solicitation may contain a provision evaluating both qualifications and price to determine the vendor with the most advantageous proposal. All other provisions applicable to a procurement of professional and artistic services shall remain in effect.

m) Notice of Award

~~The notice of award must include the information identified in Section 4.1525. Written notice of award shall be public information and made a part of the contract file. Publication shall be in the next available issue of the Bulletin.~~

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- 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 39 Ill. Reg. _____, effective _____)

Section 4.2036 Other Methods of Source Selection

Notice of the results of any of the following methods must be published in the Bulletin in the form and format specified by the CPO-HE.

- 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) Supplies and services (other than professional and artistic services) may be solicited with the intent to make multiple awards. The solicitation must state this intent and describe the type of multiple award in detail and the methodology for determining which vendor from among the multiple awardees will receive an as-needed individual order.
- 2) Types of Multiple Awards
- A) Primary with Alternates
A multiple award may be made to a primary and one or more alternate vendors when there is a need for multiple vendors to ensure immediate performance. The primary vendor shall have first refusal for all task orders with others contacted in rank order. Ranking of the alternates shall be by value. To supplement a "Primary with Alternates" award, a multiple award may be made for the same service to promote statutory preferences, goals, policies and programs (e.g., small business set-aside).

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B) Pre-qualified Pool of Vendors – Multi-step Sealed Bid

- i) When it may be more efficient to establish a pool of qualified vendors and then select from among that pool, the university may use the multi-step sealed bid process identified in Section 4.2012.
- ii) If a pre-qualified pool has been established and a particular item must be ordered more quickly than allowed through the multi-step sealed bid process, the university may request that the SPO approve an expedited competition. The expedited competition requires that the university contact directly in writing all vendors in the applicable pool and ask each to submit a price, timeline for completion and any other information necessary to address the need by a specified date. The vendor responding with the lowest price who can perform as required shall be offered that order.

C) Pre-qualified Pool of Vendors – RFP

- i) When it may be more efficient, or more appropriate based on the nature of the services, to establish a pool of qualified vendors and then select from among that pool as tasks arise, the university may use an RFP to identify vendors who meet the criteria set in the solicitation. The university may select the pool from among the vendors ranked most qualified, but the pool shall not exceed 10. Once selected, these vendors shall be considered of equal rank. In making its selection, the university may consider the State's public policy to promote and encourage participation of minority and female-owned and operated businesses, small businesses, small veteran-owned businesses and other such programs in contracts awarded by the State. When there is a particular need, the university shall use one of the following selection methods:

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- Discuss the particular need with each pool vendor and select the most qualified for the need;
 - Select the vendor who submitted the low price in the initial submission; or
 - If it is not practicable for the university to discuss the particular need with each pool vendor, the university may, with SPO approval, select the two most qualified based on the initial selection of the pool to discuss the particular need. The university must detail the reasons for the final selection and obtain SPO approval. Documentation to the procurement file must contain the reason why pre-selection discussions with all pool vendors were not practicable.
- ii) If a pre-qualified pool has been established and a particular order must be placed more quickly than allowed through the multi-step sealed bid process, the university may request that the SPO approve an expedited competition. The expedited competition requires that the university contact directly in writing all vendors in the applicable pool and ask each to submit a price, a timeline for completion and any other information necessary to address the need by a specified date. The vendor responding with the lowest price who can perform as required shall be offered that order.
- 3) Exception for Conflict or Capacity
If there is a known conflict of interest or the vendor otherwise eligible for the order is not available to perform, the next low or next best value vendor shall be offered the order.
- 4) Type of Contract
Multiple award contracts shall be considered master ordering agreements. Supplies or services ordered under these contracts shall be documented on the order that refers to that agreement. A multiple award contract is not a

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requirements contract and does not guarantee any level of ordering activity by the university.

- ~~1) A multiple award may be made 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 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. The SPO may authorize a multiple award without a primary designation, provided the solicitation describes the method by which individual orders would be placed.~~
- ~~4) If a particular quantity requirement arises that exceeds the university's its normal requirement or a quantity or amount specified in the contract, a separate solicitation may be issued.~~

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 university to procure from the vendor, nor does it create an authorization for a university to order based on that term and condition contract, except as provided by subsection (c)(2).
- 2) Orders may be placed against term and condition contracts without use of 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

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requirements applicable to the particular auction. ~~Prior notice~~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 to the Bulletin.~~

e) Non-governmental Joint Purchase

~~In accordance with Section 25-15(b) of the Code, if the CPO-HE determines in writing that joint procurement with an organization not eligible for joint purchasing under the Governmental Joint Purchasing Act is in the best interests of the university, the university may 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. The CPO may require that notice of participation in a non-governmental joint purchasing arrangement or use of a non-governmental joint purchasing contract be published in the Procurement Bulletin. The CPO may establish additional requirements, including compliance with vendor qualification, registration, certification and other standard contract terms and conditions.~~

- 1) An SPO may authorize a university to purchase or lease supplies and services (other than professional and artistic services) that have been procured through a competitive process by a non-governmental group purchasing organization of which the university is a member or affiliate, including any non-governmental purchasing entity.
- 2) The SPO may authorize purchases and contracts established by other means if that method is the most competitive under the particular circumstances and the affected university can show the procurement is in the best interests of the university.
- 3) In relation to a non-governmental group purchasing organization, a university may act as the lead procuring entity or may be a participant entity. When a university is the lead procuring entity, the procurement shall be conducted in accordance with the Illinois Procurement Code, including all Bulletin notice requirements. When a university is a participant, the joint procurement shall be conducted in accordance with the laws or processes governing the lead procuring entity.

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- 4) If a university uses a non-governmental award or contract as a participant, notice of that use shall be published in the Bulletin at least 14 days prior to use of the award or contract.
 - 5) When a university is a participant in a non-governmental procurement, the contract shall include provisions required by Illinois law, including applicable certifications, disclosures and registrations, and standard contract terms and conditions, to the extent practicable and feasible.
 - 6) The university must document and justify any use of a non-governmental award or contract and must submit the justification to the SPO for approval on a form prescribed by the CPO-HE. All nongovernmental joint purchase contracts or orders must be submitted to the SPO for review and approval before execution.
 - 7) The CPO-HE shall submit to the General Assembly an annual report of procurements made under this subsection (e).
- f) Federal Requirements
The SPO for any university 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 university programs located in foreign countries shall comply with the Code and this Part whenever practicable. The university shall consult with and receive approval from the SPO prior to proceeding with a procurement under this subsection (g). ~~The university~~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 a named vendor or the procurement of a particular good or service, particular procurement or contracting procedures, the SPO shall comply with those requirements ~~may follow~~

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~~those procedures~~, but shall follow the Code and this Part whenever practicable.

- 2) Donations may be acknowledged by the donee university in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee university 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-HE, 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 university 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-HE 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 university in obtaining coverages as set forth in subsection (i)(2)(B) of this Section as well as providing customary

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services such as issuing certificates of insurance and servicing policies.

- B) The broker will assist the university by serving as broker of record in obtaining insurance coverages through the industry process of going to market to obtain quotes. The university will 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.
- j) Job Order Contracting
- 1) Definition – A Job Order Contract is a competitively bid, indefinite quantity contract intended for new construction, renovation and repairs with pre-established unit prices in which a university provides a definition of the work scope and a vendor selected from a list of qualified vendors furnishes all management, documentation, design and incidental drawings, labor, materials, supplies, parts, transportation, equipment and supervision needed to perform the work as required. Ordering is accomplished by means of issuance of a Work Order against the Job Order Contract.
 - 2) Conditions of Use – The Chief Procurement Officer may authorize the use of a Job Order Contract upon a determination in writing that such use is necessary for adequate delivery, service or product compatibility, and that 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 a university cannot reasonably be met within the normal procurement timeframes, or that the type and variety of needs are such that a single award will not assure the needed availability or diversity of vendors.
 - 3) Procedure – A Job Order Contract shall be initiated by the issuance of an Invitation for Bids in the form required by Section 4.2010 (Competitive Sealed Bidding), except as otherwise provided in this subsection (j)(3). In addition to the requirements set forth in Article 30 of the Code and Section

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4.2010, the Job Order Contract ~~Invitation for Bid~~Request for Proposals shall include:

- A) A detailed description of the scope of the Job Order Contract, including performance, technical requirements and specifications, and minimum and maximum work order amounts;
 - B) the reasons for using a Job Order Contract;
 - C) a description of the process that will be used to evaluate qualifications and proposals, including a method for determining each Vendor's Price Adjustment Factors utilizing the published Construction Task Catalog[®] and Technical Specifications documents; and
 - D) that the SPO may conduct oral or written discussions of the offers.
- 4) Award – Those vendors meeting minimum qualifications shall be offered non-exclusive indefinite quantity contracts against which a university may later place one or more work orders on an as needed basis in accordance with the allocation of work procedure set forth in subsection (j)(5).
- 5) Allocation of Work – Work Orders shall be allocated among qualifying vendors on an as needed basis. Once a need is identified, the university shall allocate work for that project using Job Order Contracting from the list of qualified vendors. The university shall select the vendor that best addresses its needs for the project based on the work order allocation method specified in the IFB, which shall include such factors as price, capacity, past performance, geographic location, experience and knowledge. If the low price vendor is not selected, the university shall justify the alternative selection and submit the order to the SPO for approval. The SPO or PCM will periodically review any allocation of Work Orders and report to the CPO with a recommendation for future action.
- 6) It shall be the affirmative obligation of each vendor with a Job Order Contract to update information provided to the contracting university regarding its continued ability to provide the contracted service. Job

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Order 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 Work Orders for a period of time, including until the next prequalification.

- k) Grant-funded Research
When there is a need to purchase supplies or services necessary to conduct grant-funded research, the university may conduct the procurement by means of direct negotiation when the conditions of the grant make using one of the statutory competitive methods of source selection impractical for reasons such as grant timelines, the need to collaborate with other entities or the need for protection of confidential information. When two or more vendors are identified who are reasonably capable of meeting the university's need, at least two of the vendors identified as most qualified must be offered an opportunity to negotiate. A written determination of the basis for the procurement must be made by the university and approved by the SPO. Procurements made under this subsection (k) shall be made in accordance with the requirements of the Code to the extent practical. The resulting award must be published in the Bulletin.

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

Section 4.2038 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. Withdrawal of bids or proposals after bid or proposal opening will not ordinarily be permitted; however, in those cases in which, in 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.

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- 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**
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 39 Ill. Reg. _____, effective _____)

Section 4.2039 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.

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- 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:
 - A) return the required number of signed copies required by the [solicitation document](#)~~FB~~;
 - B) acknowledge receipt of an amendment to the solicitation, but only if:
 - i) it is clear from the bid or proposal that the [bidder or](#) 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 or proposal document, the information shall be corrected and the bid or proposal 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

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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, any offeror may 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**
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 39 Ill. Reg. _____, effective _____)

Section 4.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

- a) **Policy**
Any solicitation ~~shall~~ may be ~~cancelled~~ anceled before or after opening when a university requests or when the SPO determines ~~the SPO believes~~ cancellation to be in the State's best interest. An SPO may request a university 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 canceled 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 university no longer requires the supplies or services;

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- B) the university 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 university;
 - F) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - 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; 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

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limited to:

- A) the vendor that submitted the bid or proposal is non-responsible as determined under Section 4.2046 (Responsibility);
 - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation, including submission requirements;
 - 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
 - D) the proposed price, including options, is clearly unreasonable.
- 2) Notice of Rejection. Upon request, bidders or offerors whose bid or proposal has 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 39 Ill. Reg. _____, effective _____)

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 4.2043 Suppliers

AThe university 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 N.
- b) State and Federal Surplus Warehouses under the jurisdiction of the Department of

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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 N.
- d) State agencies and other governmental units described in Section 1-10(b)(1) of the Code.

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

Section 4.2044 Vendor List

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

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

Section 4.2045 Vendor Prequalification

- a) The SPO may prequalify prospective vendors when determination of vendor~~determination of a vendor's~~ qualifications or preliminary evaluation of supplies or services prior to solicitation~~procurement~~ would promote the effective conduct of ~~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) ~~Any~~An opportunity to prequalify shall be allowed at least one time each fiscal year. ~~The~~ 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.

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- 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.
- g) Except in the case of professional and artistic services, distribution of and responses to a 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 that 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 39 Ill. Reg. _____, effective _____)

Section 4.2046 Responsibility

- a) **Application**
Before making an award or [approving 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 university'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,

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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 and 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. Vendor must be a legal entity authorized to ~~transact~~ business or conduct affairs in Illinois prior to submitting the bid, offer or proposal and qualified legally to contract with the State.

- c) **Information Pertaining to Responsibility**
The university, in consultation with the SPO, may conduct discussions with a bidder or offeror to determine in greater detail the bidder's or offeror's capability to perform. This discussion is not for the purpose of determining whether one bidder's or offeror's product or service capability is superior to another. The prospective vendor shall supply information requested concerning the responsibility of such vendor. The ~~university~~ university's 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 Non-Responsibility Required**
If a vendor who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the university 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 to be not responsible.

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

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section 4.2047 Security Requirements

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- a) Vendors shall furnish bid, proposal or performance security as specified in the solicitation or contract. The cost of providing security will be borne by the vendor unless otherwise stated in the solicitation.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois and having a rating acceptable to the university.
- c) Unless the amount is set by law, the universitySPO will determine the amount, in dollars or percentage of contract price, that will adequately protect the university's interests. That amount will vary depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.
- e) The vendor's source of supply may also be required to furnish security. If the vendor does not have a stock of the supplies in question in the amount required or the facilities to produce the item in that amount, the university may, in addition, require the vendor to have the source of supply furnish security acceptable to the university, conditioned on the source supplying the vendor as required in the solicitation.
- f) Bid or Proposal Security
 - 1) The bid or proposal security will be used to ensure the bidder or offeror meets all obligations imposed under the solicitation. This includes, but is not limited to, including the obligation to keep the price, bid or proposal firm for as long a period as specified in the solicitation, to enter into a contract, and the obligation to file a performance security. TheIf required, when the contract is awarded, the university may retain the bid or proposal security as damages if the bidder or offeror fails to meet its obligations.

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- 2) The bid or proposal security will be returned to the vendor as soon as is practicable after the bid or proposal opening. ~~The three lowest qualified vendors' deposits will be returned as soon as possible after the contract is awarded or, if performance security is required, as soon as the successful vendor has filed acceptable performance security.~~ Bid or proposal security will be returned to the unsuccessful vendors upon ~~expiration of the bid/proposal time or~~ execution of the contract, ~~whichever is earlier.~~

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

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 4.2050 Specifications and Samples

- a) Responsibilities Regarding Specifications
~~The Subject to the SPO's direction, the~~ university shall write the necessary specifications, including the statement of work, subject to the SPO's authority to review and approve.
- b) Procedures for the Development of Specifications
- 1) Specifications shall~~All procurements shall be based on specifications that~~ accurately reflect the university's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements; 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 incorporated~~adopted~~ by reference.
 - 3) A specification may provide alternate descriptions when two or more design, functional, ~~or~~ performance or other criteria will satisfactorily meet the university's requirements.
 - 4) Article~~Section~~ 45 of the Code shall be considered and applied when

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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, or other prohibited conduct as an explicit or implied term or condition for awarding or completing the contract. [30 ILCS 500/20-50]*

6) *As used in this Section, "prohibited conduct" includes requested payments or other consideration by a third party to the university or State agency that is not part of the solicitation or that is unrelated to the subject matter or purpose of the solicitation. [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 university's requirement makes use of a brand name or equal specification suitable for the procurement; or

D) when the university determines, subject to the SPO's authority to review and approve, that circumstances show this to be the most reasonable type of specification use of a brand name or equal specification is in the university's best interest.

2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

3) Unless the university determines in writing that the essential

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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) Where 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 vendor.
- d) Brand Name Only Specification
- 1) A brand name only specification may be used in a competitive solicitation provided the universitySPO makes a written request justifyingdetermination that only the identified brand name item will satisfy the university'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 university retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPOCPO-HE. A university 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 universitySPO 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 can supply the requirement, the procurement shall be made under Section 4.2025 (Sole Economically Feasible Source Procurement).

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- 4) The SPO shall provide a quarterly report to the CPO-HE of solicitations conducted using brand name only.
- e) Qualified Products List
- 1) A qualified products list may be developed by the university, with approval of the SPO, SPO when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy university requirements.
 - 2) When developing a qualified products list, 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 government or commercial venues for a specified period of time to be considered.
- g) University 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 and compliance with specifications. Submission of samples will not limit the

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university's right to require adherence to specifications.

- 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 university.

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 university's discretion and will not entitle the vendor to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration. No payment will be made for the demonstration period except as agreed to in advance. If the price exceeds the small purchase amount, the product must be acquired under Section 4.2025 of this Part. The product ~~demonstrated~~ 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 University Personnel

As provided in Section 4.2005(u), specifications Specifications may be prepared by other than university personnel, including, but not limited to, consultants, architects, engineers, designers and other drafters of specifications for public contracts. ~~when the SPO determines that there will be no conflict of interest involved and it is otherwise in the best interest of the university and provided the SPO retains the authority for final approval of the specifications.~~ Contracts for the preparation of specifications by other than university personnel shall require the specification writer to adhere to university requirements and the terms of the Code, particularly Section 50-10.5, and this Part. The university must inform the SPO of specifications prepared by anyone other than university personnel. The SPO retains the authority for final approval of the specifications.

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- 2) ~~The person who prepared the specifications shall not submit a bid or proposal or receive a contract to meet the procurement need except as provided in Section 1-13(e) of the Code and Section 4.2005 of this Part.~~
- 3) ~~Prohibited Bidders and Contractors~~
- A) ~~No person or business shall bid or enter into a contract if the person or business:~~
- i) ~~assisted the university 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 university by reviewing, drafting or preparing any IFB, RFP, or RFI or 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 communication is documented; or~~
- ii) ~~responds to a communication initiated by an employee of the university for the purposes of providing information to evaluate new products, trends, services or technologies. [30 ILCS 500/50-10.5(e)]~~
- j) **Pre-Solicitation Request for Information**
When the university~~SPO~~ does not have sufficient information about available supplies or services to issue a solicitation, the university, in consultation with the SPO, 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. Public notice of the pre-solicitation request for information shall be

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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 issuance of a pre-solicitation request for information does not commit the university 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 part of the publically available procurement file. An RFI is to be used for information gathering only and is not a vehicle for procuring supplies or services.

- k) University contracts, the primary purpose of which is for the procurement of freight, small package delivery, and other forms of cargo shipping and transportation services shall be written in accordance with the Transportation Sustainability Procurement Program Act [30 ILCS 530]. [30 ILCS 500/20-165]

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

SUBPART I: CONTRACTS

Section 4.2055 Types of Contracts

- a) **Scope**
This Section contains descriptions of types of contracts and limitations as to when they may be utilized by the university in its procurements. Types of contracts not mentioned in this Section may ~~also~~ be utilized with 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 university or another vendor under contract to the university is not a cost-plus-a-percentage-of-cost contract.
 - 3) A percentage mark-up from cost for 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-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 university'suniveristy's needs for the

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items specified in the 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 university 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 university 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 university 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 authorize use of the cost-reimbursement contract.

- B) ~~Any reimbursement~~Reimbursement of travel expenses authorized in the solicitation and the terms of the contract must be 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. The SPO must provide a written determination that this type of contract is likely to be less costly than any other type of contract or that it is impracticable to obtain the item required except under this type of contract.

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- 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 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 may be adjusted to provide for an increase or decrease in the scope of work. The adjustment must be made via a change order with approval of the SPO.~~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

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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 maximum amount that the university 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 university 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 may only be 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. The contracts shall, ~~to the extent possible,~~ contain a stated ceiling or an estimate that shall not be exceeded without prior ~~university~~ approval. An estimated time and materials contract shall be treated as an indefinite quantity contract.
- g) **Definite Quantity and Indefinite Quantity Contracts**
- 1) **Definite Quantity.** A definite quantity contract is a fixed-price contract

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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 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 university is obligated to order and may also provide for a maximum quantity provision that limits the university's ability to order. If ~~the contract identifies~~ an estimated quantity is identified, the university may order up to 20% more than the estimate without written SPO approval~~additional procurement authorization or activity~~. The SPO may authorize ordering beyond the stated 20%. Any such authorization shall be documented in writing and published in the Bulletin. An increase of an indefinite quantity contract is not a change order.
- 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the university to order all its actual requirements 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 university at any time, except pursuant to an option to purchase.
- i) Recovery Contracts

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Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the university. 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, 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. 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 preclude exercise of an option.](#)
- k) **State Produced Supplies and Services**
Notwithstanding any provision in any contract, supplies or services available in-house or from State programs, such as [Illinois](#) Correctional Industries, may be ordered without violating any contract.
- l) **Extraordinary Quantities**
Notwithstanding any provision in any contract, the university reserves the right to take bids separately if a particular quantity requirement arises that exceeds the university's normal needs or ordering requirements.
- m) **Energy Conservation**
University procurements of energy conservation measures, including guaranteed energy savings contract, are defined in the Public University Energy Conservation Act [110 ILCS 62] (PUECA) and shall be made in accordance with the Code and this Part, except as otherwise authorized by PUECA.
- n) **Printing Cost Offsets**
In accordance with university policies, the university may provide advertising rights in printed products to a vendor or receive free copies of printed products from a vendor in order to reduce the overall cost of a printing contract. Procurement by competitive sealed bid or competitive sealed proposal is required when the printing cost exceeds the small purchase limit of Section 4.2020 of this Part.

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- 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 39 Ill. Reg. _____, effective _____)

Section 4.2060 Duration of Contracts – General

- a) General
The term of a contract, including potential renewals, may not exceed 10 years.
- 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 improvements 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 and 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 cancellation for lack or insufficiency of funding. A vendor will be notified in writing by the university of a failure or reduction or decrease of appropriation affecting a 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

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- 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-Term Contract Procedure
The solicitation shall state:
 - 1) the proposed term;
 - 2) the amount of supplies or services required for the proposed contract 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

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further procurement activity, except for the publication of the renewal in the Bulletin as required by Section 15-25 of the Code and Section 4.1525 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 universityState or by mutual agreement of the vendor, but may 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 appropriate competitive procedures established by the Code and this Part.

- 2) A renewal may only be entered into if authorized by the original contract~~When the original procurement was silent as to renewals, the renewal must be procured using one of the methods or 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 renewal contract shall include previous sole source contracts and shall in total not exceed 10 years.~~
- 3) All renewals must be approved by the SPO. A request to renew must be accompanied by a renewal form prescribed by the CPO-HE justifying why the renewal in the best interest of the university.
- 43) When a renewal will result in the total term, counting the initial term and any previous renewals, exceeding 10 years, the university's need must be procured using one of the methods of source selection authorized by the Code and this Part.
- 5) 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 or services must be procured anew using one of the methods of source selection authorized by the Code and this Part.
- 6) If a renewal is not fully executed prior to contract expiration, but the university can show written intent of both parties to renew, the renewal may be executed after the PPB 30-day review period has passed or a

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[waiver has been granted.](#)

- f) 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 the PPB. The PPB shall have up to 30 days to review and comment on the proposal. The SPO [assigned to the university](#) may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.

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

Section 4.2065 Cancellation of Contracts

- a) In any of the following cases, the [universitySPO](#) shall have the right to terminate or rescind any contract entered into under this Part without penalty:
- 1) The successful vendor fails to furnish a satisfactory performance bond within the time specified.
 - 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing university.
 - 3) Any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.
 - 4) The vendor is guilty of misrepresentation (e.g., misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill obligations as a responsible vendor under other contracts with the State.
 - 5) The vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the [universitySPO](#); or act in

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violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.

- 6) Any other breach of contract or other unlawful act by the vendor.
- 7) The contract was obtained by fraud, collusion, conspiracy or other unlawful means.
- 8) The contract conflicts with any statutory provision of the State of Illinois or of the United States.

b) Damages

The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of supplies or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of supplies or services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

c) Withholding Money to Compensate State for Damages

If a contract is terminated or rescinded under this Section, the university may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the university for any damage resulting from termination or rescission.

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

Section 4.2067 Contract Amendments and Change Orders

a) Contract amendments memorialize actions:

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- 1) authorized by specific language in the contract (e.g., exercise of an option or showing price decrease or increase based on CPI), or changes that do not affect price or time of performance (e.g., change in names of notice contacts or number of periodic status meetings);
 - 2) not specifically authorized in a contract (e.g., material changes to terms and conditions that affect price or time of performance). This type of amendment constitutes a change order.
- b) Change Orders
- 1) A change order is defined in Section 4.15. 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:
 - A) *the circumstances said to necessitate the change in performance was not reasonably foreseeable at the time the contract was signed; or*
 - B) *the change is germane to the original contract as signed; or*
 - C) *the change order is in the best interest of the State. [720 ILCS 5/33E-9] Universities 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 university 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 shall be published in the Bulletin in advance of execution of the change order

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whenever practical and in other situations within 5 days after execution of the change order.

- 4) A change order to a contract for professional and artistic services may not result in an increase in the amount paid under the contract by more than 5% of the initial award, or extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed two months. [30 ILCS 500/20-25(b)]
- 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. PPB shall have up to 30 days to review and comment on the change order. The university may request a waiver of the review for reasons set forth in Section 20-60(c) of the Code.

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

SUBPART J: PROCUREMENT FILES

Section 4.2080 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 contain a written determination, signed by the SPO, setting forth the reasoning for the contract award decision and any other determinations relative to the particular procurement. The publically available portion of the 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 calendar days following award of the contract. [30 ILCS 500/20-*

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155(c)(~~b~~)

- b) The procurement files shall be maintained by or under the jurisdiction of the CPO-HE.
- c) Documentation of Procurement Actions
Each university, 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 records showing approvals to proceed at all stages;
 - 2) Procurement Bulletin postings;
 - 3) Solicitation document (e.g., IFB, RFP, etc.) and all amendments, clarifications and best and final requests;
 - 4) Vendors' responses, including clarifications and responses to best and 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, amendments, renewal or extension;
 - 8) Contractor Performance Reviews, if conducted;
 - 9) All information from subsections (c)(1) through (c)(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 Surveying Qualifications Based Selection Act [30 ILCS 535], which exempts contractor performance reviews), shall be prepared and available

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for inspection and copying, with information from subsections (c)(1) through (c)(5) available on the date any award is posted to the Bulletin.

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

Section 4.2084 Record Retention

Procurement information, including, without limitation, that pertaining to the Procurement Bulletin, and performance and payment under contracts and subcontracts shall be maintained in accordance with the State Records Act [5 ILCS 160]. ~~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 providing all audits have been completed and no litigation is pending or anticipated.~~ b) Books and records that relate to performance of a contract, including subcontracts, and that support amounts charged shall be maintained:

- a1) by a vendor, for three 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.
- b2) by a subcontractor ~~the university~~ for three years from the date of final payment under the subcontract or completion of the subcontract, ~~prime contract~~; and for such longer period of time as is necessary to complete ongoing or announced audits.

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

Section 4.2086 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 university, a copy of the contract, purchase order, grant or lease shall be filed with the Comptroller within 30 calendar~~15~~ days thereafter. [30 ILCS*

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500/20-80(b)

2) *For each State contract for goods, supplies or services awarded on or after July 1, 2010, the contracting university 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 calendar~~15~~ 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 calendar days after execution, the university must file with the Comptroller an affidavit, signed by the chief executive officer of the agency or a designee, setting forth an explanation of why the contract liability was not filed within 30 calendar days after execution. A copy of this affidavit shall be filed with the Auditor General and the CPO-HE. [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(c)]*

2) *Upon written request of the university and with justification required by the CPO-HE, the CPO-HE 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. Section 20-80 of the Code does not apply to emergency purchases if notice of the emergency purchase is filed with the*

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PPB and published in the Bulletin as required by the Code. [30 ILCS 500/20-80(d)]

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

SUBPART L: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section 4.3005 Construction and Construction Related Professional Services

a) General Procedures

- 1) *Each contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works made by a public university shall contain a provision that steel products used or supplied in the performance of the contract or any subcontract thereto shall be manufactured or produced in the United States in accordance with the Steel Products Procurement Act [30 ILCS 565]. [30 ILCS 565/4] For example, a finished supply item that contains a steel component, such as an HVAC system, is not considered a steel product and would not be subject to the Act, but a steel I-beam would be subject to the Act.*
- 2) 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, as well as architects and engineers 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]).
- 3) Estimated Cost of Work
 - A) 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, at a minimum, the following five subdivisions of work:

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~~i)A)~~ Plumbing.

~~ii)B)~~ Heating, piping, refrigeration and automatic temperature control systems, including the testing and balancing of those systems.

~~iii)C)~~ Ventilating and distribution systems for conditioned air, including the testing and balancing of those systems.

~~iv)D)~~ Electrical wiring.

~~v)E)~~ General contract work.

B) However, if the estimated value of the construction work exceeds \$250,000 and the estimate for an individual division is less than the current small purchase limit for construction, that division's work may be combined with another division, or procured separately under the Small Purchase procedure of Section 4.2020.

42) The specifications shall be drawn so as to permit separate and independent competitive bidding upon each of the above five subdivisions of work. All contracts awarded for any part of the work shall award the five subdivisions separately to responsible and reliable contractors engaged in these classes of work. The contracts, at the discretion of the university, 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 university prior to 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 let 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 University
To bill the university for ~~remodeling, renovation or~~ construction work done, the

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vendor must submit a payment request in the form specified by the university.

- c) **Periodic Payments**
When provided in the contract, periodic payments can be made during the course of the work, ~~provided upon a certificate of~~ a licensed architect or engineer ~~issues a certificate~~ indicating the proportionate amount of the total work ~~has been~~ completed satisfactorily.
- d) **Retained Percentage**
When periodic payments are made and if specified in the contract, the university 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 construction 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 expenditures or obligations may, in their total combined amount, be in excess of the percentage 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 university construction agency. In the event that 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 university construction agency shall investigate all 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 20-20 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 the university.
- g) **Construction Manager Services**
 - 1) Procurement of Construction Manager Services, under jurisdiction of the

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Capital Development Board, will be performed by the Capital Development Board (CDB) or through delegation from CDB.

- 2) Construction Manager Services for projects not under the jurisdiction of CDB shall be procured by the university in accordance with [Article 20 of the Code](#)~~Section 4.2035 of this Part~~.

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

SUBPART M: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 4.4015 Method of Source Selection

- a) Leases shall be procured by using a Request for Information for Real Property or Capital Improvement Leases (RFI-~~RPL~~[Real Property Leases](#)) process except as provided in subsection (b).
- b) ~~The RFI Real Property Leases process is not required in the following circumstances.~~ Leases acquired under these exceptions shall be selected and entered into by negotiation. Written summaries of all negotiations shall be maintained in lease files.
 - 1) *Property of less than 10,000 square feet with rent of less than \$100,000 per year.*
 - 2) *Duration of less than one year that cannot be renewed.*
 - 3) *Specialized space available at only one location.* Specialized space is defined as space ~~of~~ unique function or configuration, not generally available on the market on an as built or turnkey basis. Examples of specialized space include, but are not limited to: laboratories, vehicle testing stations, correctional facilities, medical facilities, boat docks and evidence storage facilities.
 - 4) *Renewal or extension of a lease, provided that:*
 - A) *the CPO-HE determines in writing that the renewal or extension is in the best interest of the university;*

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- B) *the CPO-HE submits his or her written determination and the renewal or extension to the PPB;*
- C) *the PPB does not object in writing to the renewal or extension within 30 days after its submission; and*
- D) *the CPO-HE or designee publishes notice of the renewal or extension in the Bulletin at least 60 days prior to the exercise of the renewal or extension option. For purposes of this Section "exercise" means the effective date of the renewal or extension option.*
- 5) *Leases with other governmental units may be negotiated without using the RFI-Real Property Leases process when deemed by the CPO-HE to be in the best interest of the university. [30 ILCS 500/40-15(c)]*
- c) None of the provisions of subsection (b) this Section shall prohibit making a lease procurement under the RFI-RPL Real Property Leases provisions if the CPO-HE deems it to be in the best interests of the university.

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

Section 4.4020 RFI-RPL Process~~Request for Information-Real Property and Capital Improvement Leases~~

- a) RFI-Real Property Leases (RFI-RPL) Form
When required, an RFI-RPL shall be issued and shall include 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;*
 - 5) *a general description of the configuration desired; [30 ILCS 500/40-*

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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; ~~{30 ILCS 500/40-20(b)}~~
 - 9) response forms and instructions for completing forms;
 - 10) a copy of spatial and performance guidelines required to meet the needs of the university to occupy the real property being procured; and
 - 11) the date and time of responses.
- b) The university shall prepare the RFI-RPL for submission to the SPO for approval. ~~All required documents of the RFI-RPL will be available in electronic format on the Bulletin. Notice shall begin when first published electronically. RFI-RPL document packages may also be mailed to owners of property that may meet the university's needs after the RFI-RPL has been published in the Bulletin.~~
- e) ~~Unless the RFI-RPL is exclusively designated to accept only electronically prepared documents, RFI-RPL 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 university's to occupy the real property being procured; and~~
 - 3) ~~The date and time responses must be submitted.~~
- c) **Public Notice**
Public notice of the RFI-RPL 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 similar manner in a newspaper of general circulation in the community or communities where the university is seeking space. [30 ILCS

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500/40-20(c)] All required documents of the RFI-RPL will be available in electronic format on the Bulletin. Notice shall begin when first published electronically. RFI-RPL document packages may also be mailed to owners of property that may meet the university's needs after the RFI-RPL has been published in the Bulletin.

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Response

The RFI-RPL response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the RFI-RPL. [30 ILCS 500/40-20(d)] All responses to the RFI-RPL 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.

ef)

Negotiation and Determination

1) *The ~~CPO-HE or~~ SPO may enter into discussions with respondents to the RFI-RPL for the purpose of clarifying university needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, the ~~CPO-HE, a SPO or~~ designee shall make a written determination identifying the responses that meet the minimum criteria set forth in the RFI-RPL. 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. The university shall document negotiation efforts with each qualified respondent.

2) The CPO-HE or SPO 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 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-RPL.

fg)

Contract Award, Reporting and Filing

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- 1) The SPO ~~or designee~~ shall review all relevant information and shall recommend to the CPO-HE which proposal shall be accepted based on the evaluation of all responsive proposals. The CPO-HE 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 shall forward to the CPO-HE, along with the lease, notice of the identity of the lowest respondent by price and written reasons for the recommendation of a different response. The CPO-HE shall publish the written reasons for the 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.

gh) PPB Review

The 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 university 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)]

hi) University Cooperation

A university shall provide any materials or provide any assistance the PPB determines is required for its review. The PPB may request in writing from the university, and the university shall promptly, but in no event later than 5 business days after receipt of the request, provide to the PPB documentation of information in the possession of the university. This does not preclude the university seeking any other available relief including termination for breach.

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

Section 4.4025 Lease Requirements

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- a) Length of Leases
- 1) Maximum Term. Except when a longer term is authorized by law, leases, inclusive of renewals, shall be for a term not to exceed 10 years and shall include a termination option in favor of the State after 5 years.
 - 2) *Renewal Option. Leases may include a renewal option. An option to renew may be exercised only when the CPO-HE determines in writing that renewal is in the best interest of the State. The CPO-HE shall publish a notice of the intent to exercise the option in the Bulletin at least 60 days prior to the exercise of the option. [30 ILCS 500/40-25(b)] For purposes of this Section, "exercise" means the effective date of the renewal or extension option.*
 - 3) *All leases shall include a provision that they are subject to termination and cancellation in any year the General Assembly fails to make an appropriation to make payments under the terms of the lease. [30 ILCS 500/40-25(c)]*
 - 4) Month-to-Month and Holdover. *No lease may continue on a month-to-month or other holdover basis for a total of more than 6 months after expiration of the underlying lease. [30 ILCS 500/40-25(d)]*
- b) Lessor's Failure to Make Improvements
Each lease that includes a provision for the lessor to make improvements must provide for actual or liquidated damages~~a penalty~~ upon the lessor's failure to make improvements agreed upon in the lease. The actual or liquidated damages~~penalty~~ shall consist of a reduction ~~in~~^{on} lease payments equal to the corresponding percentage of the improvement value to the lease value. The actual or liquidated damages~~penalty~~ shall continue until the lessor complies with the lease and the improvements are certified~~accepted~~ by the CPO-HE and the leasing university. [30 ILCS 500/40-55] The penalty amount shall be retained by the university. This does not preclude the university seeking any other available relief, including termination for breach.
- c) All leases shall be accompanied by a full written disclosure of the identity of every owner and beneficiary having any interest in the premises being leased.

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- 1) The disclosure shall be subscribed and sworn or otherwise affirmed on oath by an owner, authorized trustee, corporate official, partner, managing agent or other authorized person.
 - 2) The disclosure shall set forth all ownership interests. By way of example, the disclosure should identify the names of the beneficiaries of a land trust in addition to the trustee, the names of all partners whether general or limited in nature, the names of all members or managers of a limited liability company and the names of all shareholders in a corporation who are entitled to receive more than 7½% of the total distributable income of the entity. If the entity is publicly traded and no readily known individual owns more than a 7½% interest, then the requirements of this subsection (c) may be met by an officer or managing agent of the entity making an affirmative statement to this effect under oath.
 - 3) The disclosure shall set forth the identity of any State officer, employee or elected official, or the wife, husband, or minor child of that person having an ownership or beneficial interest under the lease. In the event a person is so set forth, the disclosure shall include a specific designation of the percentage of the total distributable income to that person, together with that of the wife, husband or minor child of the person, is entitled to receive from any firm, partnership, association or corporation that is the lessor.
 - 4) It shall be the responsibility of the lessor to notify the CPO-HE, SPO or designee of any changes in ownership or beneficial interest and to submit updated disclosure statements reflecting the changes within 30 days after the change.
- d) Space that is not in compliance with accessibility regulations, or is not capable of being brought in compliance with the installation of minimum essential features of accessibility by the time of occupancy, shall not be considered for use.
- 1) Each RFI will contain specifications for accessibility. Exceptions to the specifications will be allowed only upon request of the university if legitimate reasons are given and the request is otherwise in compliance with all federal and State laws regarding accessibility. The CPO-HE, SPO

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or designee may waive certain specifications at his or her discretion in accordance with subsection (d)(2).

- 2) Exceptions may be based upon one or more of the following criteria:
 - A) No other suitable location exists within the geographic boundaries required by the operation/program at the site.
 - B) No funds are appropriated to cover expenses for:
 - i) Relocation to an accessible site;
 - ii) Remodeling existing site to achieve accessibility; or
 - iii) Construction of a new facility.
- 3) The operations at the site are part of an on-going program that cannot be interrupted or terminated pending relocation, remodeling or new construction.
- 4) The operations at the site are part of a new program that must be implemented without delay to avoid:
 - A) Delay or interruption of vital services; and/or
 - B) Loss of funds associated with the program
- 5) The operations/programs at the site:
 - A) Generate a low frequency of public use; and/or
 - B) Provide a low number of job opportunities.
- 6) For sites carrying out programs funded in whole or part by federal funds, exceptions will be granted only upon written certification from the university that alternative methods have been established to deliver services to disabled clients and the university will provide necessary structural modification for qualified disabled employees, unless the

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modification would cause the university to incur undue hardship. This requirement is based on federal law (Section 504 of the Rehabilitation Act of 1973 (29 USC 706)) and any federal regulations promulgated pursuant to that Act, including those promulgated by the U.S. Department of Health and Human Services.

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

SUBPART N: PREFERENCES

Section 4.4505 Procurement Preferences

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts. The Bulletin and solicitation document shall state whether a preference applies or may apply and the amount or type of preference.~~Any preferences applicable to an individual procurement will be stated in the solicitation for that procurement.~~

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

Section 4.4515 Soybean Oil-Based Ink

Contracts requiring the procurement of printing services shall specify the use of soybean oil-based ink unless a State Purchasing Officer~~SPO~~ determines that another type of ink is required to assure high quality and reasonable pricing of the printed product. [30 ILCS 500/45-15] The SPO will make this determination based on justification submitted by the university.

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

Section 4.4520 Recycled Materials

When a public contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of products made of recycled materials may, ~~on a pilot basis or in accordance with a pilot study,~~ be given preference over other bidders unable to do so, provided that the cost included in the bid of ~~supplies~~products made of recycled materials does not constitute an undue economic or practical hardship. [30 ILCS 500/45-20] The SPO will make this determination based on justification submitted by the university.

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

Section 4.4525 Recyclable Paper

All ~~supplies~~~~paper~~ purchased for use by universities must be recyclable paper unless a recyclable substitute ~~paper~~ cannot be used to meet the requirements of the universities or would constitute an undue economic or practical hardship. [30 ILCS 500/45-25] For purposes of this Section, supplies means printing, copier, note pad and similar paper, and other paper products such as paper plates and towels. The SPO will make this determination based on justification submitted by the university. ~~Universities shall determine their paper requirements to allow the use of recyclable paper whenever possible, including, without limitation, using plain paper rather than colored paper that is not recyclable.~~

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

Section 4.4526 Environmentally Preferable Procurement

Universities shall contract for supplies and services that are environmentally preferable, as that term is defined in Section 45-26(3) of the Code. *If, however, contracting for an environmentally preferable supply or service would impose an undue economic or practical hardship on the contracting university, or if an environmentally preferable supply or service cannot be used to meet the requirements of the university, then the university need not contract for an environmentally preferable supply or service. Specifications for contracts, at the discretion of the contracting university, may include a price preference of up to 10% for environmentally preferable supplies or ~~services~~service.* [30 ILCS 500/45-26(b)] The SPO will make this determination based on justification submitted by the university.

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

Section 4.4530 Correctional Industries

The CPO-HE shall distribute to each SPO and university the list of items pursuant to Section 45-30 of the Code that must be purchased from Illinois Correctional Industries (ICI) as determined by the CPO-~~HEGS~~ pursuant to Section 45-30 of the Code. Procurements from ICI may be made without prior notice or competition. Notice of contracts that exceed the small purchase threshold will be published in the Bulletin prior to execution of the contract.

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

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Section 4.4535 Qualified Not-for-Profit Agencies for Persons with Severe Disabilities

- a) Contracts issued under this Section with qualified not-for-profit agencies (sheltered workshops) should promote employment and training opportunities for persons with severe disabilities while meeting the needs of the university.
- 1) Subject to the requirements of this Section, a university may procure supplies and services from a sheltered workshop and may do so without having to provide prior notice on the Bulletin or having to seek competition. The sheltered workshop must meet the specifications and needs of the using university and must agree to a fair market price, subject to a maximum that the price cannot be substantially more than had it been competitively bid.
 - 2) Except for small purchases, a proposed contract with a sheltered workshop must be approved by the SPO.
- b) The university and the State use program (see Section 45-35(c) of the Code) staff will consult as necessary to ensure the contract effectively addresses the purpose of the program. This review may include consideration of the total dollar value of the contract, the number of jobs performed by persons with severe disabilities, the amounts paid to those individuals and the amount of subcontracting, particularly with commercial entities, needed to fulfill contract requirements.
- c) The CPO-HE shall distribute to each SPO and university a list of supplies and services available from sheltered workshops on the qualified list maintained by the Department of Central Management Services.
- d) The CPO-HE shall identify to each SPO and university the supplies and services for which preference must be given to sheltered workshops. The preference shall require the university to give first refusal to a sheltered workshop and the university shall purchase from the workshop unless the SPO approves a request for a waiver from the university. A waiver may be requested if the university demonstrates to the SPO that factors including, but not limited to, geographic proximity, lack of availability of vendors, quality of product and price preclude purchase from a sheltered workshop. Any waiver request shall be on a form or in a format prescribed by the CPO-HE. The State Use Committee must approve any

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proposed contract that would otherwise be subject to a competitive selection requirement.

- e) When a sheltered workshop and a university enter into a contract, each must comply with applicable provisions of the Code.
- a) Use
~~The CPO HE shall distribute to each SPO and university a list of supplies and services available from qualified not for profit agencies for persons with severe disabilities (sheltered workshop). Purchases from sheltered workshops may be made without notice or competition.~~
- f) Pricing Approval~~Prior to contracting with a sheltered workshop, the State Use Committee (see Section 45-35(e) of the Code) must determine~~ in open meeting that the price is not substantially more than had the university obtained a competitively solicited price. If any vendor protests the determination as a part of the open meeting, the Committee must resolve the protest before approving the proposed contract. The State Use Committee shall inform the SPO and the university in writing of its determination.
- g) After receipt of the Committee's determination, the SPO shall post notice of the proposed contract to the Bulletin, and the university may execute the contract upon publication.

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

Section 4.4540 Gas Mileage, ~~and Flex-Fuel~~, Biodiesel and Hybrid Requirements

Sections 25-75 and 45-40 of the Illinois Procurement Code impose requirements applicable to the purchase and, in some situations, the lease of passenger vehicles. These requirements are:

- a) Section 25-75 (Flex Fuel, Hybrid or Biodiesel)
- 1) Gasoline Power. All gasoline powered automobiles and light trucks purchased with State funds must be flexible fuel or fuel efficient hybrid vehicles. Station wagons (including SUVs and crossovers), vans (including mini-vans), four-wheel drive (including AWD) vehicles, emergency vehicles, and police and fire vehicles are not exempt.

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- 2) Diesel Power. All diesel powered automobiles and light trucks purchased with State funds shall be certified by the manufacturer to run on 5% biodiesel (B5) fuel. Station wagons (including SUVs and crossovers), vans (including mini-vans), four-wheel drive (including AWD) vehicles, emergency vehicles, and police and fire vehicles are not exempt.
 - 3) "State funds" means, for the purpose of this Section, any funds appropriated by the General Assembly. If State funds are used in whole or in part to purchase these vehicles, this Section applies.
- b) Section 45-40 (Mileage)
- 1) Any new passenger automobiles, whether purchased or leased, must meet minimum fuel mileage standards. This does not apply to station wagons (including SUVs and crossovers), vans (including mini-vans), four-wheel drive (including AWD) vehicles, emergency vehicles, and police and fire vehicles.
 - 2) This fuel mileage requirement applies regardless of the source of funds used to purchase or lease the vehicle.
- c) Coordination of Sections 25-75 and 45-40. When procuring a vehicle, a university shall make reasonable attempts to identify one that meets the requirements of both subsections (a) and (b). If no vehicle meets both of these requirements, the university shall purchase a vehicle or vehicles that satisfy the requirements of subsection (b); otherwise, the university may request a waiver as outlined in subsection (d).
- d) Waiver. If a vehicle that meets the need of the institution cannot meet either or both requirements of subsections (a) and/or (b), then the institution may request a waiver of the appropriate requirement. The CPO-HE may require use of a uniform form or format for requesting the waiver. Vehicles requested under a waiver should come as close to satisfying the waived requirement as practical.
- e) 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. For purposes of this Section, "State funds" means any funds

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appropriated by the General Assembly. If State funds are used in whole or in part to purchase these vehicles, this Section applies.

- a) ~~Specifications for new passenger automobiles 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, four wheel drive vehicles, emergency vehicles, 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]~~
- e) ~~The CPO-HE or SPO may exempt a procurement from the requirements of subsections (a) and (b) when a university demonstrates a need for a non-compliant vehicle in writing.~~
- f~~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]*
- e) ~~The CPO-HE may require use of a uniform form or format for the SPO's determination that an exemption is warranted.~~

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

Section 4.4545 Small Business

- a) Authority to Establish Small Business Set-Aside
The CPO-HE, in consultation with the universities, 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, in consultation with a university, may determine to set aside for small business individual contracts not in a set-aside category. A set-aside may be

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established for competitive solicitations or for small purchases.

b) Certified Small Business List

The CPO-HE, in consultation with the universities, may develop its own list, or may use a list maintained by another CPO 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.~~

c) Contract Set-Aside Required Use

1) Any procurement proposed for set-aside to 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. Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses must be certified as a small business by one or more CPOs or 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.

2) When conducting a small purchase in a set-aside category, the university shall consult the list of certified small businesses and shall solicit at least three vendors under the commodity codes or classifications representing the supplies or services being solicited. Vendors outside a reasonable geographic area need not be contacted.

3) The SPO may waive the requirement for set-aside on individual transactions based upon a request from the university that a set-aside is not conducive to meeting its need.

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

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question. When a small business set-aside is withdrawn, notification shall be 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-HE 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 \$13,000,000.

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 \$8,000,000.

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 \$14,000,000.

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 \$13,000,000 for a wholesaler, \$8,000,000 for a retailer, \$14,000,000 for a construction business or the amounts shown in Section 45-45 of the Code. For example,

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a business that is both a retailer and a wholesaler may not have total sales exceeding \$21,000,000 and the retail component may not exceed \$8,000,000 and the wholesale component may not exceed \$13,000,000. 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 a company 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], is a business organized as a domestic limited liability company under the Limited Liability Company Act [805 ILCS 180], 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 the kind of business activity in which it is 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~~

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~~manufacturing employees may not exceed 250.~~

- 45) Businesses artificially divided to qualify as 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 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-HE 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 university needed to make the small business annual report to the General Assembly required under Section 45-45(f) of the Code.

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

Section 4.4557 ~~Disabled Veterans~~ and Service-Disabled Veterans

In furtherance of the goal established by Section 45-57 of the Code, the CPO may make available information regarding the availability of small businesses owned by veterans and service-disabled veterans to the universities and to other vendors interested in doing business

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~~with the universities. It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (SDVOSB) and veteran-owned small businesses (VOSB) participate in the State's procurement process as both prime contractors and subcontractors. Not less than 3% of the total dollar amount of State contracts, as defined by the Director of Central Management Services, shall be established as a goal to be awarded to SDVOSB and VOSB. [30 ILCS 500/45-57] The CPO HE will inform each SPO of procedures established to implement this provision.~~

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

Section 4.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

Procurements made under the Code are subject to the requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575]. Each university is responsible for establishing goals, as applicable, or taking other action in accordance with the Act.

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

Section 4.4575 Domestic Products

- a) This Section applies unless an exception is provided by statute or, in the case of a small, emergency or sole economically feasible source situation.
- b) This Section applies to supplies purchased by the universityState that have undergone some manufacturing process that changes the raw material or components into a different product. The following examples show how to interpret this Section:
 - 1) If the universityState needs grainiron ore, this Section would not apply because the universityState would be asking for a raw material.
 - 2) If the universityState needs floura steel ingot, the purchase would be subject to this Section as the floura steel ingot was subject to a manufacturing process. The grainiron ore used in manufacturing the floura ingot would not be subject to any domestic restriction.

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- 3) If the ~~university~~State needs ~~bread~~a steel I-Beam, the ~~bread~~I-Beam would be subject to this Section. The ~~grain~~iron ore and ~~flour~~steel used in creating the ~~bread~~I-Beam would not be subject to any domestic restriction.
 - 4) ~~An item assembled domestically with components manufactured in another country is still considered a domestic product. If the State needs a structure made of steel I-Beams, the assembly would have to be done domestically. The iron ore, steel and I-Beams used in building the structure would not be subject to any domestic restriction.~~
- c) Specifications for manufactured supplies shall include a reference to the preference established in this Section.
- d) The preference shall be as follows:
- 1) The low bid or most advantageous proposal shall be identified without regard to whether the product is a domestic product.
 - 2) In the event of a tie in a competitive sealed bid procurement, the vendor that certifies it will provide domestic supplies shall be given preference.
 - 3) If the low bid or most advantageous proposal does not contain a certification that the supply items are domestic, then any responsive and responsible vendor that is within 2% of the identified vendor's price that has made that certification shall be evaluated as though its price was 2% lower, subject to a maximum dollar value of \$50,000.
 - 4) The winning vendor will be determined after application of the preference.
 - 5) Notwithstanding the preference outlined in this subsection (d), if the appropriate SPO determines that the price differential calculated using the preference is not acceptable given the particular procurement and the economic circumstances, the award may be conditioned on receipt of an acceptable price reduction. If the price cannot be reduced to an acceptable level, the original low priced or most advantageous proposal may be selected for award.

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- e) Each procuring ~~university~~agency shall include in the procurement file documentation showing the application of any preference given and any determination that the ~~preference was~~supplies involved in the purchase were not subject to the Procurement of Domestic Products Act [30 ILCS 517].

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

Section 4.4579 Notice of Preferences (Repealed)

~~The Bulletin and solicitation document shall state whether a preference applies or may apply and the amount or type of preference.~~

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

SUBPART O: ETHICS

Section 4.5002 Continuing Disclosures; False Certification

- a) Multi-year contracts and subcontracts are subject to the annual re-certification 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 CPO-HE 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 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-HE may prescribe a standard format for annual recertification and may include annual certifications as part of a 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

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review and disposition.

- d) [Annual certification through the vendor portal pursuant to Section 4.1535 satisfies the requirements of this Section.](#)

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

Section 4.5005 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*
 - 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 ~~2012-1967~~ [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

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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-HE 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 39 Ill. Reg. _____, effective _____)

Section 4.5009 Felons

- a) *Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any university, 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]*
- 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-HE 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]*

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

Section 4.5010 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 CPO-HE shall declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false. If the false certification is made by a subcontractor, then the contractor's submitted bid and the executed contract may not be declared void, unless the contractor refuses to terminate the subcontract upon the State's request after a finding that the subcontract's certification was false.~~[30 ILCS 500/50-10.5]~~*
- c) If a business is not a natural person, the prohibition in subsection (a) applies only if:
- 1) the business itself is convicted of a felony referenced in subsection (a); or
 - 2) the business is ordered to pay punitive damages based on the conduct of any officer, director, partner, or other managerial agent who has been convicted of a felony referenced in subsection (a).
- d) A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10 of the Code. [30 ILCS 500/50-11.5]

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

Section 4.5011 Debt Delinquency

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- 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-HE 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 50-11(b)~~0/51-11(b)~~]*

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

Section 4.5012 Collection and Remittance of Illinois Use Tax

- a) *No person shall enter into a contract with a university 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-HE may declare the related*

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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 500/50-12]

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

Section 4.5013 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 potential conflict exists~~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 any contract, or any direct pecuniary interest in any 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) 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 500/13(b)]

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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 500/13(c)]

- b) For the purposes of this Part, an individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including ~~finder's~~ finders fees and commission payments.
- c) For the purposes 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 district offices, 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, "bid" means procured pursuant to the competitive procedures identified in Subpart E.
- e) Additional exceptions to the application of this Part are listed in Section 50-13(f) of the Code.

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

Section 4.5014 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*

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Environmental Protection Act [415 ILCS 5] shall do business with the State of Illinois or any university 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 university or any subcontractors under the Code by subsection (a) may be allowed to do business with the State of Illinois or any university 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 university may declare the related contract void if any of the certifications required by this Section~~completed pursuant to this subsection (e)~~ 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 39 Ill. Reg. _____, effective _____)

Section 4.5020 Exemptions

If the university or SPO finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the university shall make a recommendation to the SPO and include documentation of the university's position on the conflict. The SPO shall forward the university's recommendation and documentation to the CPO-HE, along with 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-HE shall decide whether to disapprove the contract or ~~submit the file~~ a request for exemption with the Executive Ethics Commission to determine whether an exemption should be granted in accordance with Section 50-20 of the Code.

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

Section 4.5021 Bond Issuances

- a) Definitions. For the purposes of this Part, 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 university) 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 finance professional employed by the entity or 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" means the purchase or placement of a primary offering of municipal securities on other than a competitive bid basis.
 - 4) "Issuance by the university" means the issuance of bonds or other securities by the university when acting as a governmental issuer ("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. MSRB Rule G37 went into effect on April 25, 1994, and MSRB 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.msrb.org>, at the United States

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Security and Exchange Commission's website: <http://www.sec.gov>, and at the office of the CPO-HE. (See 30 ILCS 500/50-219(b) and (c).)

- b) Use of Independent Consultants
- 1) Section 50-21(a) of the Code prohibits a university from entering into a contract with respect to the issuance of bonds or other securities by the university 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 university. Use of an independent consultant is also prohibited by MSRB Rule G-38. Every contract between the university and an entity relating to the issuance of bonds or other securities by the university 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 knowingly violate 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 knowingly violated MSRB Rule G-38 in the State of Illinois, the CPO-HE shall bar that entity from participating in any contract with respect to the issuance of bonds or other securities by any university for a period of one year as specified in Section 50-21(c) of the Code.
- c) Prohibited Political Contributions
- 1) Section 50-21(b) of the Code requires that every contract between the State and an entity relating to the issuance of bonds or other securities by the State 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-HE.
 - 2) In the event a federal agency finds that an entity knowingly violated

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MSRB Rule G-37 in the State of Illinois by making prohibited political contributions, the CPO-HE shall impose a penalty that is at least twice the fine assessed by the federal agency. In addition, the CPO-HE shall bar the entity from participating in any contract with respect to the issuance of bonds or other securities by any of the universities for a period of one year as specified in Section 50-21(c) of the Code.

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

Section 4.5030 Revolving Door Prohibition

- a) *CPOs, SPOs, Procurement Compliance Monitors, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes, but is not limited to: lobbying the procurement process; specifying, bidding, proposing bids or contract documents; on their own behalf or on behalf of any firm, partnership, association or corporation. This prohibition applies only to persons who terminate an affected position on or after January 15, 1999. [30 ILCS 500/50-30]*
- b) The CPO-HE shall identify in writing ~~anythose~~ designees whose job, or whose position description, is at least 51% directly related to procurement. Activities directly related to procurement include, but are not limited to: drafting specifications, preparing solicitations, evaluating offers, negotiating contracts, administering contracts and supervising any of the foregoing. ~~This information shall be maintained for a period of at least two years following the end or revocation of the designation.~~
- c) For purposes of this Section, designees include all chief procurement office professional staff, all university purchasing department professional staff, and any person identified by the university as having 51% of his or her position duties directly related to procurement.

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

Section 4.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

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- a) Disclosures of financial interests and potential conflicts of interest shall be obtained for all submissions to a vendor portal and from all bidders or offerors when the annual value of a bid or offer exceeds \$50,000.
- 1) For the 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.
 - 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, except as otherwise provided in this Section. If a small purchase could qualify as an emergency or sole source, disclosures are not required but shall be obtained when practical.
 - 4) In certain circumstances (i.e., emergency, sole source and exempt procurements) in which the vendor refuses or is unable to provide disclosures, the SPO may authorize the university to move forward with the transaction. The university must provide documentation of efforts to obtain compliance in a form prescribed by the PPB and CPO-HE.
- 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) "Distributive ~~or Distributable~~ Income" means income of a company after payment of all expenses, including employee salaries and bonuses and retained earnings, which is distributed to those entitled to receive a share of that income. In the case of a for-profit corporation, distributive~~distributable~~ income means

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"dividends". When calculating entitlement to ~~distributed~~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.
- f) "10K Disclosure" means a report required under section 13 or 15(d) of the Securities Exchange Act of 1934.
- g) New disclosures are required on contract renewals. New disclosure are not required for contract amendments.
- h) 10K Disclosures
 - 1) Any vendor subject to federal 10K reporting requirements may submit its 10K to the university in satisfaction of the disclosure requirement of Section 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 ~~distributed~~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 university 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-HE or SPO shall be investigated.
 - 3) In circumstances in which a vendor may submit a 10K disclosure in lieu of

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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.

i) Form of Disclosure

~~1)The CPO-HE shall prescribe the form of disclosure in writing and shall update the form as necessary. The form of disclosures shall be prescribed by the CPO-HE 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 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, which office 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~~

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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) through (10)]~~
- 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 (i)(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-2)]*
- 3) *The disclosure required under this Section must also include, for each of the persons identified in subsection (i)(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;*

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~~adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection (i)(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)]~~

j) Intent of Disclosure

The disclosure required in subsection (i) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the CPO-HE, 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

A potential for a conflict of interest exists if a reasonable person would naturally and probably expect a conflict to come into existence even though one does not now exist. Improbable or strained connections will not constitute a potential for a conflict. The mere disclosure of one or more of the 10 relationships described in Section 50-35(b) of the Code is not sufficient, without a determination by the CPO-HE or SPO, to conclude a potential for a conflict exists. When a potential conflict of interest is identified, discovered or reasonably suspected, it shall be reviewed by the CPO-HE or SPO, who will send the contract to PPB. The PPB shall recommend in writing to the CPO-HE whether to allow or may issue a recommendation to void the contract, bid or offer or subcontract weighing the best interest of the State of Illinois.

2) If the CPO-HE disagrees with the PPB's recommendation to void a contract, bid or offer, the Executive Ethics Commission will hold a hearing. No contract with a potential conflict of interest shall be awarded before a hearing if the PPB recommends a contract, bid or offer be voided. The or reject a proposal or bid based on the existence of a conflict of interest. The CPO HE or his or her designee, must rule whether to void or allow the contract, subcontract, bid, offer or proposal weighing the best interest of the State of Illinois. Any such written determination shall become a publicly available part of the contract, bid or proposal file.

32) Requirements for Reasonable Care and Diligence

These thresholds for disclosure do not relieve the CPO-HE, SPO or their

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designees from reasonable care and diligence for any contract, bid, offer or proposal. The CPO-HE, 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)]

- ~~43~~) 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-HE 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)]
- 54) 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-HE 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-HE, who must rule in writing whether and when to reinstate.
- ~~65~~) 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)]
- 76) 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, and during the vendor portal registration process. [30 ILCS 500/50-35(i)]

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

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

Section 4.5036 Disclosure of Business in Iran

- a) *Each bid, offer or proposal submitted for a State contract, other than a small purchase, shall include a disclosure of whether the bidder, offeror or proposing entity, or any of its corporate parents or subsidiaries, within the 24 months before submission of the bid, offer or proposal had business operations that involved contracts with, or provision of supplies or services to, the Government of Iran, companies in which the Government of Iran has any direct or indirect equity share, consortiums or projects commissioned by the Government of Iran, or companies involved in consortiums or projects commissioned by the government of Iran and:*
- 1) *More than 10% of the company's revenue produced in or assets allocated in Iran involve oil-related activities or mineral extraction activities; less than 75% of the company's revenues produced or assets located in Iran involve contracts with or provision of oil-related or mineral-extraction products or services to the Government of Iran or a project or consortium created exclusively by that government; and the company has failed to take substantial action; or*
 - 2) *The company has, on or after August 5, 1996, made an investment of \$20 million or more, or any combination of investments of at least \$10 million each that in the aggregate equals or exceeds \$20 million in any 12-month period, that directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources of Iran. [30 ILCS 500/50-36(b)]*
- b) *A bid, offer or proposal that does not include the disclosure required by subsection (a) may be given a period after the bid or offer is submitted to cure non-disclosure shall not be considered responsive. An SPO may consider the disclosure when evaluating the bid or offer or proposal or awarding the contract. [30 ILCS 500/50-36(cb)]*

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- c) *The CPO-HE shall provide the State Comptroller with the names of each entity disclosed under subsection (a) as doing business or having done business in Iran. The State Comptroller shall post that information on his or her official website.*
[30 ILCS 500/50-36(d)]

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

Section 4.5037 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 the statutes and does not excuse compliance with any of those requirements.
- b) General Registration Requirements
- 1) These requirements apply to contracts, bids and ~~offers/proposals~~ that are subject to the Code:
- A) Bids/~~offers/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 ~~offers/proposals~~ include pending bids and ~~offers/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/~~offers/proposals~~ for State contracts exceeds \$50,000, or whose aggregate value of State contracts and

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bids/~~offers~~~~proposals~~ exceeds \$50,000.

- D) This value is calculated on a calendar-year basis.
- 2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/~~offers~~~~proposals~~. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/~~offers~~~~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 be able to produce a copy of the Registration Certificate on that date~~A copy of the Registration Certificate must be submitted with bids/proposals.~~
- 2) If a vendor who meets the requirements for registration is not registered by the date the bid or offer is due, If the Registration Certificate is not timely submitted, the university procuring agency shall reject the bid or offer as non-responsive/proposal.

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- 3) Prior to award or execution of a contract, the SPO, or a designee of the SPO, 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.
 - 4) Annual certification through the vendor portal pursuant to Section 4.1535 satisfies the requirements of this Section.
- 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-HE.
 - 2) A university 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~~) 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.

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- ~~43~~) 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 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. Universities~~Agencies~~ may require written confirmation of the rule-imposed certification at any time.
- e) Each solicitation issued and contract executed by the State on or after January 2, 2009 shall be deemed to contain a statement that the contract is voidable under Section 50-60 of the Code 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, within 5 business days, shall send a letter requesting response from the business entity that made the potential prohibited contribution 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 these contracts.

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- 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 university for three years from the date of the last violation.
- 4) If the CPO determines that a prohibited political contribution is grounds to suspend a business entity pursuant to Section 4.5560(b), the business entity shall have the right to a hearing pursuant to Section 4.5560(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 in the Illinois Register and the Bulletin.
- 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 in the Illinois Register and the Bulletin.

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

Section 4.5038 Lobbying Restrictions

- a) *A person or business that is let or awarded a contract is not entitled to receive any payment, compensation or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager or shareholder. [30 ILCS 500/50-38(a)]*

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- b) Disclosure
- 1) *Any bidder, ~~or~~ offeror, potential contractor, or contractor on a State contract that hires a person required to register under the Lobbyist Registration Act [25 ILCS 170] to assist in obtaining a contract shall:*
 - A) *Disclose all costs, fees, compensation, reimbursement and other remunerations paid or to be paid to the lobbyist related to the contract;*
 - B) *Not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements or other remuneration;*
 - C) *Sign a verification certifying that none of the lobbyist's costs, fees, compensation, reimbursements or other remuneration were billed to the State.*
 - 2) *The information in subsection (b)(1)(A), along with all supporting documents, shall be filed with the agency awarding the contract and with the Secretary of State. The CPO-HE shall post this information, together with the contract award notice, in ~~the~~ Bulletin. [30 ILCS 500/50-38(b)]*
- c) *No person or entity shall retain a person or entity required to register under the Lobbyist Registration Act to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection (c) is guilty of a business offense and shall be fined not more than \$10,000. [30 ILCS 500/50-38(c)]*

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

Section 4.5039 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 contract and that imparts or requests material information or makes a material argument regarding potential action*

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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 500/50-39(a)].

b) Excepted Communications

1) Reportable communications do not include the following:

A) statements made by a person publicly in a public forum. However, communications made in a public forum, if 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;

C) statements made by a State employee to:

i) the State employee's agency head;

ii) other employees of that agency;

iii) employees of the Executive Ethics Commission, including the CPO-HE, SPOs, PCMs and other CPO-HE 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

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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:
- i) an IFB, RFI, RFP, Request for Qualifications, small purchase, sole source or emergency procurement; or
 - ii) questions or answers posted to the Bulletin to supplement the procurement action, provided that the communications are made in accordance with instructions contained in the procurement solicitation, procedures, or guidelines;
- F) Communications that are privileged, protected or confidential under law; and
- G) Communications that are part of a formal procurement process as set out by statute, rule, or 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 or offers;
 - 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. [30 ILCS 500/50-39(a)]*
- 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)]*
- cb) *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 39 Ill. Reg. _____, effective _____)

SUBPART P: CONCESSIONS

Section 4.5325 Concessions

- a) *Each public institution of higher education may enter into concessions, including the right to engage in activity on the lessors property (e.g., a refreshment or parking concession), and including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, for property, whether tangible or intangible, over which it has jurisdiction. Concessions shall be reduced to writing and shall be awarded at the discretion of the institution with jurisdiction over the property. ~~The duration and terms of concessions and leases shall be at the discretion of the institution with jurisdiction over the property.~~ Notice of the award of a concession shall be published in the Bulletin. ~~[30 ILCS 500/53-25]~~*
- b) *The duration and terms of concessions and leases for personal property shall be at the discretion of the institution with jurisdiction over the property.*

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- c) *Notwithstanding any other provision of law, if the Illinois Finance Authority issues bonds for the financing of buildings, structures, or facilities that are determined by the governing board of a public institution of higher education to be either required by or necessary for the use or benefit of that public institution of higher education, then the duration of any lease for real property entered into by that public institution of higher education, as lessee or lessor, in connection with the issuance of those bonds shall be at the discretion of that public institution of higher education. [30 ILCS 500/53-25]*

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

SUBPART R: PROTESTS

Section 4.5550 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-HE may appoint one or more Protest Review Officers (PRO) to consider the procurement-related protests and make a recommendation to the CPO-HE for resolution of the protest. The CPO-HE 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 e-mail 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

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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 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 it 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 Freedom of Information Act request has not been responded to by a university in full or in part.
- 3) Any notice posted to the 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 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;

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- 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);
 - 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 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 university must supply a response and any additional information requested by the PRO within the time periods set in the request. If a university fails to comply with this request, the PRO may consider the protest on the basis of available information or may recommend to the CPO-HE 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 recommend to the CPO-HE that the relief requested in the protest be denied~~deny the protest~~.
 - 3) The PRO may request 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

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by the failure to award a contract.

- e) Stay of Procurements During Protest
Unless the CPO-HE 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, no award of the contract shall be made until the protest has been resolved.
 - 2) If timely received but after award, the award shall be stayed without penalty to the State.
- f) Resolution
After considering the evidence presented, the PRO shall submit a proposed written resolution of the protest to the CPO-HE. The CPO-HE will resolve the protest by means of a written determination. 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 university's mission. The recommendation may include, but is not limited to: ~~The resolution may include affirming the universities' initial decision, in whole or in part, or revoking the universities' decision in whole or in part.~~
- 1) affirming the university's initial decision, in whole or in part;
 - 2) directing the university to issue a new solicitation;
 - 3) directing the university 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-HE may defer resolution of the protest pending the judicial or administrative determination.

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

SUBPART S: SUSPENSION AND DEBARMENT

Section 4.5560 Suspension and Debarment

- a) This Part applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code. For purposes of this Part, all references to "vendors" includes subcontractors.
- b) The CPO-HE may suspend a vendor from doing business with the university or with respect to specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the CPO-HE finds cause exists for suspension or debarment, a notice of suspension or debarment, including a copy of that determination, shall be sent to the suspended 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-HE 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 seven 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-HE 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. The debarment will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, debarment shall not become effective until the evaluation of the objection is completed.

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- f) The CPO-HE shall post the public record of suspensions and debarments on his or her webpage 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 documents to support that position. The vendor may request a hearing. Any such hearing shall be conducted in accordance with Subpart U.
- h) The CPO-HE shall maintain a master list of all suspensions and debarments. The master list shall retain information concerning suspensions and debarments as public records. ~~Those records will be maintained for a period of at least three years following the end of the suspension or debarment.~~ The public information may be considered in determining responsibility.

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

SUBPART T: VIOLATION OF STATUTE OR RULE

Section 4.5620 Violation of Statute or Rule

- a) **Determination that Solicitation or Award Violates Statute or Rule**
If the CPO-HE or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO-HE 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-HE or may be ratified or affirmed, provided the CPO-HE 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.

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- 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-HE 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-HE learns from an annual certification or otherwise determines that the contractor or subcontractor no longer qualifies to enter into State contracts, the CPO-HE may declare the contract void if it determines that voiding the contract is in the best ~~interests~~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
In all cases in which a contract is voided, the university 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 39 Ill. Reg. _____, effective _____)

SUBPART U: HEARING PROCEDURES

Section 4.5730 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 at least 14 days before the date scheduled for the hearing.
- 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., university and vendor);
 - 2) A description of the subject matter;

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- 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) 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 39 Ill. Reg. _____, effective _____)

Section 4.5740 Written Comments and Oral Testimony

Any person~~Interested parties~~ wishing to comment for or against the determination may do so in writing, 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.~~ All~~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

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Any person who wishes to testify is requested to register with the Hearing Contact. The registration period begins on the date the notice is posted to the Bulletin. Any registration deadline shall be shown in the Bulletin notice and shall be no sooner than 7 days after publication of the notice. 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**
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 university and the initial position of the CPO-HE. 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 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

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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 respond to substantive questions at the hearing or make commitments regarding the content of his or her recommendation.
 - 2) Both the affected university and the vendor affected by a suspension or 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.

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- e) Recommendation
After conclusion of the hearing, the Hearing Officer shall review the university's position, any information obtained from public comment (written or oral), the applicable Sections of the Code, other laws and associated rules and written policies and other information deemed relevant. The Hearing Officer shall make a written recommendation to the CPO-HE.
- f) Decision of the CPO-HE
- 1) The CPO-HE 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 university's decision.
 - 2) The CPO-HE 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-HE may adopt the recommendation, in whole or in part, or reject the recommendation, or may write a separate decision.
- g) Notice of Decision
- 1) The decision of the CPO-HE shall be posted to the Bulletin along with all documentation presented at the hearing by the university and by any interested party.
 - 2) Upon posting notice of a decision upholding the determination, the university may take action to have the contract executed.
- h) Maintenance of Records
A copy of the public notices, any documents presented, any written comments, any meeting minutes, the recommendation of the Hearing Officer, and any decision of the CPO-HE shall be maintained in the procurement file.

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

SUBPART V: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 4.7015 Inspections

- a) **Inspection of Plant or Site**
The CPO-HE or a designee may enter a vendor's or subcontractor's plant or place of business and, pursuant to contract provisions, if any:
- 1) inspect supplies or services for acceptance by the university;
 - 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.
- 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 not to 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, provided that a procurement compliance monitor's activities shall not be unduly restricted by any such contract provision.

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

Section 4.7030 No Waiver of Sovereign Immunity

Nothing in this Part shall be deemed ~~to be~~ a waiver of sovereign immunity.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Construction and Filing of Life Insurance and Annuity Forms
- 2) Code Citation: 50 Ill. Adm. Code 1405
- 3) Section Number: 1405.20 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 143 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143 and 401]
- 5) A Complete Description of the Subjects and Issues Involved: The rule will be revised to update terminology and procedures. A subsection will be added to 1405.20 (b) prohibiting "ICC" at the beginning of the form number to avoid conflict with Interstate Compact form number requirements. Language will be added to 50 Ill. Adm. Code 1405.20(c)(6) to expand the list of filing-types carriers will self-identify. The proposal also requests that carriers identify previously-filed form numbers that relate to the new filing.
- 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 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:

Diana Villamil Zuver

or

Susan Anders

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

Assistant General Counsel
Illinois Department of Insurance
122 S. Michigan Ave, 19th Fl
Chicago IL 60603

Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767

312/814-8135
312/814-2862 (fax)

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:
Construction and Filing guidelines specific to Life and Annuity forms.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCEPART 1405
CONSTRUCTION AND FILING OF LIFE INSURANCE AND ANNUITY FORMS

Section

1405.10	Authority
1405.15	Definitions
1405.20	Illinois Guidelines for Filing and Approval of Life and Annuity Forms
1405.30	Applications
1405.40	Policy Forms
1405.50	Group Insurance
1405.60	Franchise Life Insurance
1405.70	Annuities
1405.80	Alternate and/or Insert Pages
1405.90	Substitution Filings

AUTHORITY: Implementing Section 143 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143 and 401].

SOURCE: Filed July 11, 1972, effective August 1, 1972; codified at 7 Ill. Reg. 3466; amended at 12 Ill. Reg. 22184, effective December 16, 1988; amended at 34 Ill. Reg. 5835, effective April 7, 2010; amended at 37 Ill. Reg. 15340, effective September 4, 2013; amended at 39 Ill. Reg. _____, effective _____.

Section 1405.20 Illinois Guidelines for Filing and Approval of Life and Annuity Forms

Following are some general requirements that should be helpful to industry personnel involved in drafting and filing policy forms.

- a) Policy Forms
 - 1) "Policy Form" Defined. The term "policy form" as used in this Part is defined in the Insurance Code. It means any policy, certificate, endorsement, rider, by-law or other matter incorporated by reference or an application blank. It does not include riders or endorsements issued or made at the request of the individual policyholder relating to the manner

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

of distribution of benefits or to the reservation of rights and benefits under a life insurance policy.

- 2) Policy forms exempt from filing are as follows:
 - A) Notice Regarding Replacement (see 50 Ill. Adm. Code 917.70).
 - B) Policy Summaries.
 - C) Buyer's Guides (see 50 Ill. Adm. Code 930.40(a)).
 - 3) Policy forms prohibited pursuant to Sections 143(1) and 224(1)(c) of the Code are as follows:
 - A) Certificates issued in lieu of a duplicate insurance policy.
 - B) Forms containing provisions excluding scuba diving, hang-gliding, motorcycle racing, race car or stock car racing, or hazardous sports.
- b) Form Numbers
- 1) Each "policy form" must be designated by a suitable form number that may be made up of numerical digits or letters, or both, in the lower left-hand corner of the first page. The form number shall be sufficient to distinguish the basic form from all others used by the insurer. Edition date and/or designation of a state where a special edition is required is permitted in this space, and if printed as a continuation of the form number, will be considered a part of the form. The appearance of a company's stock number and/or printing date in proximity to the form number is permitted.
 - A) If a descriptive title is in close proximity to the form number, it will not be considered a part of that number for approval purposes unless inclusion is requested by the company.
 - B) Refer to Section 1405.80 for instructions relating to form numbers when filing a policy on an insert page basis.

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- 2) Since the form number must be sufficient to identify any form that has been issued by a company, each submission must bear a unique number. A recently approved but unissued form may be corrected or changed by filing a substitute page or form, which may retain the original form number.
 - 3) Form numbers may not contain "ICC" at the beginning of the form number due to conflict with Interstate Compact form number requirements.
- c) General Form Requirements pursuant to Section 149 of the Code
- 1) The name of the company shall appear on the form.
 - 2) Policy shall show location of the home office and principal office, if different.
 - 3) Policy shall include the company's consumer assistance telephone number.
 - 4) Policy shall indicate the issue or policy date and the effective date, if different.
 - 5) Rubber stamp deletions, mechanical overprints or paste-over "stickers" are permitted with the prior approval of the Department (for rubber stamp endorsements, see Section 1405.20(d)(7)).
 - 6) The name or title of any policy or class of policies may not misrepresent the nature of the policy. The title shall be specifically descriptive, such as: Universal, Term, Annuity, Indexed, Equity Indexed, Indexed Linked, Modified Guaranteed Annuity, Endowment or Whole Life. Inclusion of words such as "special", "select", "preferred" or "inflation" are not allowed in the title as they imply receiving something not normally offered in a life policy, in violation of Sections 143(1) and 149 of the Code.
- d) Preparation of Forms
- 1) "Policy forms" must be submitted pursuant to 50 Ill. Adm. Code 916.
 - 2) "Policy forms" submitted for formal approval shall be submitted in the

DEPARTMENT OF INSURANCE

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form intended for actual issue. Typewritten forms may be used only for single cases or when their use will be too infrequent to justify other preparation.

- 3) All blank spaces of each policy form must be filled in (completed in John Doe manner). The purpose and use of the form shall be explained in the Filing Description or letter of submission~~letter~~.
 - 4) When submitting a "policy form" to which a previously approved application will be attached, reference must be made to the state/company tracking number or SERFF tracking number and approval date and form number of the previously approved application.
 - 5) On applicable life policy forms, nonforfeiture values, if any, for the age and plan of insurance used in filling in the form must be included.
 - 6) On group forms, variable material may be indicated for language that may vary from case to case. Variable material shall consist of benefit provisions and benefit levels.
 - 7) All rubber stamp endorsements should be submitted for approval under the insurer's letterhead and filed in accordance with 50 Ill. Adm. Code 916.
 - 8) Combination forms (for Life and Accident and Health) shall be submitted to both the Life Unit and the Accident and Health Unit of the Product Evaluation Section.
- e) Filing Description or Letter~~Letters~~ of Submission
The letter of submission must be on company letterhead that shows the name of the company for which the forms are being submitted, signed by a representative of the company authorized to submit forms for filing or approval, and submitted under the Supporting Documentation of the filing. The Filing Description or letter of submission must contain the following information:
- ~~1)~~ ~~The letterhead of the company shall show the name of the company for whom the forms are being submitted.~~
 - 12) The identifying form number of each form submitted.

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- 23) If the form is a new one, not replacing an existing form, a statement to that effect.
- 34) If the form is intended to supersede another approved form, the company tracking number or SERFF tracking number, the form number and the approval date of the superseded form must be stated, together with a statement describing all material changes to the previously approved forms.
- 45) If a company submits a form that has been previously submitted but has not been approved, the company shall advise the Department of the company tracking number or SERFF tracking number, and the date of submission or disapproval of the previously submitted form and any material changes.
- 56) If the form is other than a policy or contract, give the company tracking number or SERFF tracking number and the form number of the policy or contract form or forms with which it will be used, or, if for more general use, describe the type or group of such forms.
- 67) When a form is approved, ~~in the case of a SERFF filing,~~ a final disposition will be issued in the SERFF filing.
- 78) Reference to previously approved forms shall provide date of approval of those forms and company tracking number or SERFF tracking number.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Variable Contracts
- 2) Code Citation: 50 Ill. Adm. Code 1451
- 3) Section Number: 1451.60 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Article XIV½ of the Illinois Insurance Code [215 ILCS 5/Art. XIV½] and authorized by Sections 401 and 245.24 of the Illinois Insurance Code [215 ILCS 5/401 and 245.24]
- 5) A Complete Description of the Subjects and Issues Involved: An error was found in the language in Part 1451. In Part 1451.60 (f) it says "reverse", but should say "reserve". This rulemaking will make that correction.
- 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 rulemakings pending on this Part? Yes

<u>Section Number:</u> 1451.20	<u>Proposed Action:</u> Amendment	<u>Illinois Register Citation:</u> 39 Ill. Reg. 2810; February 27, 2015
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- 11) Statement of Statewide Policy Objective: 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:

Mary Jane Adkins

or

Susan Anders

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

Assistant General Counsel
Illinois Department of Insurance
122 South Michigan Ave., 19th Floor
Chicago IL 60603

Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767

312/814-5411
312/814-2862 (fax)

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: None
 - C) Types of professional skills necessary for compliance: No new skills required for compliance. The amendment is a housekeeping change and does not affect the way in which industry players operate.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: it was not anticipated within that timeframe.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER t: SEPARATE ACCOUNTSPART 1451
VARIABLE CONTRACTS

Section

1451.10	Authority
1451.20	Definitions
1451.30	Qualification of Insurance Companies to Issue Variable Contracts
1451.40	Separate Accounts
1451.50	Filing of Contracts
1451.60	Contracts Providing for Variable Benefits
1451.70	Required Reports
1451.80	Foreign or Alien Companies
1451.90	Licensing of Producers for Variable Contracts
1451.100	Disclosure

1451.APPENDIX A Variable Annuities Only

AUTHORITY: Implementing Article XIV½ of the Illinois Insurance Code [215 ILCS 5/Art. XIV½] and authorized by Sections 401 and 245.24 of the Illinois Insurance Code [215 ILCS 5/401 and 245.24].

SOURCE: Filed February 18, 1972, effective March 1, 1972; codified at 7 Ill. Reg. 4217; amended at 25 Ill. Reg. 4208, effective March 5, 2001; amended at 38 Ill. Reg. 18664, effective August 27, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 1451.60 Contracts Providing for Variable Benefits

- a) Illustrations of benefits payable under any variable contract shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided, however, that the form of illustration found in Appendix A of this Part may be utilized by companies in the sale of immediate variable annuities only.
- b) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it

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contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such contracts:

- 1) A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;
 - 2) A provision that, at any time within 1 year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom;
 - 3) A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.
- c) No individual variable life insurance policy shall be delivered or issued for delivery in this State unless it contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such policies:
- 1) A provision that there shall be a period of grace of 30 days or of one month, within which payment of any premium after the first may be made, during which period of grace the policy shall continue in force, but if a claim arises under the policy during such period of grace before the overdue premiums or the deferred premiums of the current policy year, if

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any, are paid, the amount of such premiums, together with interest not in excess of 6% per annum, may be deducted from any amount payable under the policy in settlement. The policy may contain a statement of the basis for determining any variation in benefits that may occur as a result of the payment of premium during the period of grace.

- 2) A provision that the policy will be reinstated at any time within 3 years from the date of default, unless the cash surrender value has been paid or unless the period of extended insurance has expired, upon the application of the insured and the production of evidence of insurability, including good health, satisfactory to the insurer and the payment of an amount not exceeding the greater of:
 - A) all overdue premiums and the payment of any other indebtedness to the insurer upon said policy with interest at a rate not exceeding 6% per annum compounded annually, or
 - B) 110% of the increase in cash surrender value resulting from reinstatement.

- 3) A provision for cash surrender values and paid-up insurance benefits available as non-forfeiture options under the policy in the event of default in a premium payment after premiums have been paid for a specified period.
 - A) If the policy does not include a table of figures for the options so available, the policy shall provide that the company will furnish at least once in each policy year a statement showing the cash value as of a date no earlier than the prior policy anniversary.
 - B) The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the Commissioner, Director or Superintendent of the jurisdiction in which the policy is delivered, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the contract at all times from the date of issue should be equal to the assumed investment increment factor if the contract provides for such a factor, or 3½% if not, with

DEPARTMENT OF INSURANCE

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premiums and benefits determined accordingly under the terms of the policy, the resulting cash values and other non-forfeiture benefits would be at least equal to the minimum values required by Section 229.2 of the Illinois Insurance Code [215 ILCS 5/229.2] for a fixed dollar policy with such premiums and benefits. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee under a policy which provides for an assumed investment increment factor that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the contract at all times from the date of issue had been equal to such factor.

- d) Any variable annuity contract delivered or issued for delivery in this State shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable annuity contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract.
- 1) In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:
 - A) The annual net investment increment assumption shall not exceed 5%, except with the approval of the Director;
 - B) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the 1983 Table "a" or any modification of that table not having a lower life-expectancy at any age, or, if approved by the Director, from another table.
 - 2) "Expense," as used in subsection (d) of this Section, may exclude some or all taxes, as stipulated in the contract.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

- e) Any individual variable life insurance policy delivered or issued for delivery in this State shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.
- f) The ~~reserve~~^{reverse} liability for variable contracts shall be established pursuant to the requirements of Section 223 of the Illinois Insurance Code [215 ILCS 5/223] in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees, provided such actuarial procedures meet the approval of the Director.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Primary Drinking Water Standards
- 2) Code Citation: 35 Ill. Adm. Code 611
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
611.125	Amendment
611.858	New Section
- 4) Statutory Authority: Sections 17, 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: These amendments update the current fluoride standard to reflect the recent recommendation by the United States Department of Health and Human Services. For a more detailed description, please see the Board's opinion and order of June 4, 2015 in R15-23 Amendment to Primary Drinking Water Standards: 35 Ill. Adm. Code 611.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part?
- 11) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2014)]
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R15-23 and be addressed to:

Clerk's Office

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R15-23 by calling the Clerk's office at 312/814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Marie Tipsord at 312/814-4925 or by e-mail at Marie.Tipsord@illinois.gov.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any business that operates a community water supply system including small municipalities that add fluoride to drinking water will realize a cost savings.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized:

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARDPART 611
PRIMARY DRINKING WATER STANDARDS

SUBPART A: GENERAL

Section	
611.100	Purpose, Scope, and Applicability
611.101	Definitions
611.102	Incorporations by Reference
611.103	Severability
611.105	Electronic Reporting
611.107	Agency Inspection of PWS Facilities
611.108	Delegation to Local Government
611.109	Enforcement
611.110	Special Exception Permits
611.111	Relief Equivalent to SDWA Section 1415(a) Variances
611.112	Relief Equivalent to SDWA Section 1416 Exemptions
611.113	Alternative Treatment Techniques
611.114	Siting Requirements
611.115	Source Water Quantity
611.120	Effective Dates
611.121	Maximum Contaminant Levels and Finished Water Quality
611.125	Fluoridation Requirement
611.126	Prohibition on Use of Lead
611.130	Special Requirements for Certain Variances and Adjusted Standards
611.131	Relief Equivalent to SDWA Section 1415(e) Small System Variance
611.160	Composite Correction Program
611.161	Case-by-Case Reduced Subpart Y Monitoring for Wholesale and Consecutive Systems

SUBPART B: FILTRATION AND DISINFECTION

Section	
611.201	Requiring a Demonstration
611.202	Procedures for Agency Determinations

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

611.211	Filtration Required
611.212	Groundwater under Direct Influence of Surface Water
611.213	No Method of HPC Analysis
611.220	General Requirements
611.230	Filtration Effective Dates
611.231	Source Water Quality Conditions
611.232	Site-Specific Conditions
611.233	Treatment Technique Violations
611.240	Disinfection
611.241	Unfiltered PWSs
611.242	Filtered PWSs
611.250	Filtration
611.261	Unfiltered PWSs: Reporting and Recordkeeping
611.262	Filtered PWSs: Reporting and Recordkeeping
611.271	Protection during Repair Work
611.272	Disinfection Following Repair
611.276	Recycle Provisions

SUBPART C: USE OF NON-CENTRALIZED TREATMENT DEVICES

Section	
611.280	Point-of-Entry Devices
611.290	Use of Point-of-Use Devices or Bottled Water

SUBPART D: TREATMENT TECHNIQUES

Section	
611.295	General Requirements
611.296	Acrylamide and Epichlorohydrin
611.297	Corrosion Control

SUBPART F: MAXIMUM CONTAMINANT LEVELS (MCLs) AND
MAXIMUM RESIDUAL DISINFECTANT LEVELS (MRDLs)

Section	
611.300	Old MCLs for Inorganic Chemical Contaminants
611.301	Revised MCLs for Inorganic Chemical Contaminants
611.310	State-Only Maximum Contaminant Levels (MCLs) for Organic Chemical Contaminants

POLLUTION CONTROL BOARD

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611.311	Revised MCLs for Organic Chemical Contaminants
611.312	Maximum Contaminant Levels (MCLs) for Disinfection Byproducts (DBPs)
611.313	Maximum Residual Disinfectant Levels (MRDLs)
611.320	Turbidity (Repealed)
611.325	Microbiological Contaminants
611.330	Maximum Contaminant Levels for Radionuclides
611.331	Beta Particle and Photon Radioactivity (Repealed)

SUBPART G: LEAD AND COPPER

Section	
611.350	General Requirements
611.351	Applicability of Corrosion Control
611.352	Corrosion Control Treatment
611.353	Source Water Treatment
611.354	Lead Service Line Replacement
611.355	Public Education and Supplemental Monitoring
611.356	Tap Water Monitoring for Lead and Copper
611.357	Monitoring for Water Quality Parameters
611.358	Monitoring for Lead and Copper in Source Water
611.359	Analytical Methods
611.360	Reporting
611.361	Recordkeeping

SUBPART I: DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS,
AND DISINFECTION BYPRODUCT PRECURSORS

Section	
611.380	General Requirements
611.381	Analytical Requirements
611.382	Monitoring Requirements
611.383	Compliance Requirements
611.384	Reporting and Recordkeeping Requirements
611.385	Treatment Technique for Control of Disinfection Byproduct (DBP) Precursors

SUBPART K: GENERAL MONITORING AND ANALYTICAL REQUIREMENTS

Section	
611.480	Alternative Analytical Techniques

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

611.490	Certified Laboratories
611.491	Laboratory Testing Equipment
611.500	Consecutive PWSs
611.510	Special Monitoring for Unregulated Contaminants (Repealed)

SUBPART L: MICROBIOLOGICAL MONITORING
AND ANALYTICAL REQUIREMENTS

Section

611.521	Routine Coliform Monitoring
611.522	Repeat Coliform Monitoring
611.523	Invalidation of Total Coliform Samples
611.524	Sanitary Surveys
611.525	Fecal Coliform and E. Coli Testing
611.526	Analytical Methodology
611.527	Response to Violation
611.528	Transition from Subpart L to Subpart AA Requirements
611.531	Analytical Requirements
611.532	Unfiltered PWSs
611.533	Filtered PWSs

SUBPART M: TURBIDITY MONITORING AND ANALYTICAL REQUIREMENTS

Section

611.560	Turbidity
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SUBPART N: INORGANIC MONITORING AND ANALYTICAL REQUIREMENTS

Section

611.591	Violation of a State MCL
611.592	Frequency of State Monitoring
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611.601	Monitoring Frequency
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611.608	Additional Optional Monitoring
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SUBPART O: ORGANIC MONITORING AND ANALYTICAL REQUIREMENTS

Section	
611.640	Definitions
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611.645	Analytical Methods for Organic Chemical Contaminants
611.646	Phase I, Phase II, and Phase V Volatile Organic Contaminants
611.647	Sampling for Phase I Volatile Organic Contaminants (Repealed)
611.648	Phase II, Phase IIB, and Phase V Synthetic Organic Contaminants
611.650	Monitoring for 36 Contaminants (Repealed)
611.657	Analytical Methods for 36 Contaminants (Repealed)
611.658	Special Monitoring for Organic Chemicals (Repealed)

SUBPART P: THM MONITORING AND ANALYTICAL REQUIREMENTS

Section	
611.680	Sampling, Analytical, and other Requirements (Repealed)
611.683	Reduced Monitoring Frequency (Repealed)
611.684	Averaging (Repealed)
611.685	Analytical Methods (Repealed)
611.686	Modification to System (Repealed)
611.687	Sampling for THM Potential (Repealed)
611.688	Applicability Dates (Repealed)

SUBPART Q: RADIOLOGICAL MONITORING AND ANALYTICAL REQUIREMENTS

Section	
611.720	Analytical Methods
611.731	Gross Alpha
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611.733	General Monitoring and Compliance Requirements

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SUBPART R: ENHANCED FILTRATION AND DISINFECTION:
SYSTEMS THAT SERVE 10,000 OR MORE PEOPLE

Section

611.740	General Requirements
611.741	Standards for Avoiding Filtration
611.742	Disinfection Profiling and Benchmarking
611.743	Filtration
611.744	Filtration Sampling Requirements
611.745	Reporting and Recordkeeping Requirements

SUBPART S: GROUNDWATER RULE

Section

611.800	General Requirements and Applicability
611.801	Sanitary Surveys for GWS Suppliers
611.802	Groundwater Source Microbial Monitoring and Analytical Methods
611.803	Treatment Technique Requirements for GWS Suppliers
611.804	Treatment Technique Violations for GWS Suppliers
611.805	Reporting and Recordkeeping for GWS Suppliers

SUBPART T: REPORTING AND RECORDKEEPING

Section

611.830	Applicability
611.831	Monthly Operating Report
611.832	Notice by Agency (Repealed)
611.833	Cross Connection Reporting
611.840	Reporting
611.851	Reporting MCL, MRDL, and other Violations (Repealed)
611.852	Reporting other Violations (Repealed)
611.853	Notice to New Billing Units (Repealed)
611.854	General Content of Public Notice (Repealed)
611.855	Mandatory Health Effects Language (Repealed)
611.856	Fluoride Notice (Repealed)
611.858	Fluoride Secondary Standard (Repealed)
611.860	Record Maintenance
611.870	List of 36 Contaminants (Repealed)

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NOTICE OF PROPOSED AMENDMENTS

SUBPART U: CONSUMER CONFIDENCE REPORTS

Section	
611.881	Purpose and Applicability
611.882	Compliance Dates
611.883	Content of the Reports
611.884	Required Additional Health Information
611.885	Report Delivery and Recordkeeping

SUBPART V: PUBLIC NOTIFICATION OF DRINKING WATER VIOLATIONS

Section	
611.901	General Public Notification Requirements
611.902	Tier 1 Public Notice: Form, Manner, and Frequency of Notice
611.903	Tier 2 Public Notice: Form, Manner, and Frequency of Notice
611.904	Tier 3 Public Notice: Form, Manner, and Frequency of Notice
611.905	Content of the Public Notice
611.906	Notice to New Billing Units or New Customers
611.907	Special Notice of the Availability of Unregulated Contaminant Monitoring Results
611.908	Special Notice for Exceedence of the Fluoride Secondary Standard
611.909	Special Notice for Nitrate Exceedences above the MCL by a Non-Community Water System
611.910	Notice by the Agency on Behalf of a PWS
611.911	Special Notice for Cryptosporidium

SUBPART W: INITIAL DISTRIBUTION SYSTEM EVALUATIONS

Section	
611.920	General Requirements
611.921	Standard Monitoring
611.922	System-Specific Studies
611.923	40/30 Certification
611.924	Very Small System Waivers
611.925	Subpart Y Compliance Monitoring Location Recommendations

SUBPART X: ENHANCED FILTRATION AND DISINFECTION –
SYSTEMS SERVING FEWER THAN 10,000 PEOPLE

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Section

611.950	General Requirements
611.951	Finished Water Reservoirs
611.952	Additional Watershed Control Requirements for Unfiltered Systems
611.953	Disinfection Profile
611.954	Disinfection Benchmark
611.955	Combined Filter Effluent Turbidity Limits
611.956	Individual Filter Turbidity Requirements
611.957	Reporting and Recordkeeping Requirements

SUBPART Y: STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS

Section

611.970	General Requirements
611.971	Routine Monitoring
611.972	Subpart Y Monitoring Plan
611.973	Reduced Monitoring
611.974	Additional Requirements for Consecutive Systems
611.975	Conditions Requiring Increased Monitoring
611.976	Operational Evaluation Levels
611.977	Requirements for Remaining on Reduced TTHM and HAA5 Monitoring Based on Subpart I Results
611.978	Requirements for Remaining on Increased TTHM and HAA5 Monitoring Based on Subpart I Results
611.979	Reporting and Recordkeeping Requirements

SUBPART Z: ENHANCED TREATMENT FOR CRYPTOSPORIDIUM

Section

611.1000	General Requirements
611.1001	Source Water Monitoring Requirements: Source Water Monitoring
611.1002	Source Water Monitoring Requirements: Sampling Schedules
611.1003	Source Water Monitoring Requirements: Sampling Locations
611.1004	Source Water Monitoring Requirements: Analytical Methods
611.1005	Source Water Monitoring Requirements: Approved Laboratories
611.1006	Source Water Monitoring Requirements: Reporting Source Water Monitoring Results
611.1007	Source Water Monitoring Requirements: Grandfathering Previously Collected Data

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- 611.1008 Disinfection Profiling and Benchmarking Requirements: Requirements When Making a Significant Change in Disinfection Practice
- 611.1009 Disinfection Profiling and Benchmarking Requirements: Developing the Disinfection Profile and Benchmark
- 611.1010 Treatment Technique Requirements: Bin Classification for Filtered Systems
- 611.1011 Treatment Technique Requirements: Filtered System Additional Cryptosporidium Treatment Requirements
- 611.1012 Treatment Technique Requirements: Unfiltered System Cryptosporidium Treatment Requirements
- 611.1013 Treatment Technique Requirements: Schedule for Compliance with Cryptosporidium Treatment Requirements
- 611.1014 Treatment Technique Requirements: Requirements for Uncovered Finished Water Storage Facilities
- 611.1015 Requirements for Microbial Toolbox Components: Microbial Toolbox Options for Meeting Cryptosporidium Treatment Requirements
- 611.1016 Requirements for Microbial Toolbox Components: Source Toolbox Components
- 611.1017 Requirements for Microbial Toolbox Components: Pre-Filtration Treatment Toolbox Components
- 611.1018 Requirements for Microbial Toolbox Components: Treatment Performance Toolbox Components
- 611.1019 Requirements for Microbial Toolbox Components: Additional Filtration Toolbox Components
- 611.1020 Requirements for Microbial Toolbox Components: Inactivation Toolbox Components
- 611.1021 Reporting and Recordkeeping Requirements: Reporting Requirements
- 611.1022 Reporting and Recordkeeping Requirements: Recordkeeping Requirements
- 611.1023 Requirements to Respond to Significant Deficiencies Identified in Sanitary Surveys Performed by USEPA or the Agency

SUBPART AA: REVISED TOTAL COLIFORM RULE

Section

- 611.1051 General
- 611.1052 Analytical Methods and Laboratory Certification
- 611.1053 General Monitoring Requirements for all PWSs
- 611.1054 Routine Monitoring Requirements for Non-CWSs That Serve 1,000 or Fewer People Using Only Groundwater
- 611.1055 Routine Monitoring Requirements for CWSs That Serve 1,000 or Fewer People Using Only Groundwater

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611.1056	Routine Monitoring Requirements for Subpart B Systems That Serve 1,000 or Fewer People
611.1057	Routine Monitoring Requirements for PWSs That Serve More Than 1,000 People
611.1058	Repeat Monitoring and E. coli Requirements
611.1059	Coliform Treatment Technique Triggers and Assessment Requirements for Protection Against Potential Fecal Contamination
611.1060	Violations
611.1061	Reporting and Recordkeeping
611.APPENDIX A	Regulated Contaminants
611.APPENDIX B	Percent Inactivation of G. Lamblia Cysts
611.APPENDIX C	Common Names of Organic Chemicals
611.APPENDIX D	Defined Substrate Method for the Simultaneous Detection of Total Coliforms and Eschericia Coli from Drinking Water
611.APPENDIX E	Mandatory Lead Public Education Information for Community Water Systems
611.APPENDIX F	Mandatory Lead Public Education Information for Non-Transient Non-Community Water Systems
611.APPENDIX G	NPDWR Violations and Situations Requiring Public Notice
611.APPENDIX H	Standard Health Effects Language for Public Notification
611.APPENDIX I	Acronyms Used in Public Notification Regulation
611.TABLE A	Total Coliform Monitoring Frequency
611.TABLE B	Fecal or Total Coliform Density Measurements
611.TABLE C	Frequency of RDC Measurement
611.TABLE D	Number of Lead and Copper Monitoring Sites
611.TABLE E	Lead and Copper Monitoring Start Dates
611.TABLE F	Number of Water Quality Parameter Sampling Sites
611.TABLE G	Summary of Section 611.357 Monitoring Requirements for Water Quality Parameters
611.TABLE H	CT Values (mg·min/ℓ) for Cryptosporidium Inactivation by Chlorine Dioxide
611.TABLE I	CT Values (mg·min/ℓ) for Cryptosporidium Inactivation by Ozone
611.TABLE J	UV Dose Table for Cryptosporidium, Giardia lamblia, and Virus Inactivation Credit
611.TABLE Z	Federal Effective Dates

AUTHORITY: Implementing Sections 7.2, 17, and 17.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 17, 17.5, and 27].

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NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted in R88-26 at 14 Ill. Reg. 16517, effective September 20, 1990; amended in R90-21 at 14 Ill. Reg. 20448, effective December 11, 1990; amended in R90-13 at 15 Ill. Reg. 1562, effective January 22, 1991; amended in R91-3 at 16 Ill. Reg. 19010, effective December 1, 1992; amended in R92-3 at 17 Ill. Reg. 7796, effective May 18, 1993; amended in R93-1 at 17 Ill. Reg. 12650, effective July 23, 1993; amended in R94-4 at 18 Ill. Reg. 12291, effective July 28, 1994; amended in R94-23 at 19 Ill. Reg. 8613, effective June 20, 1995; amended in R95-17 at 20 Ill. Reg. 14493, effective October 22, 1996; amended in R98-2 at 22 Ill. Reg. 5020, effective March 5, 1998; amended in R99-6 at 23 Ill. Reg. 2756, effective February 17, 1999; amended in R99-12 at 23 Ill. Reg. 10348, effective August 11, 1999; amended in R00-8 at 23 Ill. Reg. 14715, effective December 8, 1999; amended in R00-10 at 24 Ill. Reg. 14226, effective September 11, 2000; amended in R01-7 at 25 Ill. Reg. 1329, effective January 11, 2001; amended in R01-20 at 25 Ill. Reg. 13611, effective October 9, 2001; amended in R02-5 at 26 Ill. Reg. 3522, effective February 22, 2002; amended in R03-4 at 27 Ill. Reg. 1183, effective January 10, 2003; amended in R03-15 at 27 Ill. Reg. 16447, effective October 10, 2003; amended in R04-3 at 28 Ill. Reg. 5269, effective March 10, 2004; amended in R04-13 at 28 Ill. Reg. 12666, effective August 26, 2004; amended in R05-6 at 29 Ill. Reg. 2287, effective January 28, 2005; amended in R06-15 at 30 Ill. Reg. 17004, effective October 13, 2006; amended in R07-2/R07-11 at 31 Ill. Reg. 11757, effective July 27, 2007; amended in R08-7/R08-13 at 33 Ill. Reg. 633, effective December 30, 2008; amended in R10-1/R10-17/R11-6 at 34 Ill. Reg. 19848, effective December 7, 2010; amended in R12-4 at 36 Ill. Reg. 7110, effective April 25, 2012; amended in R13-2 at 37 Ill. Reg. 1978, effective February 4, 2013; amended in R14-8 at 38 Ill. Reg. 3608, effective January 27, 2014; amended in R14-9 at 38 Ill. Reg. 9792, effective April 21, 2014; amended in R15-6 at 39 Ill. Reg. 3713, effective February 24, 2015; amended in R15-23 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 611.125 Fluoridation Requirement

All CWSs that are required to add fluoride to the water must maintain a fluoride ion concentration, reported as F, of ~~0.7 to 1.2~~ 0.9 to 1.2 mg/L in its distribution system, ~~as required by Section 7a of the Public Water Supply Regulation Act [415 ILCS 40/7a].~~

BOARD NOTE: This is an additional State requirement.

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

SUBPART T: REPORTING AND RECORDKEEPING

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 611.858 Fluoride Secondary Standard ~~(Repealed)~~

The secondary standard for fluoride is 2.0 mg/L.

BOARD NOTE: Derived from 40 CFR 143.3 (2014).

(Source: Old Section repealed at 39 Ill. Reg. 1329 and new Section added at 39 Ill. Reg. _____, effective _____)

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Fee Assessment and Collection for Regular Procurement Events, Special Procurement Events and Other Services
- 2) Code Citation: 83 Ill. Adm. Code 1200
- 3) Section Number: 1200.220 Proposed Action: Amendment
- 4) Statutory Authority: 20 ILCS 3855/1-55
- 5) A Complete Description of the Subjects and Issues Involved: To comply with Section 1-55 of the Illinois Power Agency Act [20 ILCS 3855/1-55], the Illinois Power Agency ("Agency") previously adopted "rules regarding charges and fees it is expressly authorized to collect in order to fund the operations of the Agency" through Title 83, Part 1200 of the Illinois Administrative Code.

The minor change proposed by the Agency through these amendments is intended to address the following issue: while bidder fees are collected with the submission of bids and supplier fees are recovered through a supplier fee agreement approved prior to the procurement, the Agency's actual total number of winning procurement blocks are not known until after procurement event concludes. As a result, the IPA cannot set these fees so as to recover its actual costs; it must instead set fees in a manner designed to recover its estimated or expected costs.

Through this rule change, the IPA is merely seeking to modify its administrative rules to reflect this timeline reality and adopt minor technical changes allowing it to recover estimated, and not actual, costs through its bidder and supplier fees.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:

Brian P. Granahan
Chief Legal Counsel
Illinois Power Agency
160 N. LaSalle St., Suite C-504
Chicago IL 60601

312/814-4635
Brian.Granahan@Illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This amendment should have no impact on small businesses, small municipalities, or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: As the amendment merely clarifies internal procedures, it should require no new reporting, bookkeeping, or other procedures for compliance.
 - C) Types of professional skills necessary for compliance: No professional skills are anticipated to be required.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a prior Agency regulatory agenda, but will be summarized in the Agency's July 2015 regulatory agenda.

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

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER III: ILLINOIS POWER AGENCY
SUBCHAPTER A: CONTRACTS AND FEES

PART 1200

FEE ASSESSMENT AND COLLECTION FOR REGULAR PROCUREMENT EVENTS,
SPECIAL PROCUREMENT EVENTS AND OTHER SERVICES

SUBPART A: INTRODUCTION

Section:

- 1200.100 Scope
- 1200.110 Definitions
- 1200.120 Publication of Overhead
- 1200.130 Publication of Mediation Rates
- 1200.140 Statement of Policy

SUBPART B: REGULAR PROCUREMENTS

Section

- 1200.200 Scope
- 1200.210 Planning Cycle Fees Assessed to Participating Utilities
- 1200.220 Bidder and Supplier Fees
- 1200.230 Timing for Invoices to and Payment by Utilities
- 1200.240 Communications Regarding Fees and Fee Dispute Resolution

SUBPART C: SPECIAL PROCUREMENTS

Section

- 1200.300 Scope
- 1200.310 Fees Assessment and Payment Schedules for Participating Utilities in Special Procurements
- 1200.320 Bidder and Supplier Fees
- 1200.330 Timing for Invoices to and Payment by Utilities

SUBPART D: CONTRACT REVIEW, EVALUATION AND MEDIATION

Section

- 1200.400 Scope

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

1200.410 Facility Cost Report or Development Plan Evaluation
1200.420 Mediation

AUTHORITY: Implementing and authorized by Sections 1-20(b)(23), 1-55, 1-58(d), 1-75(g) and (h), 1-77(d) and 1-78(i) of the Illinois Power Agency Act [20 ILCS 3855], and Section 9-220(h) and (h-1) of the Public Utilities Act [220 ILCS 5].

SOURCE: Adopted at 38 Ill. Reg. 9885, effective April 28, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART B: REGULAR PROCUREMENTS

Section 1200.220 Bidder And Supplier Fees

- a) The Agency shall recover the following costs from bidders and suppliers in all regular procurement events during a fiscal year:
 - 1) ~~Costs~~Actual costs incurred by the procurement administrator for the procurement event in which the bidder or supplier participates.
 - 2) The Agency's overhead to the extent not recovered pursuant to Section 1200.210 and Subpart D.
 - 3) If a procurement event was authorized by a procurement plan in a previous fiscal year, the Agency may collect fees from suppliers authorized in subsection (c) for the fiscal year in which the procurement event occurs.
- b) Each bidder shall be assessed a bid participation fee. This fee shall be \$500, or as set by the Agency after consultation with the procurement administrator. If the fee is other than \$500, the Agency shall provide notice of the fee as part of bid solicitation documents.
- c) The Agency shall, in consultation with the procurement administrator, approve a supplier fee estimated prior to the procurement event to be sufficient to recover the following costs:
 - 1) For each procurement event, the allocated costs of the procurement administrators based on principles of cost causation less the value of bid participation fees collected pursuant to subsection (b).

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

- 2) The Agency, in consultation with the procurement administrator, shall allocate the procurement administrator's costs and overhead costs among products in a manner to ensure a likelihood of cost recovery and a reasonable fee in relation to the unit price of the product being procured.
 - 3) For each procurement event, each supplier shall pay a fee equal to the value in costs allocated to a particular product pursuant to subsection (c)(2), multiplied by the units of product successfully bid by the bidder in a procurement event, divided by the total number of units successfully bid by all bidders in the same procurement event.
 - 4) The value in subsection (c)(3) shall be expressed in terms of dollars per unit successfully bid.
- d) Notwithstanding any other provision of this Part, all fees assessed under this Section shall be due no later than 30 days after the date of the invoice from the Agency, or as specified in the supplier fee agreement.
 - e) If the Agency conducts a procurement using the Renewable Energy Resources Fund as described in Section 1-56 of the Act, the Agency may recover the costs of the procurement from the Renewable Energy Resources Fund instead of from bidder and supplier fees, to the extent authorized by law.

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

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Monitoring of Contracts Administered by the Illinois Power Agency
- 2) Code Citation: 83 Ill. Adm. Code 1210
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
1210.10	New Section
1210.20	New Section
1210.30	New Section
1210.40	New Section
1210.50	New Section
1210.60	New Section
1210.70	New Section
1210.80	New Section
1210.90	New Section
- 4) Statutory Authority: 3855 ILCS 5/1-20(b)(23); 20 ILCS 3855/1-35(1)
- 5) A Complete Description of the Subjects and Issues Involved: To comply with Section 1-35(1) of the Illinois Power Agency Act [20 ILCS 3855/1-35(1)], the Illinois Power Agency ("IPA") is submitting the following Proposed Rules. The Proposed Rules will focus on the statutory mandate that the IPA shall:

"Establish procedures for monitoring the administration of any contract administered directly or indirectly by the Agency; except that the procedures shall not extend to executed contracts between electric utilities and their suppliers." [20 ILCS 3855/1-35(1)].

In developing draft rules, the Agency was informed by the following considerations: First, the Agency enters into contracts of vastly different types. For instance, a contract calling on the Agency to purchase renewable energy credits for a 5 year period from a solar photovoltaic site owner is very different than its contract with its procurement planning consultant for consulting services. A contract administration approach too prescriptive in nature would not allow the Agency the flexibility necessary to adapt its procedures as needed to effectively monitor the administration of all its contracts.

Second, the Agency is young and still growing. Founded in 2007 through the enactment of the Illinois Power Agency Act, the IPA had one employee at its inception and for its first few years of existence. The IPA currently has five full-time employees and one part-time employee, and is considering hiring a full-time dedicated contract

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administrator. Further, multiple legislative proposals this spring called on it to expand its statutory responsibilities (likely necessitating growth in its staff). Uncertainty surrounding future responsibilities and internal resources underscore the Agency's need for flexibility and the ability to responsively adapt.

Third, the Agency already maintains internal guidelines for the monitoring and administration of contracts. These are manifest in its internal policies and Fiscal Operations Manual, both of which are updated on an annual basis by the Agency. Operational controls established through internal policies allow the Agency's significantly more adaptability than controls established through administrative rules, and can more easily be updated to reflect the Agency's needs, capacity, and experiences.

With these considerations in mind, the IPA has drafted contract administration rules that allow it to meet the statutory requirement for contract administration rule development while offering the flexibility necessary to handle the variety in contracts administered and adjust to any changes in its responsibilities.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 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* with:

Brian P. Granahan
Chief Legal Counsel
Illinois Power Agency
160 N. LaSalle St., Suite C-504

ILLINOIS POWER AGENCY

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Chicago IL 60601

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: As these rules address internal Agency contract administration, there should be minimal impact on any small businesses, small municipalities, and not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: The rules envision the Agency developing and utilizing an internal Fiscal Operations Manual, which the Agency has already developed and adopted.
 - C) Types of professional skills necessary for compliance: No new professional skills are anticipated to be required for compliance, although the Agency has had internal discussions about hiring a dedicated contract administrator with specialized skills as its workload grows.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a prior Agency regulatory agenda, but will be summarized in the Agency's July 2015 regulatory agenda.

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

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER III: ILLINOIS POWER AGENCY
SUBCHAPTER a: CONTRACTS AND FEESPART 1210
MONITORING OF CONTRACTS ADMINISTERED BY
THE ILLINOIS POWER AGENCY

Section

1210.10	Scope
1210.20	Definitions
1210.30	Compliance with State Comptroller Act Requirements
1210.40	Compliance with Public Utilities Act Requirements
1210.50	Compliance with the Illinois Power Agency Act Requirements
1210.60	Fiscal Operations
1210.70	SAMS Accounting and Reporting Requirements
1210.80	Use of Outside Experts
1210.90	Confidentiality

AUTHORITY: Implementing, and authorized by Section 1-35(1) of, the Illinois Power Agency Act [20 ILCS 3855/1-35(1)].

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

Section 1210.10 Scope

This Part governs the Agency's process for monitoring the administration of any contract administered directly or indirectly by the Agency to comply with the requirements of the Illinois Power Agency Act and requirements of other statutes or rules triggered by the Agency's actions.

Section 1210.20 Definitions

The following definitions apply to this Part:

"Act" means the Illinois Power Agency Act [20 ILCS 3855].

"Agency" means the Illinois Power Agency.

"Comptroller" means the Illinois Office of the Comptroller.

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"Commission" means the Illinois Commerce Commission.

"Contract Administration" means the administration and monitoring of all Agency contracts administered directly or indirectly to comply with the requirements of the Illinois Power Agency Act and other applicable statutes.

"Director" means the Director, [Interim Director or Acting Director](#) of the Illinois Power Agency.

"FOM" means the Financial Operations Manual maintained by the Agency.

"SAMS" means the Statewide Accounting Management System of the Comptroller.

Section 1210.30 Compliance with State Comptroller Act Requirements

The Agency will comply with the accounting requirements of the State Comptroller Act [15 ILCS 405] to the extent that the Agency is required by law, or elects, to submit Agency contract documentation and related financial information to the Comptroller to fulfill applicable reporting and compliance requirements.

Section 1210.40 Compliance with Public Utilities Act Requirements

The Agency will comply with contract administration and monitoring requirements of the Public Utilities Act [220 ILCS 5] to the extent that the Agency is required by law, or elects, to submit contract documentation and related financial information to the Commission for review and authorization.

Section 1210.50 Compliance with the Illinois Power Agency Act Requirements

The Agency will comply with contract administration and monitoring requirements of the Act, specifically with respect to the retention of its Procurement Planning Consultant and its Procurement Administrator (see Section 1-75 of the Act), and any contracts entered into by the Agency to purchase renewable energy resources (see Section 1-56 of the Act).

Section 1210.60 Fiscal Operations

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The Agency will maintain and update from time to time FOM, a manual describing internal Agency operations and procedures governing all Agency activities related to financial and contractual requirements.

Section 1210.70 SAMS Accounting and Reporting Requirements

The Agency will follow SAMS and the Agency's FOM. If the two reference materials conflict, the Agency will follow SAMS and make appropriate changes to the Agency's FOM.

Section 1210.80 Use of Outside Experts

To the extent authorized by the Act, the Agency may retain outside consultants to develop, update, review or verify documents or records developed pursuant to this Part.

Section 1210.90 Confidentiality

In monitoring the administration of any contract entered into by the Agency, *the Agency will comply with its statutory responsibility to provide adequate protection for confidential and proprietary information furnished, delivered, or filed by any person, corporation, or other entity* (Section 1-120 of the Act).

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Uniform System of Accounts
- 2) Code Citations: 83 Ill. Adm. Code 1220
- 3) Section Number: 1220.110 Proposed Action: Amendment
- 4) Statutory Authority: 3855 ILCS 5/1-20(b)(23), 1-35(3)
- 5) A Complete Description of the Subjects and Issues Involved: To comply with Section 1-35(1) of the Illinois Power Agency Act [20 ILCS 3855/1-5(1)], the Illinois Power Agency ("Agency") had previously adopted rules to implement "accounting rules and a system of accounts, in accordance with State law, permitting all reporting (i) required by the State, (ii) required under this Act, (iii) required by the Authority, or (iv) required under the Public Utilities Act." [20 ILCS 3855/1-35(3)].

The IPA is not seeking changes to the substantive or operative aspects of these rules. Instead, the Agency is seeking to make two very minor revisions to Part 1220 to correct errors embodied in Part 1220's adoption.

First, the Illinois Administrative Code cites the incorrect portion of the Illinois Power Agency Act as authority for Title 83, Part 1220. While the Code cites Section 1-35(1) of the IPA Act, the actual authority stems from Section 1-35(3) of the Act (as cited and quoted above). Section 1-35(1) contains authority for adopting rules related to contract administration, and not for a uniform system of accounts. The IPA thus seeks a change to ensure that the Code and associated online references contain the appropriate citation.

Second, Section 1220.110 contains a definition of "GAAP" (generally accepted accounting principles) that references those principles published by the Financial Standards Accounting Board. However, for a government agency such as the IPA, the applicable generally accepted accounting principles are actually published by the Governmental Accounting Standards Board (also known as "GASB").

- 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

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:
- Brian P. Granahan
Chief Legal Counsel
Illinois Power Agency
160 N. LaSalle St., Suite C-504
Chicago IL 60601
- 312/814-4635
Brian.Granahan@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None should be impacted by this amendment.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional procedures are required from this amendment.
- C) Types of professional skills necessary for compliance: No professional skills are necessary for compliance with this amendment.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a prior Agency regulatory agenda, but will be summarized in the Agency's July 2015 regulatory agenda.

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

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER III: ILLINOIS POWER AGENCY
SUBCHAPTER a: CONTRACTS AND FEESPART 1220
UNIFORM SYSTEM OF ACCOUNTS

Section

1220.100	Scope
1220.110	Definitions
1220.120	SAMS Accounting
1220.130	GAAP Accounting
1220.135	Fiscal Operations
1220.140	Compliance With Illinois Finance Authority Requirements
1220.150	Compliance With Public Utilities Act Requirements
1220.160	Use of Outside Experts

AUTHORITY: Implementing, and authorized by Section 1-35(1) of, the Illinois Power Agency Act [20 ILCS 3855/1-35(1)].

SOURCE: Adopted at 38 Ill. Reg. 9900, effective April 28, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 1220.110 Definitions

The following terms are defined for this Part:

"Act" shall mean the Illinois Power Agency Act [20 ILCS 3855].

"Agency" shall mean the Illinois Power Agency.

"Commission" shall mean the Illinois Commerce Commission.

"FOM" shall mean the Financial Operations Manual maintained by the Agency.

"GAAP" shall mean generally accepted accounting principles as defined by the [Governmental Accounting Standards Board](#) (401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116 (203/847-0700)).

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"GRM" shall mean the GAAP Reporting Manual maintained by the Agency.

"SAMS" shall mean the Statewide Accounting Management System in the Office of the Illinois State Comptroller.

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

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Prequalified Supplier Lists for Construction and Construction-Related Professional Services
- 2) Code Citation: 83 Ill. Adm. Code 1230
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
1230.10	New Section
1230.20	New Section
1230.30	New Section
1230.40	New Section
1230.50	New Section
1230.60	New Section
1230.70	New Section
1230.80	New Section
- 4) Statutory Authority: 20 ILCS 3855/1-20(b)(23); 30 ILCS 500/30-20(b)
- 5) A Complete Description of the Subjects and Issues Involved: The IPA's authority for these rules extends from the following provision of the Illinois Procurement Code

Sec. 30-20. Prequalification

(b) The Illinois Power Agency shall promulgate rules for the development of prequalified supplier lists for construction and construction-related professional services and the periodic updating of those lists. Construction and construction related professional services contracts over \$25,000 may be awarded to any qualified suppliers, pursuant to a competitive bidding process. [30 ILCS 500/30-20(b)].

In developing draft rules, the Agency was informed by the following considerations:

First, the Agency is not facing an urgent operational need to develop a list of prequalified construction firms. When the Agency was created in 2007, it was anticipated that there could be a need for new power plant construction to serve municipal utilities and rural electric cooperatives. A role was carved out for the IPA to potentially develop such projects. However, changes in electric prices, the electric power development industry, and the economy have all resulted in that function being unnecessary. As a result, the IPA does not anticipate developing any power plants in the short and medium term, and has no construction projects on the horizon. Indeed, because the development of such projects appears very remote, the Agency has refrained from establishing a Resource

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Development Bureau and is seeking statutory changes to make the establishment of this bureau optional.

Second, the Agency's capacity to review individual construction firm qualifications is very limited. This is because, unlike entities such as the Capitol Development Board or the Department of Transportation, the Agency's statutorily prescribed involvement with construction firms is likewise limited-contained only to the unlikely possibility that a request is made for specific type of project (an "electric generation or co-generation facility"-a power plant) to serve a narrow segment of the market (Illinois municipal utilities, government aggregators, and rural electric cooperatives) upon those entities' request. The vast majority of the Agency's work involves the procurement of contracts for the delivery of energy, renewable resources, or similar products; these are fundamentally financial transactions. The Agency thus maintains no engineers on Staff and has limited technical expertise in other key areas. As a result, leveraging the work of entities that do have this expertise offers more efficient and reliable work than independent efforts.

Third, even if the Agency should rely on more qualified entities' work in actually vetting construction firms, it still must have safeguards built into its rules to protect its interest and the State's interest. Specifically, the Agency should still be able to exercise discretion over any list it develops and maintains, including the disqualification of firms should the Agency come across information demonstrating that a construction firm is ill-suited for prequalification.

With these considerations in mind, the IPA has drafted the following rules for the development of prequalified supplier lists for construction and construction-related professional services and the periodic updating of those lists. The Agency believes that these draft rules allow it to meet statutory requirements while minimizing administrative burdens given the remote likelihood that it may need to call upon such a list.

- 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

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- 9) Does this rulemaking contain incorporations by reference? This rulemaking does not contain incorporations by reference, but allows for prequalification using processes established under 44 Ill. Adm. Code 950 or 44 Ill. Adm. Code 650.
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:
- Brian P. Granahan
Chief Legal Counsel
Illinois Power Agency
160 N. LaSalle St., Suite C-504
Chicago IL 60601
- 312/814-4635
Brian.Granahan@Illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses offering construction or construction-related professional services would be able to, in part, utilize the existing prequalification processes offered by the Capitol Development Board and the Department of Transportation for prequalification with the Illinois Power Agency. The Agency believes that this represents a minimized burden on any such entities.
- B) Reporting, bookkeeping or other procedures required for compliance: Under this rule, the Agency would be required to maintain a prequalified supplier list and to periodically update that list. Entities seeking to provide construction or construction-related professional services would be required to demonstrate that they are responsible prior to being prequalified.

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- C) Types of professional skills necessary for compliance: The rule applies only to entities offering construction or construction-related professional services that could potentially contract with the Agency.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a prior Agency regulatory agenda, but will be summarized in the Agency's July 2015 regulatory agenda.

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

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER III: ILLINOIS POWER AGENCY
SUBCHAPTER a: CONTRACTS AND FEESPART 1230
PREQUALIFIED SUPPLIER LISTS FOR CONSTRUCTION AND
CONSTRUCTION-RELATED PROFESSIONAL SERVICES

Section

1230.10	Purpose and Scope
1230.20	Definitions
1230.30	Special Projects
1230.40	Confidentiality
1230.50	Development of Contractor Prequalification Lists
1230.60	Prequalification Criteria and Responsibility Determinations
1230.70	Maintenance of Contractor Prequalification Lists
1230.80	Effect of Nonresponsibility Determination on Current Contracts

AUTHORITY: The Illinois Power Agency Act [20 ILCS 3855] and Section 30-20(b) of the Illinois Procurement Code [30 ILCS 500/3-20(b)].

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

Section 1230.10 Purpose and Scope

- a) Any Illinois Power Agency construction or construction-related services contracts awarded in connection with IPA's development of electric generation or co-generation facilities shall be awarded only to responsible contractors. A prospective contractor must affirmatively demonstrate its responsibility, including, when necessary, the responsibility of its proposed subcontractors and suppliers. In the absence of information clearly indicating that the prospective contractor is responsible, IPA shall make a determination of nonresponsibility. Only responsible contractors shall be prequalified, and only prequalified contractors shall be permitted to bid on IPA electric generation or co-generation facility development projects. A determination of nonresponsibility may be made at any time prior to or after award of a contract.
- b) This Part governs IPA's process for *the development of prequalified supplier lists for construction and construction-related professional services and the periodic*

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updating of those lists to comply with the requirements of the Illinois Procurement Code, the Illinois Power Agency Act, and any applicable requirements of other statutes or rules triggered by IPA's actions (Section 30-20(b) of the Code).

Section 1230.20 Definitions

The following terms are defined for this Part:

"Act" means the Illinois Power Agency Act [20 ILCS 3855].

"Agency" or "IPA" means the Illinois Power Agency.

"Bidder" means one who submits a response in a competitive sealed bidding process, to an invitation for bid, or to a multi-step sealed bidding process, for a contract to construct some or all aspects of an electric generation or co-generation facility (Sec. 1-15.02 of the Code).

"Code" means the Illinois Procurement Code [30 ILCS 500].

"Contractor" means a firm that has a contract with IPA's to construct some or all aspects of an electric generation or co-generation facility.

"Director" means the Director, or the Director's designee, of the Illinois Power Agency (Section 1-10 of the Act).

"Facility" means an electric generating unit or a co-generating unit that produces electricity, including related equipment necessary to connect the facility to an electric transmission or distribution system (Section 1-10 of the Act).

"Feasibility Study" means an analysis of IPA's ability to develop an electric generation or co-generation facility consistent with the requirements of the Act and IPA's responsibilities under the Act, and otherwise in compliance with applicable State and federal laws.

"Responsibility" is a determination made by the IPA that a bidder or contractor *has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance (Section*

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1-15.80 of the Code). A determination of nonresponsibility may be made at any time prior to or following award of a contract.

Section 1230.30 Special Projects

When IPA determines a construction project is so large or specialized that a special bidder prequalification and responsibility determination is appropriate, IPA may set appropriate standards of acceptability different from those set out in this Part.

Section 1230.40 Confidentiality

IPA shall maintain documents relating to responsibility determinations of a contractor in an independent file separate from other documents and analyses. These documents are confidential and shall be disclosed only to the contractor (who shall be entitled to disclosure of the complete file except for the name of any person filing a complaint with or providing information to IPA regarding that contractor) or to units of federal, State or local government, including but not limited to law enforcement agencies. IPA shall, upon request, release to anyone the contractor's prequalification status with IPA. In all other respects, IPA shall comply with its statutory responsibility *to provide adequate protection for confidential and proprietary information furnished, delivered, or filed by any person, corporation, or other entity* (Section 1-120 of the Act).

Section 1230.50 Development of Contractor Prequalification Lists

- a) IPA shall develop a prequalified supplier list for construction and construction-related professional services firms upon the completion of a feasibility study concluding that IPA's development of a facility is feasible.
- b) Within 90 days after completion of a feasibility study concluding that IPA's development of a facility is feasible, IPA will develop and provide an online portal allowing for application for prequalification status for construction and construction-related professional services firms.
- c) The Director shall make reasonable efforts to communicate the development of IPA's prequalification application portal and the opening of its prequalification window to potentially interested contactors.
- d) New bidders and bidders nearing the prequalification expiration date must complete a contractor prequalification and bidder responsibility application,

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including the Financial Interests and Potential Conflicts of Interest forms required under Section 50-35 of the Code.

- e) Upon the receipt of a full and complete application, determinations on prequalification shall be made by IPA within a reasonable timeframe established by IPA not to exceed 90 days.
- f) Prequalification shall be valid for a period of one year, with the opportunity for renewal.
- g) Nothing shall prohibit IPA from developing, nor require IPA to develop, a prequalified supplier list for construction and construction-related professional services firms prior to the completion of a feasibility study concluding that the development of a facility is feasible.

Section 1230.60 Prequalification Criteria and Responsibility Determinations

- a) To maximize efficiency and leverage the expertise of other State entities, IPA contractor prequalification shall be granted to firms having met the following criteria:
 - 1) Valid (i.e., not suspended, debarred, expired or nullified) prequalification with the Capitol Development Board pursuant to 44 Ill. Adm. Code 950; or
 - 2) A valid (i.e., not suspended, debarred, expired or nullified) Certificate of Eligibility issued by the Illinois Department of Transportation pursuant to 44 Ill. Adm. Code 650.
- b) Firms meeting the criteria in subsection (a) and having completed any additional forms required by IPA or by State law, including the Financial Interests and Potential Conflicts of Interest forms required under Section 50-35 of the Code, shall be deemed to have met IPA's responsibility requirements and shall be considered prequalified to bid on IPA's construction or construction-related professional services contracts.
- c) Responsibility Determination

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- 1) Firms that meet the criteria in subsection (a) and that have completed any forms required by IPA or by State law, including the Financial Interests and Potential Conflicts of Interest forms, shall be deemed to have met IPA's responsibility requirements and shall be considered prequalified to bid on IPA construction or construction-related professional services contracts.
 - 2) Each prospective bidder must provide IPA with adequate documentation of responsibility, demonstrating that the bidder meets the criteria enumerated in subsection (c)(1) and any other requirements developed by IPA, through an application process developed by IPA.
 - 3) The initial determination of responsibility, made through evaluation of a new or renewal application to IPA, may be changed upon receipt of additional or different information. The contractor is required to inform IPA of any significant change to the information submitted in its application, and IPA reserves the right to demand completion of a contractor/bidder responsibility application and supporting documents at any time.
 - 4) IPA's responsibility determination will be reviewed periodically through a renewal application. IPA's responsibility determination may also be reviewed on an ongoing basis through other information.
- d) Notwithstanding the responsibility requirements in subsections (a) through (c), in no circumstances shall prequalification be granted to firms that would be prohibited by State law or rules from bidding on a State contract or otherwise contracting with the State of Illinois.
 - e) Notwithstanding the responsibility requirements in subsections (a) through (c), nothing shall prohibit IPA from establishing heightened standards for prequalification for projects determined by IPA to be special projects.
 - f) Notwithstanding the responsibility requirements in subsections (a) through (c), nothing shall prohibit IPA from suspending, nullifying or modifying prequalification status should IPA determine any of the following:

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- 1) That material inaccuracies are present in the firm's application (or renewal application) for prequalification with the Capitol Development Board or Department of Transportation;
 - 2) That prequalification would be inconsistent with Illinois State law or other State requirements; or
 - 3) That prequalification would otherwise be contrary to the interests of IPA, contrary to the interests of the State of Illinois, or against the public interest, safety or welfare.
- g) IPA will deny prequalification to any firm that has not affirmatively demonstrated its responsibility. IPA's determination of responsibility shall be final.

Section 1230.70 Maintenance of Contractor Prequalification Lists

- a) The Director is responsible for the maintenance of IPA's Prequalified Supplier List, including maintaining the confidentiality of any confidential or proprietary information offered through the prequalification application process.
- b) IPA's Prequalified Supplier List will contain at least the following:
 - 1) The name and business address of any prequalified contractor;
 - 2) The nature of each prequalified contractor's work;
 - 3) The current prequalification status of all listed contractors;
 - 4) The basis for granting prequalification status for each prequalified contractor;
 - 5) A log of all responsibility determinations made by IPA with respect to any prequalified contractor;
 - 6) The primary contact for any contractor granted prequalification status;
 - 7) The expiration date associated with any contractor's current prequalification status.

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- c) The Director will update the Prequalified Supplier List within a reasonable time after a change in the status of, or a change in material information associated with, a prequalified contractor.
- d) The Director is responsible for communicating with prequalified firms about a pending expiration in prequalification status and for the development of a renewal process for successfully prequalified contractors.

Section 1230.80 Effect of Nonresponsibility Determination on Current Contracts

Existing IPA contracts may be terminated when a contractor is determined to be nonresponsible and it is in the public interest to do so, whether or not the nonresponsibility has a direct connection with the current contract.

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Recovery of Costs Incurred in Connection with the Cancellation of Facility Development and Construction
- 2) Code Citation: 83 Ill. Adm. Code 1240
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
1240.10	New Section
1240.20	New Section
1240.30	New Section
1240.100	New Section
1240.110	New Section
1240.120	New Section
1240.130	New Section
1240.200	New Section
1240.210	New Section
- 4) Statutory Authority: 20 ILCS 3855/1-20(b)(23); 20 ILCS 3855/1-35(2); 20 ILCS 3855/1-80
- 5) A Complete Description of the Subjects and Issues Involved: The IPA's primary authority for these rules extends from the following provision of the Illinois Power Agency Act:

Sec. 1-35. Agency rules. The Agency shall adopt rules as may be necessary and appropriate for the operation of the Agency. In addition to other rules relevant to the operation of the Agency, the Agency shall adopt rules that accomplish each of the following:

Establish procedures for the recovery of costs incurred in connection with the development and construction of a facility should the Agency cancel a project, provided that no such costs shall be passed on to public utilities or their customers or paid from the Illinois Power Agency Operations Fund. (20 ILCS 3855/1-35(2)).

Additional authority related to these rules can also be found in Section 1-80 of the Illinois Power Agency Act [20 ILCS 3855/1-80], as that Section describes at length why, when, and how the Agency would actually undertake the development and construction of a facility.

In developing draft rules, the Agency was informed by the following considerations:

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First, there is a very low likelihood of the Agency developing an electric generation or co-generation facility in the foreseeable future. When the Agency was created in 2007, it was anticipated that there could be a need for new power plant construction to serve municipal utilities and rural electric cooperatives. A role was carved out for the IPA to potentially develop such projects. However, changes in electric prices, the electric power development industry, and the economy have all resulted in that function being unnecessary. Additionally, the law requires that the first facility developed by the Agency "shall be a facility that uses coal produced in Illinois" and "must be a clean coal facility . . . constructed in a location where the geology is suitable for carbon sequestration" [20 ILCS 3855/1-80(c)], presenting unattractive economics for potential counterparties.

As a result, the IPA does not anticipate developing any power plants in the short and medium term. As any project must first begin development before being cancelled, the likelihood of the Agency calling upon these rules is both very remote and prescribed to a very prescriptive and predictable path should it occur.

Second, the Agency would not choose to develop a facility at its own discretion. While the law does not expressly prohibit it from doing so (assuming other legal requirements of the project were satisfied, such as those concerning the initial facility), the law only envisions such projects serving "municipal electric systems, governmental aggregators, or rural electric cooperatives" [20 ILCS 3855/1-80(d)] with allowance only for selling "excess energy and excess capacity into the wholesale market" [20 ILCS 3855/1-80(f)].

As a result, any IPA electric generation or co-generation facility development would only occur should an Illinois municipal utility, governmental aggregator, or rural electric cooperative (or some combination thereof) do the following:

- 1) Identify a significant long-term electric supply need;
- 2) Determine that despite the strictures of the IPA Act (especially with respect to the type of facilities that can be developed), an IPA-developed project is the preferred way to meet that supply need; and
- 3) Be willing to enter into long-term power purchase agreements for the facility's output sufficient to allow the facility to be financed.

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Third, parties should still retain remedies that would otherwise available to them at law. Simple fairness and good policy dictates that the rule should not preempt recovery from a party directly responsible for the cancellation of an otherwise viable project. For instance, if a project's failure stems from faulty or untimely work from a contractor or sub-contractor, then the IPA's administrative rules should not preclude recovery from those parties.

Fourth, individual projects and counterparties may require different cancelled project cost recovery procedures for successful development. The IPA Act envisions projects under \$100 million in cost, projects between \$100 million and \$1 billion in cost, and projects over \$1 billion—and specifies different requirements for each. Similarly, the IPA Act envisions both clean coal facilities (which are likely to be large, expensive projects given the associated infrastructure) and renewable energy projects (which could be large and expensive, but may be small and less expensive) both potentially being developed. As the risk and consequences of project cancellation varies considerably by project type, flexibility is desirable.

With these considerations in mind, the IPA has drafted the following rules related to procedures for the recovery of costs incurred in connection with the development and construction of a facility should the Agency cancel a project. The Agency believes that these draft rules allow it to meet statutory requirements while allowing it the necessary flexibility to handle the wide variety of project types contemplated by the law.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

ILLINOIS POWER AGENCY

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- 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* with:
- Brian P. Granahan
Chief Legal Counsel
Illinois Power Agency
160 N. LaSalle St., Suite C-504
Chicago IL 60601
- 312/814-4635
Brian.Granahan@Illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rule may impact small municipalities who operate or work in connection with municipal or co-operative electric utilities that could potentially seek to engage the Illinois Power Agency on a facility development project.
- B) Reporting, bookkeeping or other procedures required for compliance: Compliance would require the development of a binding memorandum of understanding before any facility development project was undertaken and associated costs were incurred.
- C) Types of professional skills necessary for compliance: No specific professional skills are necessary for compliance with this rule.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a prior Agency regulatory agenda, but will be summarized in the Agency's July 2015 regulatory agenda.

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

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER III: ILLINOIS POWER AGENCY
SUBCHAPTER a: CONTRACTS AND FEES

PART 1240
RECOVERY OF COSTS INCURRED
IN CONNECTION WITH THE CANCELLATION OF
FACILITY DEVELOPMENT AND CONSTRUCTION

SUBPART A: INTRODUCTION

- Section
- 1240.10 Purpose and Scope
- 1240.20 Definitions
- 1240.30 Statement of Policy

SUBPART B: MEMORANDUM OF UNDERSTANDING

- Section
- 1240.100 General
- 1240.110 Provisions Required
- 1240.120 Cancelled Project Cost Recovery Procedures
- 1240.130 Power Purchase Agreements

SUBPART C: OTHER REMEDIES

- Section
- 1240.200 Remedies Under Contract
- 1240.210 Remedies At Law

AUTHORITY: Implementing and authorized by Section 1-35(2) of the Illinois Power Agency Act [20 ILCS 3855/1-35(2)] and Section 1-80 of the Illinois Power Agency Act [20 ILCS 3855/1-80].

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

SUBPART A: INTRODUCTION

Section 1240.10 Purpose and Scope

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The purpose of this Part is to *establish procedures for the recovery of costs incurred in connection with the development and construction of an electric generation or co-generation facility should the development of that facility be cancelled and to ensure that none of these costs are passed on to public utilities or their customers or paid from the Illinois Power Agency Operations Fund.* (Sec. 1-35(2) of the Act)

Section 1240.20 Definitions

The following terms are defined for this Part:

"Act" means the Illinois Power Agency Act [20 ILCS 3855].

"Agency" or "IPA" means the Illinois Power Agency.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027). (Section 1-10 of the Act)

"Costs incurred in connection with the development and construction of a facility" means:

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the cost of acquisition of all real property, fixtures, and improvements in connection therewith and equipment, personal property, and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest, contingency, as required by lenders, and other financing costs, and other expenses for professional services; and

the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and starting up, commissioning, and placing that project in operation. (Section 1-10 of the Act)

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system. (Section 1-10 of the Act)

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction. (Section 1-10 of the Act)

"Indigenous coal" means coal produced within the State of Illinois.

"Memorandum of Understanding" means a document that expresses mutual accord between two or more parties on one or more issues.

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"Municipal electric system" has the same meaning as used in Section 1-80 of the Act. (Section 1-10 of the Act)

"Local government" means a unit of local government as defined in Section 1 of Article VII of the Illinois Constitution. (Section 1-10 of the Act)

"Project" means the planning, bidding, and construction of a facility. (Section 1-10 of the Act)

"Public Utility" has same meaning as found in Section 3-105 of the Public Utilities Act. (Section 1-10 of the Act)

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, anaerobic digestion, crops and untreated and unadulterated organic waste biomass, tree waste, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than tree waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood. (Section 1-10 of the Act)

"Rural electric cooperative" has the same meaning as used in Section 1-80 of the Act. (Section 1-10 of the Act)

Section 1240.30 Statement of Policy

The Agency will not undertake the development and construction of an electric generation or co-generation facility without reliable *procedures* in place for the recovery of costs incurred in connection with the development and construction of that facility should such a project be cancelled. Further, because that facility would be built to meet the electric supply needs of municipal electric systems, governmental aggregators, or rural electric cooperatives, the Agency will not undertake the development and construction of an electric generation or co-generation facility without a binding, executed agreement with entities to which the facility's electricity output would be sold.

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SUBPART B: MEMORANDUM OF UNDERSTANDING

Section 1240.100 General

The Agency shall not undertake the development and construction of a facility without having first executed a binding Memorandum of Understanding with a municipal electric system, governmental aggregator, or rural electric cooperative requiring that counterparties collectively purchase at least 90% of the electricity projected to be generated by the facility over a period of no less than 10 years.

Section 1240.110 Provisions Required

The Memorandum of Understanding required by this Part must include at least the following provisions:

- a) The type of facility (whether a clean coal facility using indigenous coal, a facility using renewable energy resources, or both) to be developed and constructed by the Agency;
- b) The location of the facility to be developed and constructed by the Agency;
- c) The contract term length applicable to power purchase agreements to be executed between the municipal electric system, governmental aggregator or rural electric cooperative and the Agency;
- d) A projected price range (stated in dollars per megawatt-hour) estimated to reflect the price to be charged for electricity generated for purchase under power purchase agreements to be executed between the Agency and the municipal electric system, governmental aggregator or rural electric cooperative;
- e) A provision indicating that the electricity supplied to the municipal electric system, governmental aggregator or rural electric cooperative under power purchase agreements shall be supplied at cost;
- f) A provision ensuring that the municipal electric system, governmental aggregator or rural electric cooperative supplied with power and energy from an Agency facility shall supply the power and energy to retail customers at the same price paid to purchase power and energy from the Agency;

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- g) A provision prohibiting electric utilities from being required to purchase electricity directly or indirectly from the facility;
- h) If the facility is a clean coal facility, plans for the capture and sequestration of carbon dioxide emissions.

Section 1240.120 Cancelled Project Cost Recovery Procedures

- a) The Memorandum of Understanding required by this Part shall also set forth agreed procedures for the recovery of Agency costs should the development and construction of a facility be cancelled. Such procedures must describe the process for the recovery of all Agency costs incurred in connection with the development and construction of a facility.
- b) Necessary Clauses
The cancelled project cost recovery procedures required by this Part must contain also the following:
 - 1) A description of the process to be used by a party to the Memorandum of Understanding to cancel the development of a project, triggering the application of cancelled project cost recovery procedures;
 - 2) A clause stating that under no circumstances may cancelled facility costs be recovered from public utilities or their customers; and
 - 3) A clause stating that under no circumstances may cancelled facility costs be recovered from the Illinois Power Agency Operations Fund.
- c) Subsequent Agreements
Cancelled project cost recovery procedures contained in the Memorandum of Understanding required by this Part shall be binding upon the parties and reflected in any subsequent agreements entered into between the parties to the extent necessary to give them full force and legal effect, including in any power purchase agreements between the Agency and any municipal electric system, governmental aggregator, or rural electric cooperative.
- d) Clean Coal Projects
If the facility is a clean coal facility, cancelled project cost recovery procedures contained in the Memorandum of Understanding required by this Part must also

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extend to any plans for the Agency to develop, finance, construct, or operate a carbon sequestration facility.

Section 1240.130 Power Purchase Agreements

Nothing about the requirement of a Memorandum of Understanding contained in this Part is intended to preclude the Agency from entering into power purchase agreements with a municipal electric system, governmental aggregator, or rural electric cooperative for the purchase of electricity generated by a facility.

SUBPART C: OTHER REMEDIES

Section 1240.200 Remedies Under Contract

Nothing in this Part shall be construed as prohibiting the Agency or any party with which it contracts, including the municipal utility, governmental aggregator and rural co-operative with which it has entered into a Memorandum of Understanding, from seeking relief through remedies under contract or remedies at law in connection with a project's development, construction or cancellation.

Section 1240.210 Remedies At Law

Nothing in this Part shall be construed as prohibiting the Agency or any party with which it contracts, including the municipal utility, governmental aggregator, and rural co-operative with which it has entered into a Memorandum of Understanding, from seeking relief through remedies at law in connection with a project's development, construction, or cancellation.

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- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 86 Ill. Adm. Code 500
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
500.203	Amendment
500.235	Amendment
500.265	Amendment
500.270	Amendment
500.305	Amendment
500.310	Amendment
500.315	Amendment
500.335	Amendment
500.350	Amendment
500.405	Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-20; 35 ILCS 505/14
- 5) A Complete Description of the Subjects and Issues Involved: These amendments implement a mandatory electronic filing and payment program for receivers, suppliers, and most distributors, effective January 1, 2016. The rules provide that returns that are not filed electronically as required shall be considered nonfiled, and the retailer's discount shall consequently be disallowed. Claims filed by persons other than distributors, suppliers and receivers are authorized, but are not mandated, to be filed electronically. Claims filed by distributors, suppliers and receivers, as well as claims for refund of overpayment of IFTA decal fees, are required to be filed electronically. The rules provide that studies used to support a claim for undyed diesel fuel used by power take-off equipment may be extended upon petition of a taxpayer for no more than 2 years and that no study can be relied upon for a total of more than 4 years. Pursuant to PA 98-964, Section 500.335 is amended to implement the new formula used to calculate interest under the International Fuel Tax Agreement (IFTA). The rules provide that IFTA licensees that are revoked may (rather than shall) be required to post a bond, in accordance with provisions in Section 500.305. The rules provide that IFTA licenses expire on December 31 and must be renewed timely. The rules clarify the purpose and use of the 2 month grace period allowed to IFTA licensees. In conjunction with these changes, the rules are amended to provide that IFTA accounts that have not been renewed by December 31 will be designated as suspended, and licensees found operating on the roads with such designation will be subject to all applicable civil and criminal penalties under the Motor Fuel Tax Law.

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect: No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Jerilynn Troxell Gorden
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Motor fuel distributors; IFTA (International Fuel Tax Agreement) licensees.
 - B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping.
 - C) Types of professional skills necessary for compliance: Bookkeeping.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 500

MOTOR FUEL TAX

SUBPART A: DEFINITIONS

Section	
500.100	Definitions
500.101	Definition of Receiver (Repealed)
500.102	Definition of Loss (Repealed)
500.103	Basis and Rate of Tax Payable by Receivers (Recodified)
500.105	Monthly Returns (Recodified)
500.110	Report of Loss of Motor Fuel (Recodified)
500.115	Daily Gallonage Record (Recodified)
500.120	Licenses Are Not Transferable (Recodified)
500.125	Changes of Corporate Officers (Recodified)
500.130	Blenders' Permits Are Not Transferable (Recodified)
500.135	Vehicles of Distributors Transporting Petroleum Products (Recodified)
500.140	Other Vehicles (Recodified)
500.145	Cost of Collection – Determination (Recodified)
500.150	Cost of Collection – Books and Records (Repealed)
500.155	Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers (Recodified)
500.160	Claims for Refund – Original Invoices (Recodified)
500.165	Definition of Loss (Recodified)
500.170	Sales of Special Fuel – Variation in Usage (Recodified)
500.175	Special Motor Fuel Permits and Decals (Recodified)
500.180	Estimated Claims Not Acceptable (Recodified)
500.185	Claimants Owning Motor Vehicles (Recodified)
500.190	Detailed Answers (Recodified)
500.195	Revocation of License, Etc. – Notice – Hearing (Recodified)

SUBPART B: MOTOR FUEL TAX

Section	
500.200	Basis and Rate of the Motor Fuel Tax
500.201	Licensure

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500.202	Basis and Rate of Tax Payable by Receivers
500.203	Monthly Returns
500.204	Report of Loss of Motor Fuel
500.205	Daily Gallonage Record
500.206	Special Fuel Sold or Used for Non-Highway Purposes
500.210	Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers
500.215	Documentation of Tax-free Sales of Fuel Made by Licensed Receivers
500.220	Vehicles of Distributors Transporting Petroleum Products (Repealed)
500.225	Other Vehicles (Repealed)
500.230	Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers
500.235	Claims for Refund of Taxes and Motor Fuel Use Tax Decal Fees – Invoices
500.240	Sales of Special Fuel – Variation in Usage (Repealed)
500.245	Estimated Claims
500.250	Claimants Owning Motor Vehicles (Repealed)
500.255	Detailed Answers
500.260	Revocation of License, Etc. – Notice – Hearing
500.265	Distributors' and Suppliers' Claims for Credit or Refund
500.270	Receivers' Claims for Credit
500.275	Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit
500.280	Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems
500.285	Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas
500.290	When Purchaser's License Number With Department on Invoices Covering Sales of Special Fuel is Required (Repealed)
500.295	Cost of Collection – Determination (Repealed)
500.297	Protest Procedures for Certain Penalties
500.298	Civil Penalties for Dyed Diesel Fuel Violations

SUBPART C: MOTOR FUEL USE TAX

Section	
500.300	Licensure – Temporary Waiver upon Determination of Disaster
500.301	Special Motor Fuel Permits and Decals (Repealed)
500.302	Motor Carrier's Quarterly Report (Repealed)
500.305	Licenses and Decals
500.310	Display of License and Decals

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500.315	Renewal of Decals and Licenses
500.320	Single Trip Permits
500.325	Licensure of Lessors and Lessees
500.330	Cancellation of License
500.335	Quarterly Payment and Reporting
500.340	Credits and Refunds
500.345	Records Requirements
500.350	Revocation
500.355	IFTA Protest Procedures
500.360	Audits

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

500.400	General Information
500.405	Due Date That Falls on Saturday, Sunday or a Holiday

SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

Section

500.500	Licenses and Permits Are Not Transferable
500.501	Blenders' Permits Are Not Transferable (Repealed)
500.505	Changes of Corporate Officers

SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

Section

500.600	Incorporation of the Retailers' Occupation Tax Regulations by Reference
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AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 2505-20 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-20].

SOURCE: Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill. Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendment at 13 Ill. Reg. 13271, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990;

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amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 17195, effective December 18, 1995; amended at 20 Ill. Reg. 10168, effective July 16, 1996; amended at 22 Ill. Reg. 2253, effective January 9, 1998; amended at 22 Ill. Reg. 14917, effective August 3, 1998; amended at 22 Ill. Reg. 16322, effective August 25, 1998; amended at 22 Ill. Reg. 20299, effective December 1, 1998; emergency amendment at 24 Ill. Reg. 880, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6918, effective April 21, 2000; amended at 24 Ill. Reg. 17826, effective November 28, 2000; amended at 26 Ill. Reg. 9912, effective June 24, 2002; amended at 27 Ill. Reg. 7870, effective April 21, 2003; emergency amendment at 27 Ill. Reg. 10547, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3921, effective February 13, 2004; amended at 32 Ill. Reg. 7134, effective April 21, 2008; amended at 36 Ill. Reg. 6677, effective April 12, 2012; amended at 38 Ill. Reg. 18586, effective August 21, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART B: MOTOR FUEL TAX

Section 500.203 Monthly Returns

- a) Distributor, supplier and receiver monthly returns. Monthly Motor Fuel Tax returns of licensed distributors and suppliers must be compiled correctly on forms furnished by the Department and must be filed, accompanied by a remittance for the correct amount of tax due, by the 20th day of the month following the month for which the return is made. Receipt schedules showing monthly receipts of motor fuel must always accompany the monthly return, as well as all other applicable schedules. Receivers subject to the tax imposed by Section 2a of the Law must file returns by the 20th of each calendar month for fuel purchased, acquired or received and sold, distributed or used during the preceding calendar month. On and after January 1, 2016, original returns and payment of tax shall be made electronically in accordance with rules established at 86 Ill. Adm. Code 750 and 760. Amended returns, however, are required to be filed electronically only for those periods, as provided in this subsection, for which original returns are electronically required. All other amended returns must be filed on a paper return.
- b) *If a distributor's only activities with respect to motor fuel are either: 1) production of alcohol in quantities of less than 10,000 proof gallons per year or 2) blending alcohol in quantities of less than 10,000 proof gallons per year that the ~~which such~~*

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distributor has produced, the distributor; ~~He~~ shall file returns on an annual basis with the return for a given year being due by January 20 of the following year. Original returns and payment of tax made under this subsection (b) may be made electronically beginning January 1, 2016. Amended returns, however, may only be filed electronically for those periods, as provided in this subsection, for which original returns may be filed electronically. All other amended returns must be filed on a paper return. When~~Where~~ the distributor has not established one calendar year's record of production, annual production will be projected on the basis of actual production and estimates submitted by the distributor. (Section 5 of the Law)

- c) Reporting and payment requirements for persons who produce biodiesel fuel or biodiesel blends for self-use.
- 1) *Beginning July 1, 2007, notwithstanding any other reporting provisions of the Law, if a private biodiesel fuel producer's total gallonage that is taxable under Sections 2 and 2a of the Law and Section 310 of the Environmental Impact Fee Law is less than 5,000 gallons per year, then he or she must file returns and make payment of the tax imposed by Sections 2 and 2a of the Law and the fee imposed under Section 310 of the Environmental Impact Fee Law on an annual basis. The returns and payment of tax for a given year are due by January 20 of the following year. Original returns and payment of tax made under this subsection (c)(1) may be made electronically beginning January 1, 2016. Amended returns, however, may only be filed electronically for those periods, as provided in subsection (c)(1), for which original returns may be filed electronically. All other amended returns must be filed on a paper return.*
 - 2) *If a private biodiesel fuel producer's total gallonage that is taxable under Sections 2 and 2a of the Law and Section 310 of the Environmental Impact Fee Law is 5,000 or more gallons per year, then he or she must file returns and make payment of the tax imposed by Sections 2 and 2a of the Law and Section 310 of the Environmental Impact Fee Law on a monthly basis. The returns and payment of tax are due between the 1st and 20th days of each calendar month for the preceding calendar month. Original returns and payment of tax made under this subsection (c)(2) shall be made electronically beginning January 1, 2016. Amended returns, however, are required to be filed electronically for only those periods, as provided in this subsection (c)(2), for which original returns are*

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electronically required. All other amended returns must be filed on a paper return. However, upon petition by a taxpayer, the Department may waive the electronic filing and payment requirement if the taxpayer demonstrates that it does not have the ability to file electronically.

- 3) *Except for persons required to be licensed under Section 13a.4 of the Law, a person who is subject to the provisions of this subsection (c) is exempt from all bonding and licensure requirements otherwise imposed by the Law. Each person who is subject to the provisions of this Section must keep records as required by Section 12 of the Law.*

- 4) For purposes of this subsection (c):

"Biodiesel blend" has the meaning set forth under Section 3-42 of the Use Tax Act [35 ILCS 105/3-42].

"Biodiesel fuel" has the meaning set forth under Section 3-41 of the Use Tax Act [35 ILCS 105/3-41].

"Biomass materials" has the meaning set forth under Section 3-43 of the Use Tax Act [35 ILCS 105/3-43].

"Private biodiesel fuel producer" means a person whose only activities with respect to motor fuel are:

the conversion of any biomass materials into biodiesel fuel that is produced exclusively for personal use and not for sale; or

the blending of biodiesel fuel, resulting in biodiesel blends that is produced exclusively for personal use and not for sale (Section 2d of the Law).

- d) Magnetic Schedule Support Data. Beginning October 1, 1994 through December 31, 2015, data required by all support schedules for licensed distributors, suppliers, and receivers who are required to file a return must be filed using magnetic media. Schedule support data must be submitted on either 3½" diskette, 5¼" floppy disk, or 9" magnetic tape which is IBM or IBM compatible. For returns due on and after July 1, 2008, schedule support data must be submitted on either 3½" diskette, CDs in the Joliet format, or mainframe cartridges that are

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IBM or IBM compatible. Schedules that must be filed on magnetic media include Schedules A, SA, LA, E, SE, LE, GA-1, B, SB, LB, C, SC, LC, D, SD, DA, DB, DC, DD, DD-1, and LD. For returns due on and after July 1, 2008, Schedule M must also be filed on magnetic media. Schedules not required to be filed in this manner are Schedules F and J and, until returns due on and after July 1, 2008, Schedule M. Amended schedules must still be filed on Department forms or approved computer-generated forms. On and after January 1, 2016, all support schedules for original returns shall be filed electronically as required by 86 Ill. Adm. Code 760. Support schedules for amended returns are required to be filed electronically for only those periods, as provided in this subsection, for which support schedules are electronically required. Support schedules for all other amended returns must be filed on paper form.

- e) When returns are timely filed in the manner required by this Section and paid in full, a supplier, distributor or receiver may take a discount of 2% through June 30, 2003 and 1.75% thereafter of the tax collected to reimburse himself for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request. This discount is not permitted for motor fuels which are used or consumed by a supplier or distributor in his own vehicles or for any other purpose. The discount, however, shall be applicable only to the amount of payment which accompanies a return that is filed timely in accordance with Sections 2b, 5, or 5a of the Law and the provisions of this Section. Returns that are required to be filed electronically pursuant to this Section but are not filed electronically shall be considered nonfiled and the discount shall be disallowed.
- f) A person whose license to act as a supplier, distributor, or receiver of motor fuel has been revoked or cancelled shall make a return and payment to the Department covering the period from the date of the last return to the date of the revocation of the license, which return shall be delivered to the Department not later than 10 days from the date of the revocation or termination of the license. The return and payment of tax must be made electronically as provided in this Section. Any tax-free inventory remaining at the close of the reporting period must be paid in full.

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

Section 500.235 Claims for Refund of Taxes and Motor Fuel Use Tax Decal Fees – Invoices

- a) Claims for the refund of Motor Fuel Tax imposed by Section 2 of the Law, by

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persons other than a distributor or supplier, shall be made to the Department of Revenue, duly verified by the claimant, upon forms prescribed by the Department. On and after January 1, 2016, claims may be filed electronically in accordance with 86 Ill. Adm. Code 760. The Department of Revenue will not approve claims for refund of Motor Fuel Tax unless the claims can be directly supported by invoices, sales slips, statements of account, or monthly statements (herein referred to as "purchase documentation"). Reproductions may be submitted in lieu of originals, provided they are legible. However, the Department may require original purchase documentation to verify purchases. Purchase documentation may be electronically generated by the claimant's fuel supplier. Electronically generated purchase documentation shall meet all applicable electronic storage requirements of Sections 130.805 and 130.825 of the Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130). Manifests will not be treated as purchase documentation.

- b) All purchase documentation must contain the following information:
- 1) Date of delivery;
 - 2) name and address of purchaser (which must be the name of the claimant);
 - 3) name and address of seller;
 - 4) number of gallons purchased and price per gallon;
 - 5) Illinois Motor Fuel Tax as separate item if the purchase documentation is from other than a retail outlet;
 - 6) receipt of payment. (Only paid purchase documentation is acceptable in connection with claims for refund.) Refunds will only be issued when payment of tax is exactly correlated to the purchase documentation for which the claim is being filed; and
 - 7) *persons making claims based upon the loss of motor fuel due to fire or theft must include fire department or police department reports with their claim.* (Section 13 of the Law) Failure to include these reports will result in automatic denial of the claim.
- c) Claimants must retain purchase documentation in conjunction with claims based

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upon motor fuel used for a nontaxable purpose. In making a claim, claimants must show total purchases, deducting the gallonage used upon public highways or waters, the difference being the net amount upon which the claim is based. Claimants must retain among their books and records documentation of all purchases, payments, bulk storage withdrawals and proof of usage for a period equivalent to that during which an assessment can be issued under the Law, from the date of issuance of the claim or refund. This information must be made available to Department employees upon request. Failure to keep or provide the records will result in denial of claims and recovery of any claims paid. In addition, the Department may recover any claims erroneously paid.

- d) When the claimant has lost purchase documentation through inadvertence or an act of God, the Department will permit the claimant to submit an affidavit in lieu of purchase documentation in support of the claim, if the affidavit contains the same information that the purchase documentation was required to contain, plus a statement of facts explaining the loss of the purchase documentation and justifying the substitution of an affidavit for the purchase documentation.
- e) Claims for reimbursement for taxes paid must be filed not later than 2 years after the date on which the tax was paid by the claimant.
- f) Claims accompanied by purchase documentation that demonstrates evidence of change of name, date or gallonage or other evidence of fraud, or that is illegible, will be disallowed in their entirety.
- g) *Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and repaid the amount of Illinois tax paid on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes directly paid to another state and the amount of motor fuel used in that state. Evidence supporting the claim must include both a certified copy of the tax return filed with such other state by the claimant and a copy of either the cancelled check paying the tax due on such return, or a receipt acknowledging payment of the tax due on such tax return. The provisions of this subsection (g) shall not apply to taxes paid on returns under Section 13a.3 of the Law. (Section 13 of the Law)*
- h) *Claims for refunds for the motor fuel tax imposed by Section 2 of the Law approved by the Department shall be paid within 90 days after receipt of a*

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complete and correct application for such a refund. If refunds are paid after the expiration of the 90 day period, the Department shall also pay from the Motor Fuel Tax Fund to the taxpayer interest at the rate and in the manner set by the Uniform Penalty and Interest Act [35 ILCS 753]. (Section 15.1 of the Law) Refunds paid after the expiration of the 90 day period shall bear interest from the date that a properly completed claim for refund was filed with the Department.

- i) The Department will approve claims for refund only when the claims are based upon a showing that the motor fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When the claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims that can be supported by proof of the amount of motor fuel not used for a taxable purpose will be approved.
- j) *No claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:*
 - 1) *Undyed diesel fuel used: in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*
 - 2) *Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.*
 - 3) *Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*
 - 4) *Undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100 of this Part, for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be*

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limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used. For instance, the claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and also on landfills in landfill operations. This subsection (j)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection (j)(7).

- 5) *Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*
- 6) *Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.*
- 7) *Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law. Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amount of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Approved studies shall be valid for 2 years after the date of approval. However, upon petition of a taxpayer, the Department may approve an extension of a previously approved study for no more than 2 years. No study may be relied upon for a total of more than 4 years.*
- 8) Claims for taxes paid on and after January 1, 2001 are not authorized for commercial vehicles unless the commercial vehicle falls within the definition of a "commercial motor vehicle", as provided in Section 500.100 of this Part and the claim is eligible for refund under subsection (j)(4), or the claim is eligible for refund under any of the other provisions of this subsection (j).
- 9) *Beginning on August 22, 2005, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport*

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property. Any claim under this subsection (j)(9)(9) may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of all credits or refunds resulting from claims filed under this subsection (j)(9)(9) by a claimant in any calendar year may not exceed \$100,000. A claim may not be made under this subsection (j)(9)(9) by the same claimant more often than once each quarter. For purposes of this subsection (j)(9)(9), "tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and airport property that shifts trailers containing parcels between staging areas and loading docks. (Section 13 of the Law)

- k) *Effective July 1, 2001, any person who has paid the tax imposed by Section 2 of the Law upon undyed diesel fuel that is unintentionally mixed with dyed diesel fuel and who owns or controls the mixture of undyed diesel fuel and dyed diesel fuel may file a claim for refund to recover the amount paid. The amount of undyed diesel fuel unintentionally mixed must equal 500 gallons or more. Any claim for refund of unintentionally mixed undyed diesel fuel and dyed diesel fuel shall be supported by documentation showing the date and location of the unintentional mixing, the number of gallons involved, the disposition of the mixed diesel fuel, and any other information that the Department may reasonably require. Any unintentional mixture of undyed diesel fuel and dyed diesel fuel shall be sold or used only for nonhighway purposes. (Section 13 of the Law)*
- l) *Any person who purchases motor fuel use tax decals as required by Section 13a.4 of the Law and pays an amount of fees for such decals that exceeds the amount due shall be reimbursed and repaid the amount of the decal fees that are deemed by the Department to be in excess of the amount due. Claims for reimbursement of decal fees are subject to the following procedures and restrictions:*
- 1) *Claims for reimbursement shall be made electronically upon forms prescribed by the Department and be duly verified by the claimant (or by the claimant's legal representative if the claimant has died or become a person under legal disability);*
 - 2) *Claims shall state facts relating to the overpayment of decal fees;*

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- 3) *Claims for reimbursement of overpayment of decal fees paid on or after January 1, 2011 must be filed not later than one year after the date on which the fees were paid by the claimant;*
- 4) *If it is determined that the Department should reimburse a claimant for overpayment of decal fees, the Department shall first apply the amount of such refund against any tax or penalty or interest due by the claimant under Section 13a of the Law. (Section 13 of the Law)*

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

Section 500.265 Distributors' and Suppliers' Claims for Credit or Refund

- a) Filing of Claims. Any distributor or supplier who shall have paid Motor Fuel Tax upon motor fuel used by the distributor or supplier for any purpose other than operating a motor vehicle upon the public highways or waters, may file a claim for credit or refund to recover the amount so paid. The claims shall be filed on forms prescribed by the Department. On and after January 1, 2016, claims are required to be filed electronically in accordance with 86 Ill. Adm. Code 760 only for periods for which an original return is required to be filed electronically. All other claims must be filed on paper forms. The claims shall be made to the Department, duly verified by the claimant (or by the claimant's legal representative if the claimant shall have died or become a person under legal disability). The claim shall state such facts relating to the purchase, importation, manufacture or production of the motor fuel by the claimant as the Department may deem necessary and shall state when the nontaxable use occurred and shall specify the purpose for which the motor fuel was used by the claimant, together with such other information as the Department may reasonably require. Claims for credit or refund for tax paid on motor fuel purchased on or after July 1, 1965, must be filed not later than one year after the date on which tax was paid by the claimant. In case the distributor or supplier requests and the Department determines that the claimant is entitled to a refund, the refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by the appropriation to elect to receive a cash refund, the Department shall provide for the payment of refunds in hardship cases as provided in 86 Ill. Adm. Code 130.1510.
- b) The Department will approve claims for refund only when the claims are based

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upon a showing that the motor fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When the claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims that can be supported by proof of the amount of motor fuel not used for a taxable purpose will be approved.

- c) *For claims based upon taxes paid on or after January 1, 2001, no claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:*
- 1) *Undyed diesel fuel used: in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*
 - 2) *Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.*
 - 3) *Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*
 - 4) *Undyed diesel fuel used by a commercial motor vehicle for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used. For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and on landfills in landfill operations. This subsection (c)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is*

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described in subsection (c)(7).

- 5) *Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*
- 6) *Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units. Claims may be made for 100% of the fuel consumed by the refrigeration units.*
- 7) *Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law. (Section 13 of the Law) Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amounts of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Approved studies shall be valid for 2 years after the date of approval. However, upon petition of a taxpayer, the Department may approve an extension of a previously approved study for no more than 2 years. No study may be relied upon for a total of more than 4 years.*
- 8) *Beginning on August 22, 2005, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport property. Any claim under this subsection (c)(8) may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of all credits or refunds resulting from claims filed under this subsection (c)(8) by a claimant in any calendar year may not exceed \$100,000. A claim may not be made under this subsection (c)(8) by the same claimant more often than once each quarter. For purposes of this subsection (c)(8), "tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and airport property that shifts trailers containing parcels between staging areas and loading docks. (Section 13 of the Law)*

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- 9) Claims for taxes paid on and after January 1, 2001 are not authorized for commercial vehicles unless the commercial vehicle falls within the definition of a "commercial motor vehicle" as provided in Section 500.100 of this Part and the claim is eligible for refund under subsection (c)(4), or the claim is eligible for refund under any of the other provisions of this subsection (c).
- 10) Claims for taxes paid on and after January 1, 2001 are not authorized for undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property, unless the vehicles are eligible for refund under any of the provisions of this subsection (c).
- d) *Effective July 1, 2001, any person who has paid the tax imposed by Section 2 of the Law upon undyed diesel fuel that is unintentionally mixed with dyed diesel fuel and who owns or controls the mixture of undyed diesel fuel and dyed diesel fuel may file a claim for refund to recover the amount paid. The amount of undyed diesel fuel unintentionally mixed must equal 500 gallons or more. Any claim for refund of unintentionally mixed undyed diesel fuel and dyed diesel fuel shall be supported by documentation showing the date and location of the unintentional mixing, the number of gallons involved, the disposition of the mixed diesel fuel, and any other information that the Department may reasonably require. Any unintentional mixture of undyed diesel fuel and dyed diesel fuel shall be sold or used only for nonhighway purposes. (Section 13 of the Law)*
- e) Issuance of Credit Memoranda – Use Thereof to Satisfy Prior Rights of Department. The Department may make such investigation of the correctness of the facts stated in the claims for credit or refund as it deems necessary. When the Department approves a claim for credit or refund the Department shall issue a refund or credit memorandum to the distributor or supplier who made the payment for which the refund or credit is being given or, in the event that the distributors or suppliers shall have died or become incompetent, to the distributor's or supplier's legal representative, as such. The amount of the refund or credit memorandum shall first be credited against any tax due or to become due under the Law from the distributor or supplier who made the payment for which credit has been given. This means that if there is an established or admitted unpaid Motor Fuel Tax liability on the part of the claimant, the amount of the credit or refund will be credited against the tax that is due. If the credit or refund is in an amount less than that of the unpaid liability, the credit or refund shall be applied against the liability. If the amount of the credit or refund exceeds that of

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the unpaid liability, after crediting an amount sufficient to liquidate or cancel out the unpaid liability, the Department will issue a new credit memorandum or refund representing the difference between that of the original credit or refund found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum or refund will be delivered to the person entitled to receive the delivery, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Law. If a proceeding to establish such an unpaid liability is pending, the credit memorandum or refund will be held by the Department until the proceeding is concluded; and if the proceeding results in a determination that Motor Fuel Tax is due from the claimant, the credit memorandum or refund will be applied by the Department, to the extent that may be necessary, in liquidation of the liability, and the balance of the credit memorandum or refund, if any (after cancellation of the credit memorandum or refund applied in liquidation of said liability), will be issued in the form of a new credit memorandum or refund and delivered to the person entitled to receive the delivery.

- f) Disposition of Credit Memoranda by Holder Thereof
- 1) Assignment of Credit Memoranda. Credit memoranda may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:
 - A) That the assignment is made to a person who is licensed as a distributor of motor fuel or a supplier of special fuel under the Law;
 - B) that there is no proceeding pending to establish an unpaid Motor Fuel Tax liability against the assignor; and
 - C) that there is no established or admitted unpaid Motor Fuel Tax liability against the assignor; provided, that if the amount of the credit memorandum must first be applied, in whole or in part, against an unpaid liability of the claimant-assignor, notice to this effect will be given the claimant-assignor by the Department. If any balance is due the claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, the balance may be assigned upon receipt by the Department of

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instructions to that effect. If there is no unpaid liability and no proceedings pending to determine a liability as aforesaid, and if the assignee is a licensed distributor of motor fuel, the request for leave to assign will be approved. The original credit memorandum will be cancelled, and a new credit memorandum will be issued to the assignee in the amount shown on the cancelled memorandum. However, before a credit memorandum is issued to the assignee, the amount of the credit will be applied, to the extent that may be necessary, in liquidation of any unpaid Motor Fuel Tax liability of the assignee, and a credit memorandum for the balance, if any, will be issued to the assignee, provided that there is no proceeding pending against the assignee to establish an unpaid Motor Fuel Tax liability against him or her. If a proceeding to establish such an unpaid liability is pending, the credit memorandum will be held by the Department until the proceeding is concluded; and if the proceeding results in a determination that Motor Fuel Tax is due from the assignee, the credit will be applied by the Department, to the extent that may be necessary in liquidation of the liability, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of said liability), will be issued in the form of a new credit memorandum and delivered to the person entitled to receive the delivery.

- 2) Submission of Credit Memoranda With Monthly Returns. Credit memoranda, in the hands either of the original claimant or of his or her assignee, may be submitted to the Department, along with monthly tax returns, in payment of Motor Fuel Tax due from the holder of the credit memoranda. If, after applying any such credit memorandum against the amount of tax shown to be due by the tax return with which the credit memorandum is submitted, the Department finds that there is a balance of the credit memorandum in favor of the distributor or supplier submitting the credit memorandum, the Department will cancel the credit memorandum that has been submitted and will issue and deliver to the distributor or supplier a new credit memorandum for the balance. This process will be followed until the credit, to which the distributor or supplier is entitled, is exhausted. However, any new credit memorandum, which is issued as provided in this subsection (f)(2) for a balance of credit due the distributor or supplier after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights

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of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see subsection (e) of this Section) or when leave to assign a credit memorandum is requested (see subsection (f)(1) of this Section).

- g) Refunds to Distributors and Suppliers. If any distributor or supplier ceases to be licensed as a distributor or supplier while still holding an unused credit memorandum, the distributor or supplier may, at his or her election (instead of assigning the credit memorandum to another licensed distributor or supplier under the Law), surrender the unused credit memorandum to the Department and receive a refund in lieu of the credit.
- h) *Claims filed under this Section for overpayment of the Motor Fuel Tax imposed by Section 2 of the Law shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act. Claims made under this Section that are based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters shall be paid within 90 days after receipt of a complete and correct application for credit. If credits based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters are issued after expiration of the 90 day period, the Department shall include interest at the rate and in the manner set by the Uniform Penalty and Interest Act [35 ILCS 735]. (Section 13 of the Law) Refunds paid after the expiration of the 90 day period shall bear interest from the date that a properly completed claim for refund was filed with the Department.*

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

Section 500.270 Receivers' Claims for Credit

Any receiver who has paid the tax imposed by Section 2a of the Motor Fuel Tax Law (either directly to the Department or to another licensed receiver) upon fuel exported or sold under the exemptions provided in Section 2a may file a claim for credit to recover the amount so paid. Such claims shall be made to the Department, duly verified by the claimant (or by the claimant's legal representative if the claimant has died or become a person under legal disability), upon forms prescribed by the Department. The claim shall state such facts relating to the purchase, importation, manufacture, production, export, or sale of the fuel by the claimant as the Department may deem necessary together with such other information as the Department may reasonably require. The Department may make such investigation of the correctness of the facts stated in such claims as it deems necessary. When the Department

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approves a claim, the Department shall issue a credit memorandum to the receiver who made the payment for which the credit is being given or, if the receiver has died or become incompetent, to such receiver's legal representative. The amount of such credit memorandum shall be credited against any tax due or to become due under this Act from the receiver who made the payment for which credit has been given. (Section 13a.8 of the Law) Claims filed under this Section for overpayment of the tax imposed by Section 2a of the Law approved by the Department shall bear interest at the rate and in the manner set by the Uniform Penalty and Interest Act. On and after January 1, 2016, claims are required to be filed electronically in accordance with 86 Ill. Adm. Code 760 only for periods for which an original return is required to be filed electronically. All other claims must be filed on paper forms.

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

SUBPART C: MOTOR FUEL USE TAX

Section 500.305 Licenses and Decals

- a) Applications for motor fuel use tax licenses and decals shall be made under oath and on forms provided by the Department. On and after October 1, 2012, all applications shall be filed electronically. Information provided to the Department shall include:
- 1) a carrier's Federal Employer Identification Number (in the case of a sole proprietorship, the Social Security number of the owner), and the United States Department of Transportation (USDOT) numbers issued to the applicant;
 - 2) owner, partnership or corporate name;
 - 3) name, title and social security number of all officers, partners or owners;
 - 4) legal business name (if different from subsection (a)(2));
 - 5) physical location of the business;
 - 6) mailing address of the business;
 - 7) signature of the applicant. All applications must be signed by an officer, partner, or owner of the entity seeking licensure who has the control,

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supervision or responsibility of filing returns and making payment of the tax. Applications filed electronically must contain electronic signatures and meet all requirements and procedures outlined in the Department's regulation governing electronic signatures (see 86 Ill. Adm. Code 760.230);

- 8) type of fuel used by applicant;
 - 9) number of decals required by the licensee;
 - 10) decal fee. On and after October 1, 2012, decal fees must be paid electronically by ACH debit in accordance with regulations at 86 Ill. Adm. Code 750 (for claims for reimbursement of overpayment of decal fees, see Section 500.235);
 - 11) for IFTA applicants, a statement of the existence of bulk storage facilities in any member jurisdictions;
 - 12) a statement that the applicant agrees to comply with reporting, payment, recordkeeping, and license display requirements, and all applicable regulations. IFTA applicants must agree that the base jurisdiction may withhold any refunds due if the applicant is delinquent on payment of motor fuel use taxes due any member jurisdiction or taxes owed to the Department; and
 - 13) Such other information as the Department deems necessary.
- b) Bonds are not required for first-time applicants. However, bond may be required for just cause, as determined by the Department. Bonds may be required when a licensee fails to file timely reports, when he or she fails to remit the proper tax, when the Department has twice received a Non-Sufficient Funds [Electronic Payment](#)~~check as payment~~, or when an audit indicates problems severe enough that, in the Director's discretion, a bond is required to protect the interests of the Department. If a bond is required, it shall be equal to at least twice the estimated average quarterly tax liability. The average tax liability upon which the bond is based shall be determined by taking into consideration the amount of motor fuel expected to be used in all jurisdictions by the applicant. *The penalty fixed by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount hereinafter provided on motor fuel used*

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(Section 13a.4 of the Law).

- c) *Neither a license or decals shall be issued to any person who fails to file a return, or to pay the tax, penalty or interest for a filed return, or to pay any final assessment of tax, penalty or interest, as required by the Law, or as required by any other tax Act administered by the Department [20 ILCS 2505/39b47].*
- ~~d) *Persons required to file bonds with the Department must make payments by certified check.*~~
- de) Upon receipt of a complete application for a license and decals, including payment for decals, any required reinstatement fees and provision of an approved bond, if applicable, the Department will issue each applicant one license. In addition to the license, a minimum of two decals per commercial motor vehicle will also be issued. A license and decals will only be sent to the licensee. A license and decals are valid for a period of one calendar year.

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

Section 500.310 Display of License and Decals

- a) Motor fuel use tax licenses, or copies of the licenses, shall be carried in the cab of each commercial motor vehicle operating in Illinois. Failure to carry a copy of the license in the commercial motor vehicle may subject the operator to the purchase of a single trip permit and/or a citation.
- b) The Department will not issue multiple licenses to an applicant. If the applicant requires multiple licenses, he or she may make legible copies of his or her license and carry them in his or her vehicles.
- c) One decal must be placed on the exterior portion of each side of the cab of the commercial motor vehicle. In the case of transporters, manufacturers, dealers, or driveaway operations, the decals need not be permanently affixed, but may be temporarily displayed in a visible manner on both sides of the cab. Failure to display decals in the required manner may subject the vehicle operator to the purchase of a single trip permit and/or a citation.
- d) Decals are not vehicle specific. Licensees may purchase additional decals at a cost of \$3.75 per set throughout the license year. If decals are destroyed, lost or stolen,

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replacements may be obtained from the Department at a cost of \$2 per set. Licensees shall provide the Department with the serial number of the decals being replaced under this subsection (d).

- e) Decals are valid only for the vehicle of the person to whom they are issued. The transfer of decals between commercial motor vehicles or from one motor carrier to another is prohibited.
- f) Provided that a renewal application for a license and decals has been submitted to the Department or to another base jurisdiction on or before December 31 of each year, all~~all~~ IFTA carriers shall be allowed a two-month grace period to display the current year IFTA license and decals. They may display a decal and license from the previous year issued by any member jurisdiction until March 1. IFTA carriers that have not submitted timely renewal applications are not eligible for the grace period and will be subject to all civil and criminal penalties applicable to persons operating in Illinois without a valid license and decals. Carriers from new member jurisdictions shall be allowed a two-month grace period from the date of the new member's IFTA program implementation to display the IFTA license and decals. However, to operate in Illinois, these carriers must either display a decal and license issued by Illinois for the previous year, a single trip permit, or the current year IFTA license issued by their base state.

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

Section 500.315 Renewal of Decals and Licenses

- a) Motor fuel use tax licenses and decals expire December 31 and must be renewed annually ~~on forms provided by the Department~~. On and after October 1, 2012, all licenses and decals must be renewed electronically.
- b) The Department may deny a renewal application if the applicant's decal or license is currently revoked or the applicant has failed to file a return or pay any outstanding motor fuel use tax liabilities or other liabilities owed to the Department, or has failed to comply with a request for bond.
- c) Failure to submit a renewal application on or before December 31 will result in designation of the licensee's account as "suspended". Accounts that have not been renewed shall be designated as suspended. A licensee with a suspended license may renew his or her license, provided that he or she meets all other provisions of

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the Law. A person found operating on the roads with a license that carries a "suspended" designation shall be considered to be operating without proper credentials and is subject to all applicable civil and criminal penalties.

- de) The Department shall provide renewal reminders as a courtesy to all currently registered licensees in good standing. The Department may provide this notice by posting a general renewal reminder on its internet website or by other electronic notification methods.

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

Section 500.335 Quarterly Payment and Reporting

- a) Every person holding a valid unrevoked motor fuel use tax license issued by the Department under the provisions of the IFTA shall file a quarterly motor fuel use tax return, along with full payment of taxes, with the Department. Returns are due, even if no operations were conducted during the reporting period. The due date for the return and full payment of taxes is the last day of the month immediately following the close of the quarter for which the return is being filed. Returns and full payment of taxes are due on or before the following dates:

Reporting Quarter	Due Date
January - March	April 30
April - June	July 31
July - September	October 31
October - December	January 31

If the due date is a Saturday, Sunday, or legal holiday, the next business day is considered the due date. Each motor fuel use tax return should be mailed in a separate envelope. On and after January 1, 2013, returns and payment of tax, including amended returns, must be made electronically. Electronic returns shall be made in accordance with 86 Ill. Adm. Code 760. Electronic payments shall be made by ACH debit in accordance with 86 Ill. Adm. Code 750.

- b) The taxable event is the consumption of motor fuel, as defined in Section 500.100 of this Part, used to operate commercial motor vehicles. For tax payment and reporting purposes, all motor fuels placed in supply tanks of commercial motor vehicles, and all miles travelled, are taxable. Carriers must utilize the procedures

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in Section 500.235 for refunds for off-road or non-highway use.

- c) For IFTA licensees: The IFTA provides that member jurisdictions may determine what type of motor fuels and miles travelled are exempt from tax, and are therefore not reportable. Carriers should contact member jurisdictions to determine what types of fuel and miles travelled are exempt from taxation. For IFTA carriers, claims for refunds for fuel used for any purpose other than propelling a commercial motor vehicle upon public highways must be made directly to the respective jurisdiction.
- d) The quarterly return shall include a statement of the total number of miles travelled, as well as total miles travelled in each jurisdiction and in Illinois during the previous calendar quarter; the total number of gallons and type of reportable motor fuel consumed on the highways of all jurisdictions, as well as in each jurisdiction and in Illinois, and the total number of gallons and types of tax paid fuel purchased within each jurisdiction during the previous calendar quarter; and the total (net) of tax due the base jurisdiction on behalf of all jurisdictions. Licensees shall report all required information, and may not include miles operated and gallons of fuel purchased that were unavailable during any prior quarters. If a licensee does not include all required information, and that information is subsequently available, he or she must file an amended return, which will include penalty and interest.
- e) Fuel and distance must be reported in gallons and miles. The conversion rates are:
- | | | |
|---------------|---|-------------------|
| One liter | = | 0.2642 gallons |
| One gallon | = | 3.785 liters |
| One mile | = | 1.6093 kilometers |
| One kilometer | = | 0.62137 mile |
- f) For carriers registered under the IFTA that consume compressed natural gas and other fuels that cannot be measured in gallons, the fuels must be converted to gallons using the conversion factor used by the jurisdiction in which the fuel was consumed. See Section 500.200(c) for the conversion factor used for compressed natural gas.
- g) In order for a licensee to obtain credit for tax-paid retail purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained by the licensee showing evidence of the purchases and tax

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having been paid by the licensee directly to the applicable jurisdiction or at the pump. The receipt must contain the following information:

- 1) date of purchase;
 - 2) seller's name and address;
 - 3) number of gallons purchased;
 - 4) fuel type;
 - 5) price per gallon or total amount of sale;
 - 6) unit numbers; and
 - 7) purchaser's name (in the case of a lessee/lessor agreement, receipts will be accepted in either name, provided a legal connection can be made to reporting party).
- h) In the case of withdrawals from licensee-owned, tax-paid bulk storage, credit may be obtained only if the following records are maintained:
- 1) date of withdrawal;
 - 2) number of gallons;
 - 3) fuel type;
 - 4) unit number (upon application by a licensee, the Department may waive the requirement of unit numbers for fuel withdrawn from the licensee's own bulk storage and placed in its commercial motor vehicles. The licensee must show that adequate records are maintained to distinguish fuel placed in commercial vs. non-commercial motor vehicles for all member jurisdictions); and
 - 5) purchase and inventory records to substantiate that tax was paid on all bulk purchases.
- i) Carriers registered under the IFTA must pay all taxes due to all member

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jurisdictions with one ~~payment made check, to be made payable~~ to the Department. ~~Payment by certified check is required of licensees who are required to post a bond.~~ On and after January 1, 2013, payment shall be made electronically by ACH debit in accordance with 86 Ill. Adm. Code 750.

- j) Through December 31, 2012, returns shall be filed on forms provided by the Department. ~~However, with written approval from the Department, a licensee may submit a computer generated tax return instead of the Department supplied return. Computer generated tax returns will be approved only if they contain all the same information, are in the same format and are on the same size paper, as the Department's return.~~ On and after January 1, 2013, returns shall be filed electronically in accordance with 86 Ill. Adm. Code 760.
- k) If a licensee uses a reporting service for his or her motor fuel use taxes, the licensee must maintain a power of attorney in its books and records. Use of a power of attorney does not relieve the licensee of the legal obligations associated with the license. The licensee is responsible for the payment of taxes as well as all acts and omissions of the reporting service. ~~Decals~~ ~~Decal~~ and ~~licenses~~ ~~renewal applications~~ will always be ~~delivered~~ ~~mailed~~ directly to the licensee.
- l) Reports not filed or full payment of taxes not made by the due date shall be considered late and any taxes due considered delinquent. The licensee shall be assessed a penalty of \$50 or 10 percent of the delinquent taxes, whichever is greater, for failure to file a report, for filing a late report, or for underpayment of taxes due. For reasonable cause shown, the Department may waive a penalty. For a fleet based in a U.S. jurisdiction, interest shall be set at an annual rate of 2 percentage points above the underpayment rate established under section 6621 (a)(2) of the Internal Revenue Code, adjusted on an annual basis on January 1 of each year. Interest shall accrue at 1/12 of this annual rate until liability is paid. The Department shall publish the interest rate by January 1 of each year on its website. ~~Tax shall bear interest at the rate of 1 percent per month or fraction of month until paid. For reasonable cause shown, the Department may waive a penalty.~~ For IFTA licensees, the Department may waive interest for another jurisdiction only with that jurisdiction's approval.

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

Section 500.350 Revocation

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- a) The Department may revoke the motor fuel use tax license of a carrier registered under the IFTA program for violation of any provision of the Law or any rules promulgated thereunder. Causes for revocation include, but are not limited to, failure to file a quarterly tax return or to remit all taxes due, or improper use of decals.
- b) The Department shall send the licensee a written notice of its decision to revoke a license. Unless the licensee timely protests the Department's determination as provided for in Section 500.355, the revocation is final.
- c) A licensee whose license has been revoked may have that license reinstated if the condition which caused revocation is remedied. The carrier must pay a \$100 reinstatement fee and file a new application for a license and decals. A carrier~~Carriers~~ whose license has been revoked and then reinstated may~~will~~ be required to post a bond in accordance with ~~the provisions of~~ Section 500.305.

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

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section 500.405 Due Date That Falls on Saturday, Sunday or a Holiday

If the due date for any return, report, payment, statement or other document required or authorized to be filed with the Department falls on Saturday, Sunday or a holiday as defined or fixed in any statute now or hereafter in force in this State, such due date shall be considered to be the next business day either for the purpose of submitting such return or other report or payment by U.S. Mail~~United States mail~~ or for the purpose of submitting such return or other report by any means other than the U.S. Mail~~United States mail~~. For rules governing due dates of returns, reports, payments, statements or other documents required or authorized to be filed electronically, see 86 Ill. Adm. Code 760.240.

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

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers: Proposed Actions:
 1030.1 Amendment
 1030.16 Amendment
 1030.150 New Section
- 4) Statutory Authority: 625 ILCS 5/6-110(e-3) & (e-5) and 625 ILCS 5/6-903(b)(4)
- 5) A Complete Description of the Subjects and Issues Involved: The amendment to 1030.1 amends the definition of unfavorable medical report to include vision conditions. In 1030.16, we are correcting a typographical error in paragraph (g). The addition of Section 1030.150 codifies the process to be used when issuing a driver's license or identification card bearing a "Veteran" designation.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
1030.1	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.5	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.22	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.60	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.65	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.80	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.81	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.82	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.83	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.85	Amendment	39 Ill. Reg. 4193; March 27, 2015

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1030.86	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.92	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.94	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.98	Amendment	39 Ill. Reg. 4193; March 27, 2015
1030.APPENDIX B	Amendment	39 Ill. Reg. 4193; March 27, 2015

- 11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:
- Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723
- 217/557-4462
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: For Section 1030.1, medical practices including ophthalmologists and optometrists.
- B) Reporting, bookkeeping or other procedures required for compliance: For Section 1030.1, submission of medical reports.
- C) Types of professional skills necessary for compliance: For Section 1030.1, licensed as a M.D. or D.O.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License (Renumbered)
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.22	Medical Examiner's Certificate – CDL Holders
1030.25	Safe Driver License Renewals
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
1030.66	Adult Driver Education
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements

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- 1030.82 Charter Bus Driver Endorsement Requirements
- 1030.83 Hazardous Material Endorsement
- 1030.84 Vehicle Inspection
- 1030.85 Driver's License Testing/Road Test
- 1030.86 Multiple Attempts – Written and/or Road Tests
- 1030.88 Exemption of Facility Administered Road Test
- 1030.89 Temporary Driver's Licenses and Temporary Instruction Permits
- 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
- 1030.91 Person with a Disability Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Endorsement or Instruction Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- [1030.150 Veteran Designation on Driver's License or Identification Card](#)

- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit
- 1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

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SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4,

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2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014;

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amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective October 1, 2014; amended at 39 Ill. Reg. 1182, effective January 5, 2015; amended at 39 Ill. Reg. 5083, effective March 23, 2015; amended at 39 Ill. Reg. 8028, effective May 21, 2015; amended at 39 Ill. Reg. _____, effective _____.

Section 1030.1 Definitions

Unless otherwise noted, the following definitions shall apply to this Part.

"Acceptable Medical Certificate" – a current medical examiner's certificate that has been completed in its entirety and does not require additional information.

"Adjudication of Disability" – an order by a court of competent jurisdiction declaring a person, unable to fully manage his/her person and/or estate because of mental deterioration or physical incapacity, or mental illness or developmental disability, pursuant to Sections 11a-1, 11a-2 and 11a-3 of the Probate Act of 1975 [755 ILCS 5/11a-1, 11a-2 and 11a-3].

"Adult Driver Education Course" – six hour classroom or online course of driver education for persons age 18, 19 or 20, offered by an adult driver education course provider.

"Adult Driver Education Course Provider" or "Provider" – an entity certified by the Secretary of State to provide an adult driver education course, either in a classroom setting or online.

"Agri-Chemical Business" – any individual, partnership, corporation or association engaged in a business operation for the purpose of selling or distributing agricultural pesticides and/or fertilizers or providing the service of application of these substances in this State.

"Applicant" – a person applying for an Illinois driver's license, permit or identification card.

"Approved Driver Education Course" –

a course of driver education approved by the State Board of Education, offered by public or private schools maintaining grades 9 through 12, and

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meeting at least the minimum requirements of the Driver Education Act [105 ILCS 5/27-24 through 27-24.8]; or

a course of driver education offered by a school licensed to give driver education instructions under the Vehicle Code that meets at least the minimum educational requirements of the Driver Education Act and is approved by the State Board of Education; or

any course of driver education given at a Department of Defense Education Activity school that is approved by the Department of Defense Education Activity and taught by an adult driver education instructor or traffic safety officer; or

a course of driver education given in another state to an Illinois resident attending school in that state and approved by the state administrator of the driver education program of the other state [625 ILCS 5/1-103].

"Armed Forces" – the United States Army, Navy, Air Force, Marine Corps or Coast Guard; Illinois National Guard; service in the Merchant Marine that constitutes active duty under Section 401 of the Federal Public Law 95-202 (38 USC 106) shall also be considered service in the Armed Forces of the United States.

"Authorized Secretary of State Employee" – a Secretary of State employee with a supervisory position.

"Authorized Source" –

competent medical specialist

law enforcement official

member of the judiciary

Member of the Board

National Driver Register

authorized Secretary of State employee

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employee of the U.S. Department of Transportation, Office of Motor Carriers

motor vehicle departments of foreign states

driver rehabilitation specialist

problem driver pointer system

"Binocular Visual Acuity" – a visual reading obtained utilizing both eyes at the same time.

"Branch Facility" – a separate training/testing facility operated and directly supervised by a third-party certifying entity at a location different from the principal location of the third-party certifying entity.

"Business Day" – any day on which the Office of the Secretary of State is open; generally, Monday through Saturday, excluding State holidays.

"CDL Skills Test" – a test given to an applicant who is attempting to obtain a Commercial Driver's License (CDL).

"CDLIS Driver Record" – the electronic record of the individual CDL driver's status and history stored by the State-of-Record as part of the Commercial Driver's License Information System, or CDLIS, established under 49 USC 31309. [625 ILCS 5/6-500(5.3)]

"CDLIS Motor Vehicle Record" or "CDLIS MVR" – a report generated from the CDLIS driver record meeting the requirements for access to CDLIS information and provided by states to users authorized in 49 CFR 384.225(e)(3) and (4) (2011), subject to the provisions of the Driver Privacy Protection Act (18 USC 2721-2725). [625 ILCS 5/6-500(5.5)]

"Commercial Driver's License Downgrade" – a state:

allows the driver to change his or her self certification to interstate, but operating exclusively in transportation or operation excepted from 49

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CFR 391 (2011), as provided in 49 CFR 390.3(f), 391.2, 391.68 or 398.3 (2011);

allows the driver to change his or her self-certification to intrastate only, if the driver qualifies under that state's physical qualification requirements for intrastate only;

allows the driver to change his or her self-certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver qualification requirements; or

removes the CDL privilege from the driver's license. [625 ILCS 5/6-500(5.7)]

"Cancellation" – the annulment or termination by formal action of the Secretary of a person's driver's license or permit because of some error or defect in the license or because the licensee is no longer entitled to such license or permit, but, with the exception of Sections 6-107, 6-108 and 6-201, the cancellation of a license or permit is without prejudice and application for a new license or permit may be made at any time after such cancellation [625 ILCS 5/1-110 and 5/6-206(c)(3) and 6-201].

"Central Issuance" – the process of printing and mailing a driver's license to an applicant from a secure central production facility.

"Certificate of Completion" – a certificate of completion issued by the Office of the Secretary of State if the student has successfully completed his/her driver education course at an approved commercial driver training school as provided in IVC Chapter 6, Art. IV and 92 Ill. Adm. Code 1060.

"Charter Bus Driver Endorsement" – an indicator on the driver's license that the driver is qualified to transport a group of persons with a common purpose, under a single contract at a fixed rate for their exclusive use of that motor vehicle.

"Cheating on Written Tests" – the receipt or use of unauthorized assistance in the taking of any portion of a written test. This includes, but is not limited to, the use of any notes, books or written information.

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"Cited Driver" – a driver who has been requested by the Secretary of State to appear for re-test.

"Classification" – a designation as to the kind and type of vehicle a driver is entitled to operate, as outlined in Sections 1030.30 and 1030.40.

"Classroom Instruction" – the part of an approved driver education course consisting of learning experiences in the classroom. This instruction must be of the type to satisfy the 30 clock hours of instruction specified in Section 27-23 of the School Code [105 ILCS 5/27-23].

"Cleared Miscellaneous Suspension" – a suspension for safety responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew, mandatory conviction, tollway, family financial responsibility, automated traffic law violation, nighttime driving restriction, or unsatisfied judgment.

"Commercial Driver's License" or "CDL" – *a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR 383, to an individual, that authorizes the individual to operate a certain class of commercial motor vehicle* [625 ILCS 5/1-111.6].

"Commercial Driver's License Information System" or "CDLIS" – the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial Driver Instruction Permit" or "CIP" – a permit issued pursuant to IVC Section 6-508.

"Commercial Motor Vehicle" or "CMV" – *a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle –*

has a gross combination weight rating of 11,794 kilograms (26,000 pounds) or more inclusive of towed units with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or

has a gross vehicle weight rating of 11,794 kilograms (26,001 pounds) or more; or

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is designed to transport 16 or more passengers, including the driver; or

is of any size and is used in the transportation of hazardous materials as defined in the Federal Motor Carrier Safety Regulations (49 CFR 383.5 (October 1, 2012)). [625 ILCS 5/6-500(6)]

"Commuter Van" – a motor vehicle designed for the transportation of not less than seven or more than 16 passengers, that is used in a ridesharing arrangement [625 ILCS 5/1-111.9].

"Competent Medical Specialist" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, to practice medicine in all of its branches.

"Confirmed Medical Emergency" – documented medical emergency from a licensed physician specifying the cited driver is unable to appear during the 30 day re-testing period. This includes, but is not necessarily limited to, the following conditions: hospitalization, serious illness, broken limbs.

"Consular Identification Document" – an official identification card issued by a foreign government that meets the criteria set forth in Section 5 of the Consular Identification Document Act [5 ILCS 230/5] and the issuing consulate has filed with the Department of State Police a copy of the consular identification document and a certification of the procedures that are used to satisfy Sections 2 and 3 of the Consular Identification Document Act.

"Conviction" – A final adjudication of guilty by a court of competent jurisdiction after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default [625 ILCS 5/6-100(b)].

"Conviction-CDL Holder" – an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the payment of a fine or court cost regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of

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whether or not the penalty is rebated, suspended or probated [625 ILCS 5/6-500(8)].

"Cooperative Driver Certificate" – a certificate prescribed by the Secretary of State indicating a successfully-completed road test, subject to spot check by the Secretary of State, was administered to a driver education student, who has successfully completed driver training by an Illinois State Board of Education approved driver education instructor.

"Cooperative Driver Testing Program" – a program offered by the Department to local school boards with accredited driver education courses, allowing students who receive a grade of A or B in the driver education course and who pass a road test administered by a Department certified high school driver education instructor to be exempted from a road test administered by the Department.

"Court Documents" – the items issued by a court, such as reports, notices, summonses, subpoenas, orders and transcripts.

"Criminal Justice Agencies" – the federal and state courts, a governmental agency or sub-unit that performs the duties of the detection, apprehension or detention of accused persons or criminal offenders pursuant to a statute.

"Current Medical Report" – any medical report completed within 90 days after receipt by the Department that is signed and dated by a competent medical specialist.

"Current Telescopic Lens Vision Specialist Report" – any vision specialist report completed for a telescopic lens user that has been completed within six months prior to receipt by the Department and is signed and dated by a licensed vision specialist.

"Current Vision Specialist Report" – any vision specialist report completed for a driver that has been completed within six months prior to receipt by the Department and is signed and dated by a vision specialist.

"Custom Harvester" – any individual, partnership, corporation or association engaged in a business operation for the purpose of harvesting agricultural commodities other than their own on a contract basis.

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"Dangerous Action" – an act by the applicant that could endanger a person or property.

"Day" – a calendar day.

"Denial" – any entry on a person's driving record by the Department indicating a driver may not renew his/her driver's license or privileges until the conditions set forth by the Department are met (see IVC Section 6-103).

"Denial of Driver's License" – the act of prohibiting or disallowing the privilege to obtain a driver's license while allowing the privilege to obtain an instructional permit and limiting privileges to that of an instructional permit if a driver's license has previously been issued (see IVC Section 6-107(c) and (d)).

"Denial of Driving Privilege" – the act of prohibiting or disallowing the privilege to obtain a driver's license or permit and/or the privilege to operate a motor vehicle (see IVC Sections 6-103, 6-107(c), 6-108.1).

"Department" – the Department of Driver Services within the Office of the Secretary of State.

"Department of Administrative Hearings" – the Department of Administrative Hearings of the Office of the Secretary of State.

"Determination of No Security Threat" – an administrative determination by TSA that an individual does not pose a security threat warranting denial of a Hazardous Material Endorsement.

"Disabled Person Identification Card" – a standard identification card as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/4A] issued for no fee to persons who meet the definition of disabled (see IVC Section 1-159.1).

"Disability" – an individual's physical or mental impairment that substantially limits one or more of the major life activities; a record of such impairment, or when the individual is regarded as having such impairment [625 ILCS 5/6-117.2(f)].

"Disqualification" – a disqualification means any of the following three actions:

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the suspension, revocation, or cancellation of a CDL by the state or jurisdiction of issuance;

any withdrawal of a person's privileges to drive a commercial motor vehicle by a state or other jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations);

a determination by FMCSA that a person is not qualified to operate a commercial motor vehicle under 49 CFR 391 (October 1, 2012). [625 ILCS 5/1-115.3]

"Disseminating Agency" – an agency authorized by the Secretary of State to distribute or share an image received from the Secretary of State for purposes of secondary dissemination.

"Drive" – operate or be in physical control of a motor vehicle [625 ILCS 5/4-115.8].

"Driver" – every person who drives or is in actual physical control of a vehicle [625 ILCS 5/1-116].

"Driver Applicant" – a person applying to obtain, transfer, upgrade or renew a CDL.

"Driver's License Test" – a test administered by the Secretary of State that consists of a vision test, written test and/or road test.

"Driver's License Issuance Error" – any act or omission by a Secretary of State employee that results in the driver being not qualified to hold the license as it is classified, restricted and/or endorsed.

"Driver's License Record" – a file maintained by the Secretary of State on each driver in Illinois pursuant to IVC Section 6-117.

"Driver Rehabilitation Specialist" – a person who possesses an undergraduate degree in rehabilitation, education, health, safety, therapy or related profession (or equivalent of eight years of experience in driver rehabilitation); possesses a current Association of Driver Educators for the Disabled (ADED) Certification as

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a Driver Rehabilitation Specialist (consisting of successful completion of 100 clock hours of educational experience, in combination with safety and medical aspects of disabilities; a minimum of 30 hours must be gained from attending ADED approved courses or workshops).

"Driver Remedial Education Course" – an organized remedial activity approved by the Driver Services Department for improving the driving habits of certain suspended drivers. The course shall consist of individual counseling and/or group sessions of instruction and shall not exceed two sessions or a total of nine hours of instruction.

"Driver Services Facility" – the offices located throughout Illinois for the purpose of issuing driver's licenses and providing to the public other necessary services connected with the Secretary of State's Office.

"Driver Services Facility Representative" – an employee of the Department of Driver Services of the Office of Secretary of State.

"Driving Abstract" – a record kept by the Department of Driver Services containing all information required under IVC Section 6-106(b) and all records of violations of traffic laws and administrative actions pertaining to driving privileges.

"Driving Evaluation" – an assessment by a driver education specialist at a rehabilitation institution of an applicant's ability to safely operate a motor vehicle.

"Driving Skills" – the ability of an applicant to perform maneuvers to be demonstrated during a road test.

"Employer" – any individual, corporation, partnership or association that employs charter bus drivers licensed under IVC Section 6-508.

"Employer Certification" – a form submitted by the employer, as prescribed by the Secretary of State, certifying an applicant has met all conditions for application, or that a driver who is no longer eligible for a charter bus driver endorsement has been removed from service.

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"Endorsement" – an indication on a driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.

"Enrolled in a Driver Education Course" – active participation in, and the 30 days immediately preceding, the start of regularly scheduled classroom instruction of an approved driver education course.

"Examiner" – an employee of the Secretary of State who is qualified to administer all driver's license tests.

"Excepted Interstate" or "EI" – a person who operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.69 or 398.3 (October 1, 2012) from all or part of the qualification requirements of 49 CFR 391 (October 1, 2012) and is not required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2012). [625 ILCS 5/6-500(15.3)]

"Excepted Intrastate" or "EA" – a person who operates in intrastate commerce but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements. [625 ILCS 5/6-500 (15.5)]

"Facility-Administered Road Test" – an actual demonstration of the applicant's ability to exercise ordinary and reasonable control of the operation of a motor vehicle administered by a Driver Services Facility employee.

"Farm" – structures and lands used primarily for the raising of agricultural or horticultural commodities, including livestock, poultry, fur-bearing animals, fruit, vegetables, flowers and other plants; "farm" includes ranches, nurseries, greenhouses, orchards, etc.

"Farm Retail Outlet and/or Supplier" – any individual, partnership, corporation or association engaged in a business operation for the purpose of selling or distributing agricultural commodities.

"Favorable Medical Report" – a current medical report that has been completed in its entirety and does not require additional information and/or clarification or is not medically questionable. A favorable medical report specifies a professional

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opinion from the competent medical specialist that the driver is medically/mentally fit to safely operate a motor vehicle.

"Favorable Vision Specialist Report" – a current vision specialist report that has been completed in its entirety that does not require additional information and/or clarification.

"Federal Motor Carrier Safety Administration" or "FMCSA" – a separate administration within the U. S. Department of Transportation dedicated to improving the safety of commercial motor vehicles and saving lives.

"Felony" – an offense under state or federal law that is punishable by death or imprisonment for a term of one year or more.

"Final Determination of Threat Assessment" – a final administrative determination by TSA, including the resolution of related appeals, that an individual poses a security threat warranting denial of a Hazardous Material Endorsement.

"Fingerprint Process" – a method by which an applicant's fingerprints are taken for the purpose of a criminal background investigation for a charter bus driver endorsement and submitted to the Illinois Department of State Police (ISP) and the Federal Bureau of Investigation (FBI).

"First Division Vehicle" – any motor vehicle designed to carry not more than 10 persons [625 ILCS 5/1-217].

"Foreign Jurisdiction" – a sovereign jurisdiction that does not fall within the definition of "state" [625 ILCS 5/6-500(B)(17)].

"Foreign National" – a non-citizen of the United States of America who has been granted temporary, legal entry into this country by the U.S. Citizenship and Immigration Services (USCIS), who is temporarily residing in this State and is ineligible to obtain a social security number through the Social Security Administration, and who is not required to obtain a driver's license issued by the U.S. Department of State, Office of Foreign Missions.

"Foreign Speaking Applicant" – any applicant unable to understand oral directions given by the examiner.

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"For-Profit Ridesharing Arrangement" – the transportation by motor vehicle of not more than 16 persons, including the driver, for which a fee is charged in accordance with Section 6 of the Ride Sharing Arrangements Act [625 ILCS 30/6]. [625 ILCS 5/1-122.7]

"Fraud" – includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence.

"Functional Ability" – the degree of cognitive, mental or emotional sensor motor, and sensory capability in performing activities of daily living, including safely performing driving tasks.

"Good Cause" – examples of dangerous driving or of a physical or mental condition that interferes with safe driving or a situation in which a Secretary of State Driver Services Facility supervisor fails to give a required test or section of a test.

"Gross Combination Weight Rating" or "GCWR" – the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon as specified in 49 CFR 383.5 (October 1, 2012). [625 ILCS 5/1-124.5]

"Gross Vehicle Weight Rating" or "GVWR" – the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or "GCWR") is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified by the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load on the unit [625 ILCS 5/1-124.5].

"Hazardous Material Endorsement" or "HME" – an indicator on the driver's license that the driver is qualified to transport hazardous materials that require placarding.

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"Hazardous Materials" – any material that has been designated as hazardous under 49 USC 5103 and is required to be placarded under subpart F of 49 CFR 172 (October 1, 2012) or any quantity of a material listed as a select agent or toxin in 42 CFR 73 (October 1, 2012).

"High School Student" – a student who attends a public or private secondary school accredited by the Illinois State Board of Education.

"Illinois Medical Advisory Board" or "Board" – a panel consisting of at least nine physicians appointed by the Secretary [625 ILCS 5/6-902].

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Image" - the digital photo and signature captured in the process of issuing an Illinois driver's license or identification card and retrieved from the Secretary of State database.

"Immediate Family Member" – a parent, child, sibling, grandparent, step-parent, step-child, step-sibling or step-grandparent.

"Immediate Farm Family Member" – a member of the farmer's family is a natural or in-law, spouse, child, parent or sibling as provided in IVC Section 6-507(c).

"Incomplete Medical Report" – a medical report that has not been completed in its entirety, or a medical agreement that has not been signed and dated by the driver.

"Incomplete Telescopic Lens Vision Specialist Report" – a telescopic lens vision specialist report that has not been completed in its entirety. Examples of an incomplete report include, but are not limited to, omission of name, address, signature or professional license number of the vision specialist or date or one that contains illegible information or fails to answer any of the questions contained within the report.

"Initial Determination of Threat Assessment" – an initial administrative determination by TSA that an individual poses or may pose a security threat warranting denial of a Hazardous Material Endorsement.

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"In Loco Parentis" – a person who is acting in place of a minor's parent with a parent's rights, duties and authority.

"Instruction Permit" – a driving permit issued to operate a motor vehicle pursuant to the requirements of IVC Section 6-105 or 6-107.

"Invalidate" – to render invalid any driver's license, permit or driving privileges.

"Invalidation" – the withdrawal, by consent, court order, death of the holder or holder's failure to complete a driver remedial education course of the validation, of a person's license, permit and/or driving privilege under IVC Chapter 6.

"Judicial Driving Permit" – a permit issued granting a driver limited driving privileges as provided in IVC Section 6-206.1.

"Law Enforcement Official" – a federal, state or local police officer, sheriff, coroner, municipal prosecutor, state's attorney or U.S. attorney.

"LEADS" – the Illinois Law Enforcement Agencies Data System.

"Livestock" – any animals such as cattle, sheep, swine, buffalo, cafalo, cattalo, domestic deer, domestic elk, domestic antelope, domestic reindeer, water buffalo and goats.

"Livestock Feeder" – any individual, partnership, corporation or association engaged in a business operation for the purpose of producing livestock.

"Mandatory Insurance" – The insurance requirements under IVC Chapter 7, Article VI.

"Mandatory Liability Insurance Policy" – a liability insurance policy issued in amounts no less than the minimum amounts set for bodily injury or death and for destruction of property (see IVC Section 7-203), and issued in accordance with the requirements of Sections 143a and 143a-2 of the Illinois Insurance Code [215 ILCS 5/143a and 143a-2]. This definition does not include vehicles subject to the provisions of IVC Chapter 18 or 18a, Article III or IVC Section 7-609, 12-607 or 12-707.01; vehicles required to file proof of liability insurance with the Illinois Commerce Commission; vehicles covered by a certificate of self-insurance (see IVC Section 7-502); vehicles owned by the United States Government, State of

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Illinois or any political subdivision, municipality or local mass transit district; implements of husbandry (see IVC Section 1-130), other vehicles complying with laws that require insurance in amounts meeting or exceeding the minimum amounts required under the IVC; and inoperable or stored vehicles that are not operated.

"Mandatory Law Enforcement Report" – an unsigned message directed to the Department electronically from law enforcement containing the same information as the form designed by the Department.

"Mechanical Aid" – a device added to a motor vehicle that would enhance the operator's ability to safely operate the vehicle.

"Medical Agreement" – an agreement signed and dated by the driver, maintained as part of the medical report, and including the following conditions and/or information:

a condition that the driver remain under the care of his/her competent medical specialist;

a condition that the driver adhere to the treatment and/or medication;

authorization by the driver to the competent medical specialist to report any change in the driver's condition that would impair the driver's ability to operate a motor vehicle;

possible consequences for failing to abide by any or all of the conditions contained in the medical agreement.

"Medical Examiner" – a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic. [625 ILCS 5/6-500(21.1)]

"Medical Examiner's Certificate" – a document prescribed or approved by the Secretary of State that is issued by a medical examiner to a driver to medically qualify him or her to drive. [625 ILCS 5/6-500(21.2)]

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"Medical Exemption" – temporary regulatory relief for up to two years from one or more Federal Motor Carrier Safety Regulations given to a person, by FMCSA, subject to the regulations, or a person who intends to engage in an activity that would be subject to the regulations in accordance with 49 CFR 381.300 (October 1, 2012).

"Medical Professional" – a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, a physician assistant who has been delegated the authority to make the required determination by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to make the determination.

"Medical Report" – a confidential medical questionnaire directed to the Department and approved by the Illinois Medical Advisory Board, or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department.

"Medical Restriction Card" – a card designed and issued by the Department that describes and explains the limitations and/or conditions noted in the restriction area of a person's driver's license.

"Medical Waiver" – temporary regulatory relief for up to three months from one or more Federal Motor Carrier Safety Regulations given to a person, by FMCSA, subject to the regulations, or a person who intends to engage in an activity that would be subject to the regulations in accordance with 49 CFR 381.200 (October 1, 2012).

"Medical Variance" – a driver has received one of the following from FMCSA, which allows the driver to be issued a medical certificate:

an exemption letter permitting operation of a CMV pursuant to 49 CFR 381 (October 1, 2012), subpart C or 49 CFR 391.64 (October 1, 2012); or

a skilled performance evaluation (SPE) certificate permitting operation of a CMV pursuant to 49 CFR 391.49 (October 1, 2012). [625 ILCS 5/6-500 (21.5)]

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"Mental or Physical Disorder or Disability" – a scientifically recognized condition that may medically impair a person's mental and/or physical health to the extent of being unable to safely operate a motor vehicle.

"Military Deferral Card" – a card issued at the expiration of the driver's license to extend the expiration while in the military, of the license of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.

"Minor" – a person under 18 years of age.

"Miscellaneous Suspension" – a suspension for safety responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew, mandatory conviction, tollway, family financial responsibility, automated traffic law violation, nighttime driving restriction or unsatisfied judgement.

"Monocular Vision Acuity" – a visual acuity reading obtained utilizing each individual eye.

"Moped" – a motor-driven cycle, with or without optional power derived from manually operated pedals, whose speed attainable in one mile is at least 20 m.p.h. but not greater than 30 m.p.h., and is equipped with a motor that produces 2 brake horsepower or less. If an internal combustion engine is used, the displacement shall not exceed 50 cubic centimeter displacement and the power drive system shall not require the operator to shift gears. [625 ILCS 5/1-148.2]

"Motorcycle" – every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor [625 ILCS 5/1-147].

"Motorcycle Rider Safety Training Course" – a course of instruction in the use and operation of motorcycles and/or motor-driven cycles, including instruction in the safe on-road operation of motorcycles and/or motor-driven cycles, the rules of the road and the laws of this State relating to motor vehicles, which course must meet the requirements set out in 92 Ill. Adm. Code 455.101.

"Motor-Driven Cycle" – every motorcycle and every motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles [625 ILCS 5/1-145.001].

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"Motor Vehicle" – every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs. Motor vehicles are divided into two divisions:

First Division: Those motor vehicles that are designed for the carrying of not more than 10 persons.

Second Division: Those motor vehicles that are designed for carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor vehicles that are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles of the First Division remodeled for use and used as motor vehicles of the Second Division. [625 ILCS 5/1-146]

"Motor Vehicle Departments of Foreign States" – the departments in other states that issue driver's licenses.

"Motor Vehicle Record" – a report of the driving status and history of a driver generated from the driver record provided to users, such as drivers or employers, and is subject to the provisions of the Driver Privacy Protection Act (18 USC 2721-2725). [625 ILCS 5/6-500(22.2)]

"Nasal Vision Reading" – a field of vision 35° from the straight ahead.

"National Driver Register" or "NDR" – a computerized database of files on drivers maintained by the U.S. Department of Transportation, National Highway Traffic Safety Administration.

"Night" – the hours during the period from sunset to sunrise.

"Nighttime Drive" – a road test administered during the hours of sunset to sunrise.

"Nighttime Driving Privilege" – a privilege granted to a licensed driver to operate a motor vehicle during nighttime hours while wearing a telescopic lens arrangement.

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"Non-CDL Skills Test" – any drive test given to an applicant who is attempting to obtain a driver's license except for a Class D, a CDL or a CDL endorsement.

"Non-Excepted Interstate" or "NI" – a person who operates or expects to operate in interstate commerce, is subject to and meets the qualification requirements under 49 CFR 391 (October 1, 2012), and is required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2012). [625 ILCS 5/6-500(22.7)]

"Non-Excepted Intrastate" or "NA" – a person who operates only in intrastate commerce and is subject to State driver qualification requirements. [625 ILCS 5/6-500(22.8)]

"Official Investigation" – the act of examining and inquiring into an occurrence or circumstance with care and accuracy by a duly authorized member of a local, state or federal agency while acting in his/her professional capacity.

"Operator's License" – any driver's license to operate a motor vehicle issued under the laws of any state.

"Organized Religion" – a group of people with the same or similar beliefs brought together to exercise those beliefs.

"P Endorsement" – a notation on the driver's license that the driver has qualified to operate a vehicle designed to transport 16 or more persons, including the driver.

"Peripheral Vision" – vision from the outside line of direct sight toward the temporal area.

"Preliminary Favorable Medical Report" – a current medical report or a current written statement on official letterhead that is signed and dated by a competent medical specialist indicating in his/her professional opinion the driver is medically fit to safely operate a motor vehicle; however, additional information and/or clarification or consultation is needed.

"Probationary License" – a special license granting full driving privileges during a period of suspension and is issued upon successful completion of a driver remedial education course.

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"Problem Driver Pointer System" or "PDPS" – a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (SOR) and is accessed by other states (SOI) to determine a person's eligibility to apply for a driver's license.

"Proof of Insurance" – acceptable forms of proof of insurance include, but are not limited to, the following:

Illinois insurance card that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle year and make and a minimum of the last six characters of the Vehicle Identification Number (VIN);

Combination of proof of purchase of the motor vehicle within 60 days and a current insurance card [625 ILCS 5/7-602(b)];

Current declaration page of a liability policy [625 ILCS 5/7-602(c)] that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle description and liability limits of the policy;

Liability insurance binder [625 ILCS 5/7-602(d)];

Certificate of Insurance [625 ILCS 5/7-602(d)];

Payment receipt for a liability insurance premium [625 ILCS 5/7-602(d)] that contains the company name, policy number, effective and expiration dates, name of the insured, vehicle year, make and a minimum of the last six characters of the VIN, date of premium payment and signature of company representative;

Current rental agreement [625 ILCS 5/7-602(e)];

Registration plates, registration sticker or other evidence of registration issued by the Secretary of State's Office only upon submission of proof of liability insurance [625 ILCS 5/7-602(f)];

Certificate, decal or other document or device issued by a governmental agency for a motor vehicle indicating the vehicle is insured for liability

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[625 ILCS 5/7-602(g)] (or has qualified for an exemption to the liability insurance law).

"Prosthesis" – an artificial limb such as arm or leg.

"Public Safety Worker" – a person employed by this State or a political subdivision thereof that provides firefighting, medical or other emergency services [625 ILCS 5/6-117.2(f)].

"Questionable Medical Report" – a medical report that contains medical information raising some reasonable doubt regarding the driver's medical ability to safely operate a motor vehicle, including the following:

A medical report that indicates the driver has experienced an attack of unconsciousness within the past six months;

The medical report lacks a professional opinion indicating whether the driver is medically fit to safely operate a motor vehicle;

The medical report was signed and/or completed by someone other than a competent medical specialist;

The competent medical specialist recommends the driver has driving privileges, however, expresses reservations about the driver's ability to safely operate a motor vehicle.

"Reckless Driving" – driving a motor vehicle with a willful or wanton disregard for the safety of persons or property or knowingly driving a vehicle using an incline in a roadway, such as a railroad crossing, bridge approach or hill to cause the vehicle to become airborne [625 ILCS 5/11-503].

"Registration Sticker" – a device or devices to be attached to a rear registration plate that will renew the registration and registration plate or plates for a pre-determined period not to exceed one registration year except as provided in IVC Section 3-414(1).

"Regularly Scheduled Classroom Instruction" – the continuous and uninterrupted education course that takes place during the specific time period (i.e., quarter) in which the school has scheduled the student to participate.

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"Rehabilitation Institution" – any hospital, center, institute or facility engaged in a program to provide driver training for the disabled.

"Religious Organization Bus" – any vehicle other than a vehicle of the First Division or a school bus as defined by IVC Section 1-182 that is exclusively owned and operated by a religious organization and is used primarily in conducting the official activities of that organization.

"Religious Organization Vehicle Restriction" – the authority to operate a religious organization bus (see IVC Section 6-106.2).

"Representative Vehicle" – a motor vehicle that represents the type an applicant operates or expects to operate.

"Rescind" – to annul or void a suspension, revocation, cancellation, disqualification or denial.

"Restricted Local License" – a special restricted driver's license issued under IVC Section 6-113 and intended to enable a person to drive a specific route.

"Restriction" – the notation on a driver's license or permit indicating requirements deemed applicable to the licensee by the Department to assure safe operation of a motor vehicle.

"Review of Driving Habits" – a review of the applicant's driving record maintained by the Office of the Secretary of State, or documentation from another licensing entity, that has been certified within 30 days prior to the date of application, to insure that the requirements are met (see IVC Sections 6-104, 6-508).

"Road Test" – an actual demonstration of the applicant's ability to operate a motor vehicle (see IVC Section 6-109).

"S Endorsement" – an endorsement for CDL holders who operate as a school bus driver to transport pre-primary, primary or secondary school students to and from home, from school to home, or to and from school-sponsored events.

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"Safety Course" – an explanation provided by a rental agency to an individual during the rental transaction concerning the controls and features of the vehicle and its proper operation.

"Safety Officer" – any individual employed by a third-party certifying entity who is licensed for the purpose of conducting the skills test to determine for certification purposes that an applicant has been tested and meets the same qualifications required by the Secretary of State.

"SAVE" – the Systematic Alien Verification for Entitlements Program that allows electronic inquiries to U.S. Citizenship and Immigration Services (USCIS) by state motor vehicle agencies in the determination of the immigration status of an applicant for a Visa Status Temporary Visitor's Driver's License pursuant to IVC Section 6-105.1(a).

"School Bus" – every motor vehicle, except as provided in this definition, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of the entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

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Being used for shuttle service between attendance centers or other education facilities.

A motor vehicle of the first division.

A motor vehicle designed for the transportation of not less than seven nor more than 16 persons that is operated by or for a public or private primary or secondary school, including any primary or secondary school operated by a religious institution, for the purpose of transporting not more than 15 students to and from interscholastic athletic or other interscholastic or school sponsored activities. [625 ILCS 5/1-182]

"School Bus Commercial Instruction Permit" or "School Bus CIP" – an instruction permit that allows an applicant for a school bus permit to operate a school bus, but only when accompanied by a properly classified driver with a school bus permit.

"School Bus Driver Permit" – a permit issued to an applicant who has met all the requirements that authorize the individual to drive a school bus (see IVC Section 6-106.1).

"Seasonal Restricted Commercial Driver's License" or "Restricted CDL" – a limited waiver for employees of certain farm-related services to operate specific commercial motor vehicles without a commercial driver's license for a limited period.

"Second Division Vehicle" – any vehicle designed to carry more than 10 persons, those designed or used for living quarters and those vehicles designed to pull or carry property, freight or cargo, those motor vehicles of the first division remodeled for use and used as motor vehicles of the second division, and those motor vehicles of the first division used and registered as school buses [625 ILCS 5/1-217].

"Secondary Dissemination" – the distributing or sharing of an image by a source other than the primary source (Secretary of State) that has direct access to the image.

"Secretary of State" – the Secretary of State of Illinois [625 ILCS 5/1-184].

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"Self-Admission" – a statement or indication from the driver that he/she has a mental disorder/disability and/or physical condition or disability that may impair the ability to safely operate a motor vehicle or that is likely to cause a loss of consciousness.

"Self-Certification" – a driver's signed and dated declaration of the type of driving (NI, EI, NA, EA) in which he or she engages or expects to engage while operating a CMV.

"Senior Citizen Transportation Vehicle" – a vehicle, other than a vehicle of the first division or a school bus, exclusively owned and operated by a senior citizen organization and used primarily in conducting the official activities of the organization.

"Serious Traffic Violation" – a conviction when operating a commercial motor vehicle, or when operating a non-CMV, while holding a CDL of: a violation relating to excessive speeding involving a single speeding charge of 15 miles per hour or more above the legal speed limit; a violation relating to reckless driving; a violation of any State law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; a violation, relating to having multiple driver's licenses (see IVC Section 6-501); a violation relating to the requirement to have a valid CDL (see IVC Section 6-507(a)); a violation relating to improper or erratic lane changes; a violation relating to following another vehicle too closely; any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, which the Secretary of State determines to be relevant pursuant to 92 Ill. Adm. Code 1040.20.

"Skills Performance Evaluation" or "SPE" – a certificate, issued by FMCSA to a driver with a missing limb, in accordance with 49 CFR 391.49 (2011), which allows the driver to operate a CMV.

"Special Needs Individuals" – those individuals who have or are at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required be individuals generally [625 ILCS 5/6-117.2(f).

"SSOLV" – the Social Security Online Verification system that allows electronic inquiries to the Social Security Administration by state motor vehicle agencies to

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verify names and social security numbers of applicants for driver's licenses or identification cards.

"State" – a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Suspension" – the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary [625 ILCS 5/1-204].

"Tank Vehicle" – any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Those vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR 171 (2011). [625 ILCS 5/1-204.4] However, a tanker-type vehicle does not include any vehicle in which the tank, that is either permanently or temporarily attached, has a rated capacity of less than 1,000 gallons.

"Telescopic Lens Arrangement" – a non-standard adaptive device that aids in improving vision deficits.

"Telescopic Lens Vision Specialist Report" – an approved confidential vision questionnaire directed to the Department, or a statement on letterhead made by a vision specialist, containing the same information as the form designed by the Department.

"Temporal Vision Reading" – a field of vision 70° from the straight ahead.

"Temporary Driver's License or Instruction Permit" – a driver's license or instruction permit issued for no longer than 90 days to a person who is temporarily unable to obtain a license or instruction permit.

"Temporary Visitor's Driver's License" or "TVDL" – a license issued to:

a foreign national who is authorized to temporarily reside in this country allowing the operation of a motor vehicle under the laws of this State (referred to in this Part as "Visa status"); or

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an applicant who:

resided in this State for a period in excess of one year;

is ineligible to obtain a social security number; and

is unable to present documentation issued by the United States Citizenship and Immigration Services authorizing the person's presence in this country [625 ILCS 5/6-105.1(a-5)] referred to in this Part as "non-Visa status".

"Termination of an Adjudication of Disability Order" – an order by a court of competent jurisdiction terminating an adjudication of disability of the driver pursuant to Section 11a-20 of the Probate Act of 1975 [755 ILCS 5/11a-20].

"Third-Party Certification License" – a license issued by the Secretary of State to conduct a qualified third-party certification program (see IVC Section 6-508).

"Third-Party Certification Program" – a program designed by the Secretary of State allowing third-party entities to provide to employees or by membership in a qualified training program of classroom and/or behind-the-wheel testing for the purpose of certifying to the Secretary of State that an applicant is qualified to operate a motor vehicle without the Secretary of State having to administer a road test (see IVC Section 6-508 and Section 1030.85).

"Third-Party Certifying Entity" – a third-party entity licensed by the Secretary of State to engage in a third-party certification program.

"Transportation Security Administration" or "TSA" – a division of the Department of Homeland Security administering provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act; Public Law 107-56, 115 Stat. 272).

"Traffic Regulation Governing the Movement of Vehicles" – a violation for which points are assigned pursuant to 92 Ill. Adm. Code 1040.20.

"Type A Injury" – an injury that requires immediate professional attention in either a doctor's office or a medical facility and includes severely bleeding

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wounds, distorted extremities and injuries requiring the injured party to be carried from the scene.

"Traffic Environmental Screening" – a screening designed by the Department that shall consist of the driver demonstrating the ability to recognize actual traffic conditions using the telescopic lens arrangement while riding with and being evaluated by a Driver Services Facility representative.

"Unfavorable Medical Report" – a medical report signed and completed by a competent medical specialist containing a professional opinion that, due to a physical and/or mental disorder/disability, the driver is not medically fit to operate a motor vehicle.

"Unfavorable Telescopic Lens Vision Specialist Report" – a telescopic lens vision specialist report signed and completed by a licensed vision specialist that indicates a professional opinion that the driver is not capable of safely operating a motor vehicle, or the monocular or binocular acuity readings and/or peripheral readings do not meet Illinois standards, or the peripheral vision readings do not meet Illinois standards as set forth in Section 1030.70, or the power of the telescopic lenses does not meet Illinois standards as set forth in Section 1030.75.

"Unfavorable Vision Specialist Report" – a vision specialist report signed and completed by a vision specialist:

indicating the monocular or binocular acuity and/or peripheral vision readings do not meet Illinois standards as set forth in Section 1030.70, the driver would not accept or has refused the recommended correction, and his/her vision readings without this correction are not favorable; or

containing a professional opinion that, due to a vision condition, the driver is not visually safe to operate a motor vehicle.

"Unfit to Stand Trial Order" – an order by a court of competent jurisdiction whereby a defendant, because of a mental or physical condition, is unable to understand the nature and purpose of the proceeding against him/her or to assist in his/her defense pursuant to Section 104-10 of the Code of Criminal Procedure [725 ILCS 5/Art. 104-10].

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"USCIS" – U.S. Citizenship and Immigration Services is a bureau of the U.S. Department of Homeland Security (USDHS) that is in charge of processing immigrant visa petitions, naturalization petitions, and asylum and refugee applications, as well as making adjudicative decisions performed at the services centers and managing all other immigration benefit functions.

"Valid Driver's License or Permit" – a license or permit issued by the Secretary of State that is of the proper classification for the purposes for which it is being used and that has not expired, been invalidated, denied, canceled, revoked, suspended or disqualified, or been used after a curfew or nighttime driving restriction.

"Vendor" – an authorized fingerprint company approved by the ISP who will transmit fingerprint data to ISP to be forwarded to the FBI.

"Verification of Residency Form" – a form printed by the Secretary of State that non-Visa status temporary visitor's driver's license applicants shall complete and that contains all Illinois addresses at which the applicant has resided for the 12 months immediately prior to application.

"Vision Screening" – the readings obtained by a physician, ophthalmologist, optometrist or Department representative of an applicant's visual acuity and peripheral fields of vision.

"Vision Specialist" – a doctor licensed to practice medicine in optometry under the Illinois Optometric Practice Act [225 ILCS 80] or a competent medical specialist.

"Vision Specialist Report" – an approved confidential vision questionnaire directed to the Department, or a statement on letterhead made by a vision specialist, containing the same information as the form designed by the Department.

"Visual Acuity Readings" – the minimum vision standards set forth in Sections 1030.70 and 1030.75.

"Visual Peripheral Readings" – the minimum vision standards set forth in Sections 1030.70 and 1030.75.

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"Withdrawal" – the negating of valid driving privileges by a state as the result of sanctions taken against driving privileges.

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

Section 1030.16 Physical and Mental Evaluation

- a) The Department shall require a driver to submit a medical report from a competent medical specialist when:
 - 1) The driver answers in the affirmative to any question on the driver's license application regarding physical or mental health pursuant to IVC Section 6-109.
 - 2) The Department receives written comments and/or recommendations based upon firsthand knowledge or pursuant to an official investigation that brings into question a driver's physical or mental ability to safely operate a motor vehicle. The comments and/or recommendations are confidential and must be submitted on official letterhead or a form designed by the Department and signed by an authorized source.
 - 3) The Department receives an Adjudication of Disability court order in which where the court appointed a guardian to manage the financial affairs or the estate of the person.
 - 4) The driver is renewing a driver's license that, at the time of issuance, required the driver to submit a medical report, except as provided in subsection (1).
 - 5) The Department receives a mandatory law enforcement report or message, based on first-hand knowledge or pursuant to an official investigation, that brings into question a driver's physical or mental ability to safely operate a motor vehicle.
 - 6) A driver, cited under Section 1030.15, is involved in a motor vehicle crash during a road exam.
- b) The Department shall cancel or medically deny driving privileges upon receipt of an Adjudication of Disability order in which the court appointed a guardian to

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make responsible decisions concerning the care of the person or of both the person and his/her financial affairs or estate, or the Department receives an order finding the driver unfit to stand trial.

- 1) The notice of cancellation shall be mailed to the court-appointed guardian and the driver.
 - 2) The cancellation order shall remain in effect until the court issues an order terminating the adjudication of disability or the driver is found fit to stand trial.
 - 3) After receipt of an order of restoration, the Department shall request a favorable medical report. Upon receipt of a favorable medical report, the cancellation order shall be terminated and the person may reapply for driving privileges as outlined in IVC Section 6-106.
- c) The Department shall cancel or medically deny a driver pursuant to IVC Sections 6-103(8) and 6-201(a)(5), if one or more of the authorized sources submits a mandatory law enforcement report or a signed, written notification on official letterhead to the Department that, based upon firsthand knowledge or pursuant to an official investigation, the person was the driver of a motor vehicle involved in any type of accident or incident resulting from a seizure, an attack of unconsciousness or a blackout.
- 1) Following a cancellation or denial of driving privileges, the driver must submit a medical report to be forwarded to the Board and abide by all subsequent requests by either the Department or the Board, if any, for further information and/or clarification prior to being eligible to reapply.
 - 2) Any medical reports and/or other information concurrently or subsequently received by the Department shall be referred along with the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in subsection (j).
- d) The Department is authorized to cancel, pursuant to IVC Section 6-201(a)(8), any driver's license or permit upon determining that a driver failed to report to the Secretary of State, within 10 days after the driver became aware of the condition, as required by IVC Section 6-116.5, the existence of a medical condition that is likely to cause loss of consciousness (i.e., inability of the driver to sustain

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consciousness throughout the entire interval in which he/she intends to drive) or loss of ability to safely operate a motor vehicle. If a driver's license is canceled and a favorable medical report is subsequently received, the cancellation shall be rescinded.

- e) When a driver is required to submit a medical report or clarification on a questionable report pursuant to subsections (a)(2), (3) and (5), the Department shall furnish the appropriate form to the driver to be completed by a competent medical specialist. The driver must resubmit the completed medical report or requested information to the Department within 20 days.
 - 1) If a medical report is not received by the Department within 20 days, the driver's license shall be canceled or the driver medically denied driving privileges.
 - 2) If a driver's license is canceled and a preliminary favorable report or favorable medical report is subsequently received, the cancellation shall be rescinded, provided an unfavorable medical report is not received.
- f) If a driver fails to submit a medical report pursuant to subsection (a)(4), the Department shall cancel or medically deny driving privileges pursuant to IVC Sections 6-103(8) and 6-201(a)(5). If the Department subsequently receives a preliminary favorable report or favorable report, the cancellation shall be rescinded, provided an unfavorable medical report is not received.
- g) Except as provided in subsection (k~~+~~), if, pursuant to subsection (a), the Department receives a favorable medical report, the Department shall authorize the issuance or renewal of driving privileges, unless the driver is otherwise ineligible.
- h) If, pursuant to subsection (a), the Department receives an unfavorable medical report, the Department shall cancel or medically deny the driving privileges pursuant to IVC Sections 6-103(8) and 6-201(a)(5).
- i) Except as provided in subsection (k), if, pursuant to subsection (a), the Department receives a preliminary favorable report, the Department shall authorize the issuance or renewal of driving privileges, unless the driver is otherwise ineligible. The Department shall then make a further determination as to the type of information and/or clarification that is needed in order to finish

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processing the report.

- 1) If the report is incomplete or not current, a request shall be made to the driver to obtain the necessary information required to process the report.
 - A) If the Department requests additional information from the driver, and the Department does not receive this information within 45 days after the written request, the Department shall cancel or medically deny the renewal of the driving privileges pursuant to IVC Sections 6-103 and 6-201.
 - B) If a cancellation order is entered based upon an incomplete medical report or one that is not current, and information is received to make the medical report favorable or preliminarily favorable, a rescind order shall be entered, provided an unfavorable medical report is not received.
- 2) If the report is questionable, the Department may forward the medical report to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in subsection (j).
- j) If the Department receives a report from a competent medical specialist indicating the driver failed to abide by any of the terms of the medical agreement, the Department shall:
 - 1) cancel or medically deny the driving privileges if the medical report does not contain a professional opinion that the driver can safely operate a motor vehicle, and may, pursuant to subsection (k), forward the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle; and
 - 2) forward the entire case to the Board for determination as to the driver's ability to operate a motor vehicle, if the medical report or medical statement contains a professional opinion that the driver can safely operate a motor vehicle; and
 - 3) cancel or medically deny driving privileges if the medical report or medical statement contains a professional opinion that the driver cannot safely operate a motor vehicle; the entire file shall be considered an

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unfavorable medical report as outlined in subsection (g).

- k) The Department shall forward a driver's case to the Board when:
 - 1) the driver was medically denied or canceled based upon the Board's last recommendation;
 - 2) the Board has requested to review intermittent reports;
 - 3) a different competent medical specialist submits a favorable medical report contradictory to an unfavorable medical report on file that was used as the basis to deny or cancel driving privileges;
 - 4) the Department receives a request from a driver who wishes to have all medical reports on file with the Department reviewed by the Board;
 - 5) the Department receives a request from a driver who wishes to appeal a Type B, C, D, E, F, G, J01 or any other medical restriction that has been added to a driver's license or permit pursuant to Section 1030.92; or
 - 6) the driver, after a cite, was involved in a motor vehicle crash during a road exam.
- l) When a case is referred by the Department to the Board for review, the case shall be initially reviewed in the following manner:
 - 1) The Department shall assign the case to an individual Board member based upon the member's specialty or field of expertise. The Department shall serve as a correspondent for the collection and distribution of all medical reports and/or other information between the driver and the Board.
 - 2) Upon receipt of the case from the Department, the individual Board member shall review the entire file and prepare an informal determination regarding the driver's medical ability to safely operate a motor vehicle for submission to the Chairperson.
 - A) The Board member shall consider the driver's past driving record as evidenced by the driving abstract, medical reports, and any other

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medical or other information deemed to have probative value by the Board member regarding the driver's medical case.

- B) The Board member shall consider any medications and/or rehabilitative devices currently being used or available to the driver.
 - C) The Board member shall use the medical criteria listed in Section 1030.18 when reviewing the driver's medical condition.
- 3) When reviewing a medical case, the Board member may require the driver to submit to further medical examinations and/or a driving assessment conducted by a driver rehabilitation specialist and to agree to make the results of these examinations/assessments available to the Board member for use in rendering an informal determination.
- A) The driver shall be solely responsible for the selection, scheduling and expenses related to any additional examinations/assessments that may be required.
 - B) While the Board member may designate the type of physician, medical specialist or driver rehabilitation specialist from whom the driver needs further examination/assessment, the Board member shall not recommend a particular physician, medical specialist or driver rehabilitation specialist.
 - C) The driver shall have up to 45 days from the date of the Department's written request to submit additional reports.
 - D) The driver's license of any driver who refuses to submit to additional examinations as requested, or refuses to make these reports available to the Board member, shall be canceled or medically denied until the driver complies with the Board member's request and the Board member is able to render an informal determination to the Chairperson pursuant to IVC Sections 6-103 and 6-201.
- 4) The informal determination shall include the medical condition of the driver and the limitations associated with the condition that could

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reasonably impair a driver's ability to safely operate a motor vehicle; the scope of driving privilege, if any; and the reasons for the Board member's decision.

- 5) All stages of the informal determination process shall be made as soon as possible, given the individual Board member's and Chairperson's caseload and the complexity of the case.
 - 6) The name of the Board member rendering the informal determination shall not be disclosed.
- m) Upon receipt of the informal determination from the Board member, the Chairperson shall make a formal determination to the Department regarding the driver's medical fitness to safely operate a motor vehicle and the scope of licensure, if any, including the use of mechanical devices and/or other conditions for driving.
- 1) The formal determination by the Chairperson shall include the existence of the medical condition and/or limitation that may impair the driver's ability to safely operate a motor vehicle.
 - 2) The formal determination shall also be based upon the Findings of Fact and opinion of the individual Board member, including, but not limited to, medical evaluations, reports submitted by medical specialists, including driver rehabilitation specialists, medications taken by the driver, the driving record, and other scientifically recognized information commonly accepted in the medical profession.
 - 3) The formal determination shall also indicate the scope of driving privileges that would enable the driver to safely operate a motor vehicle, including the extent to which compensatory aids and devices must be used and may require the person to complete any rehabilitation or training recommended by the rehabilitation specialist.
 - 4) In the event driving privileges are restricted or denied, the formal determination shall also state the reasoning for the restriction or denial in accordance with the medical criteria stated in Section 1030.18.
 - 5) The Chairperson shall have the authority to confer with the Board member

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who rendered the determination, in the event the Chairperson needs to confirm or clarify any portion of the Board member's informal determination.

- n) Upon receipt of the formal determination, the Department shall take the appropriate action, in accordance with the recommendation of the Chairperson, on behalf of the Board.
 - 1) If the Department receives a recommendation from the Board that in its professional opinion the driver is not medically fit to safely operate a motor vehicle, the Department shall enter an order canceling or medically denying driving privileges pursuant to IVC Sections 6-103 and 6-201.
 - 2) If the Department receives a recommendation from the Board that in its professional opinion the driver is medically fit to safely operate a motor vehicle, the Department shall rescind or terminate any medically related cancellation or cancellation entered pursuant to Section 1030.15(e).
- o) If a driver wants to contest a restriction, cancellation or denial of driving privileges, the Department must receive a written request from the driver for a panel review of the medical case within 30 days after the action taken by the Department. Panel review of the driver's medical case shall be made by a panel of three Board members selected by the Chairperson based upon the Board member's specialty or field of expertise. The Board member who rendered the formal determination shall participate in the panel review process. The following procedure shall apply to the medical case under panel review:
 - 1) The Department shall notify the driver immediately and confirm the driver's request for panel review within seven working days after receipt of the written request.
 - 2) The driver has 45 days from the date of the notice to submit all additional medical reports to the Department for consideration by the panel.
 - 3) The driver may furnish additional medical reports and/or statements for review by the panel. The document must be returned to the Department at the address indicated on the confirmation notice.
 - 4) The Department, at the direction of the Chairperson, shall prepare and

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forward the medical case to the panel upon receipt of the documents from the driver, or a written statement from the driver indicating the decision not to submit additional reports and to proceed with the review, or at the expiration of 45 days, whichever occurs first.

- 5) Each panel member shall consider the contents of the file that was used to make the formal determination, including additional medical reports submitted by the driver and any new entries listed on the driver's driving record. The panel shall use the same medical criteria and procedure that apply when reviewing an individual case, including the authority to request additional medical examinations as found in subsection (1)(3). The panel shall only consider evidence in written form. No oral testimony shall be allowed during this type of review.
 - 6) The formal determination under panel review shall be made as soon as reasonably possible given the Board members' and Chairperson's caseload, and the complexity of the case. Panel review cases shall be given priority.
 - 7) Upon completion of the panel review, the informal determination of each panel review member shall be forwarded to the Chairperson. The informal determination shall contain the same elements as outlined in subsection (1)(4).
 - 8) Any restriction of driving privileges, cancellation or medical denial shall remain in effect until the Department notifies the driver in writing.
- p) Upon receipt of each of the panel members' determinations, the Chairperson shall make a formal recommendation to the Department regarding the driver's ability to safely operate a motor vehicle and the scope of any licensure, including the use of mechanical devices and/or other conditions for driving.
- 1) The recommendation of the Chairperson shall be based upon the majority ruling of the members' informal determinations.
 - 2) The Chairperson shall have the authority to confer with the members of the panel to confirm, clarify and formulate the recommendation to the Department.
 - 3) The Chairperson's recommendation shall contain the same elements as

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outlined in subsections (1)(1) through (4).

- q) The Department shall follow the recommendation of the Chairperson based upon the determination rendered by the panel.
 - 1) If the Department receives a formal recommendation from the Chairperson to uphold the decision of the individual Board member who first reviewed the case, the action taken by the Department shall remain in effect.
 - 2) If the Department receives a formal determination from the Chairperson to amend the original determination of the Board member who first reviewed the case, the Department shall follow the determination of the panel, including the recommendation of the granting of full or limited driving privileges or complete cancellation or denial of driving privileges.
 - 3) The driver shall be notified immediately in writing by the Department of the panel's formal determination regarding his/her driving privileges. The driver shall also be notified in writing of his/her right to request a medical hearing.
- r) A driver who wants to contest the cancellation or medical denial of driving privileges for medical reasons shall be entitled to a hearing in accordance with 92 Ill. Adm. Code 1001.Subparts A and E, and IVC Section 2-118.
- s) Unless a competent medical specialist has submitted a medical report indicating the physical or mental condition or disability no longer exists, the Department shall require the driver to submit a medical report at each driver's license renewal.
 - 1) The Department shall notify the driver at least 30 days prior to the expiration of his/her driver's license.
 - 2) Notification shall be in writing and mailed to the driver's last known address as indicated on the Department's driving record. The notice shall state that the driver must submit a medical report when renewing a driver's license.
- t) The Department shall require a driver to appear at a Driver Services Facility to receive a corrected driver's license if a competent medical specialist or the Board

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recommends a driver's license restriction pursuant to Section 1030.92.

- 1) The Department shall immediately provide written notification to the driver at the last known address indicated on the Department's driving record. The notice shall state that failure to comply within 20 days after the request will result in the cancellation of the person's driver's license pursuant to IVC Section 6-201.5.
 - 2) The Department shall mail a medical restriction card to the driver describing the restrictions on the driver's license.
 - 3) The driver must abide by the restrictions contained on the card.
 - 4) The driver, upon receipt of the medical restriction card from the Department, shall carry the medical card with his/her driver's license when operating a motor vehicle.
 - 5) If a driver's license is canceled for failing to comply with a written request from the Department, and the driver subsequently complies with all requests of the Department, the cancellation shall be rescinded or terminated.
- u) The Department shall require periodic medical reports between renewals, if recommended by a competent medical specialist or the Board.
 - v) The Chairperson is authorized to appoint a designee to complete any of the duties required to be performed by the Chairperson as prescribed by this Section.

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

Section 1030.150 Veteran Designation on Driver's License or Identification Card

- a) Definitions. For the purposes of this Section, the following terms shall have the meanings set forth in this subsection (a):

"Active duty" – means active duty under an executive order of the President of the United States, an Act of the Congress of the United States, or an order of the Governor.

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"Armed forces" – means any of the Armed Forces of the United States, including a member of any reserve component or National Guard unit called to active duty.

"DVA" – means the Illinois Department of Veterans' Affairs.

"Veteran" – means a person who has served on active duty in the armed forces and was discharged or separated under honorable conditions. [15 ILCS 335/5(b)]

- b) Effective July 1, 2015, for each original or renewal driver's license or identification card (ID) application, the Secretary shall inquire as to whether the applicant is an honorably discharged veteran. If the applicant is an honorably discharged veteran, the applicant shall be informed that he or she is entitled to have the designation "Veteran" on the face of his or her driver's license or ID card.
- c) In order to obtain a driver's license or ID with the "Veteran" designation, an applicant must first contact the Department by personally going to any of DVA's field offices across Illinois to request Confirmation of Status as an Honorably Discharged Veteran.
- d) If DVA can confirm status as an honorably discharged veteran, the Department shall affix a stamp to the veteran's DD214, Certification of Military Service (NA Form 13038) or other official Department of Defense discharge document if a DD214 was not issued or is unavailable.
- e) The Secretary shall issue an original, renewal, corrected or duplicate driver's license or ID with the "Veteran" designation to applicants who present a DD214 Form 13038 or other official Department of Defense discharge document bearing the Department's fully executed stamp. The applicant shall pay the statutory fee, as required by IVC Section 6-118 to have a "Veteran" designation added to a duplicate or corrected driver's license and Section 12 of the Illinois Identification Card Act 625 ILCS 5/6-118 and added to a duplicate or corrected ID. [15 ILCS 335/12].
- f) No less often than once per month the Secretary shall provide DVA with a list of the applicants who were issued a driver's license or ID with the "Veteran" designation since the last list was provided. The list shall contain the full name, driver's license or ID number, date of birth, gender and full social security number of the applicant. DVA shall compare that list to its records of veterans to whom a

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confirmation form has been issued. DVA shall notify the Secretary if it determines the Secretary has issued a "Veteran" driver's license or ID to an applicant who's DD214, NA Form 13038 or other official Department of Defense discharge document was not certified by DVA.

- g) Upon being notified that an applicant has been issued a "Veteran" driver's license or ID without first being confirmed as an honorably discharged veteran by DVA, the Secretary shall notify the applicant in writing that DVA has no record of confirming the applicant's status as an honorably discharged veteran, and shall inform the applicant that he or she has 30 days to appear in person at a DVA office and provide proof of his or her veteran status to the DVA. If, within that 30 day period, DVA notifies the Secretary that upon further review it has determined that the DD214, DVA NA Form 13038 or other official Department of Defense discharge document submitted to the Secretary by the applicant was in fact issued by DVA, the Secretary will take no further action regarding the matter.
- h) If the Secretary does not receive notification from DVA within the 30 day period specified in subsection (g) confirming the applicant's status as an honorably discharged veteran, the Secretary shall issue a citation requiring the applicant to appear at a Secretary of State facility within 15 days after the date of the citation to surrender the driver's license or ID card with the "Veteran" designation and be issued a new card without the "Veteran" designation. If the applicant does not appear pursuant to the citation, the applicant's driver's license or ID shall be canceled.
- i) An applicant whose driver's license or ID has been cancelled pursuant to this Section may apply for a driver's license or ID without the "Veteran" designation.

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

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- 1) Heading of the Part: Illinois Military Family Relief Fund Act
- 2) Code Citation: 95 Ill. Adm. Code 200
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
200.5	Amendment
200.10	Amendment
200.20	Amendment
200.30	Amendment
200.40	Amendment
200.41	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 22-9 of the Illinois Military Code [20 ILCS 1805/22-9]
- 5) Effective Date of Rule: June 15, 2015
- 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 principal office of the Department of Military Affairs and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 18838; September 19, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Capitalization of a single word in two lines.
- 12) Have all 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

DEPARTMENT OF MILITARY AFFAIRS

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- 15) Summary and Purpose of Rulemaking: Pursuant to Public Act 98-694, the Department of Military Affairs is amending the Administrative Code to accomplish the changes required by State law.
- 16) Information and questions regarding this adopted rule shall be directed to:

Department of Military Affairs
Attn: Military Judge Advocate
1301 North MacArthur Boulevard
Springfield IL 62702

217/761-3367
Fax: 217/761-3930

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

DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER II: DEPARTMENT OF MILITARY AFFAIRS

PART 200
ILLINOIS MILITARY FAMILY RELIEF FUND ACT

SUBPART A: DEFINITIONS

- Section
200.5 General Purpose
200.10 Definition of Terms Used

SUBPART B: ELIGIBILITY

- Section
200.20 Determination of Eligibility for Family Need Based Grants
200.30 Determination of Eligibility for Status Based Grants
200.40 Determination of Eligibility for Casualty Based Grants – National Guard and Reserve Service Members
200.41 Determination of Eligibility for Casualty Based Grants – Active Duty Service Members

SUBPART C: GRANTS

- Section
200.50 Family Need Based Grant Levels and Limits
200.60 Status Based Grant Levels and Limits
200.70 Casualty Based Grant Levels and Limits – National Guard and Reserve Service Members
200.71 Casualty Based Grant Levels and Limits – Active Duty Service Members
200.80 Documentation, Application, Payment and Denial

SUBPART D: REPORTING

- Section
200.90 Reporting Requirements

AUTHORITY: Implementing and authorized by Section 22-9 of the Illinois Military Code [20 ILCS 1805/22-9].

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SOURCE: Emergency rule adopted at 27 Ill. Reg. 8468, effective May 6, 2003, for a maximum of 150 days; emergency expired October 2, 2003; adopted at 27 Ill. Reg. 16436, effective October 15, 2003; emergency amendment at 28 Ill. Reg. 16355, effective December 7, 2004, for a maximum of 150 days; emergency expired May 5, 2005; amended at 29 Ill. Reg. 21033, effective December 16, 2005; amended at 31 Ill. Reg. 15834, effective January 1, 2008; emergency amendments at 33 Ill. Reg. 17161, effective December 9, 2009, for a maximum of 150 days; emergency amendments modified in response to an objection by the Joint Committee on Administrative Rules at 34 Ill. Reg. 4917, effective March 22, 2010, for the remainder of the 150 days; amended at 34 Ill. Reg. 6905, effective April 29, 2010; amended at 39 Ill. Reg. 8822, effective June 15, 2015.

SUBPART A: DEFINITIONS

Section 200.5 General Purpose

The intent of Section 22-9 of the Illinois Military Code and this Part is to provide an opportunity on standard individual income tax forms to allow taxpayers to contribute to the Illinois Military Family Relief Fund:

- a) To provide the Illinois Department of Military Affairs the power to make grants from the Fund to:
 - 1) Illinois residents who are members of the Active Duty Armed Forces (on or after November 23, 2009) who are/were called to active military service during an emergency declared by the President of the United States or Congress or as defined in this Part~~as a result of the September 11, 2001 terrorist attacks.~~
 - 2) Illinois National Guard members who are/were called to active duty during an emergency declared by the President of the United States or Congress or as defined in this Part~~military service as a result of the September 11, 2001 terrorist attacks.~~
 - 3) Illinois residents who are members of other Reserve Components of the Armed Forces (including National Guard members of other states) who are/were called to active duty during an emergency declared by the President of the United States or Congress or as defined in this Part~~military service as a result of the September 11, 2001 terrorist attacks.~~

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- 4) Members of the Illinois National Guard who have been called to State Active Duty for 30 or more consecutive days of duty.
 - 54) Family members of the service members described in subsections ~~(1)(a)~~ through ~~(4)(e)~~.
- b) The grants shall be in the form of three types of payments:
- 1) payments based on need, as determined under Section 200.20;
 - 2) payments based on the member's status, as determined under Section 200.30; and
 - 3) payments based on the member's casualty status, as determined under Sections 200.40 and 200.41.

(Source: Amended at 39 Ill. Reg. 8822, effective June 15, 2015)

Section 200.10 Definition of Terms Used

"Active duty" means: Military service performed under Title 32 USC or Title 10 USC and is military service for a minimum of 60 consecutive days (effective December 9, 2009; previously 30 days).

~~"Duty as a result of the September 11, 2001 terrorist attacks" means: Active duty military service of a minimum of 60 consecutive days (effective December 9, 2009; previously 30 days), directly related to the Presidential response to the attacks.~~

"Emergency" means: Any governmental declaration representing a natural or man-made disaster, during a period of civil unrest, or following a declaration of war or a situation of international/internal armed conflict.

"Family ~~of~~ members" means: A husband, wife or child who has been approved as a dependent and is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) in accordance with applicable military regulations. The service member's mother, father, brother, sister or other representative may apply for a

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grant on behalf of the service member if a copy of a Power of Attorney is included with the application.

"Fund" means: The Illinois Military Family Relief Fund.

"State Active Duty" means: Illinois National Guard members who are activated by, and under the command and control of, the Illinois Governor and subject to the Illinois Military Code [20 ILCS 1805].

(Source: Amended at 39 Ill. Reg. 8822, effective June 15, 2015)

SUBPART B: ELIGIBILITY

Section 200.20 Determination of Eligibility for Family Need Based Grants

- a) The grant applicant must show proof of the following:
 - 1) He or she is, at the time of entry on mobilization, a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component applying on behalf of his or her family, or is a family member of the service member. Proof of residency for military members will consist of information obtained from the supporting documents provided; Department of Defense Form 214 (DD 214) (Certificate of Release or Discharge from Active Duty), item 7b; or orders and military pay statement, along with the individual's certification on the application. Proof of a familial relationship will consist of information obtained from Defense Enrollment Eligibility Reporting System (DEERS).
 - 2) The Illinois National Guard or Reserve component member was on active military duty for at least 60 consecutive days (effective December 9, 2009; previously 30 days) in support of an emergency as defined in Section 200.10 (effective July 3, 2014) as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a DD 214, Department of Defense Form 220 (Report of Active Duty), or copy of the orders issued by an authorized headquarters ordering the member to ~~thatsueh~~ duty and a military pay statement reflecting duty performance. Payment for the first 6 months of active duty service will not occur before day 60 of the first 6 month period. Payment for the second consecutive 6

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month period may be on day one of the second consecutive 6 month period.

- 3) A copy of a payroll record from the member's civilian employer that indicates member's monthly salary, a copy of a recent Inactive Duty Training (IDT) Leave and Earnings Statement (LES) within 90 days prior to mobilization reflecting four IDT periods of pay, plus a copy of a military payroll record that indicates the member's monthly military salary. W2s and completed income tax returns may serve as supporting documentation.
 - 4) Proof that the military salary (including Basic Allowance for Housing) of the member has decreased by 30% or greater from his or her civilian salary and part time (Inactive Duty Training) military pay. With the implementation of the Department of Defense (DOD) Reserve Income Replacement Program, applicants requesting the Family Needs Based Grant must report if they have applied for, or are receiving, payments under this program and that amount will be included in total military income.
 - 5) The Illinois National Guard or Reserve component member holds a pay grade no higher than O-3, if an officer, or W-3, if a warrant officer, or E8 (effective December 9, 2009; previously E9s were eligible) if an enlisted member. Individuals or families will be eligible for the grant based upon rank at the time the period of service for which applying begins. Proof of pay grades will consist of information obtained from supporting documents, DEERS or Re-Enlistment Eligibility Data Display (REDD) from the Defense Manpower Data Center (DMDC) Database.
 - 6) If a custodial parent or guardian is applying for a grant on behalf of a service member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS or a Power of Attorney that authorizes thosesueh transactions.
- b) The following members are ineligible to receive grants:
- 1) All officers, warrant officers, and enlisted members with pay grades of O-4, W-4 or higher and E9 (effective December 9, 2009; previously E9s were eligible);

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- 2) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service for duty as prescribed in subsection (a)(2);
- 3) Members who have no dependent family members enrolled in DEERS;
- 4) Members who, at any time prior to the approval of a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge;
- 5) Service members who were unemployed upon entry into current mobilization.

(Source: Amended at 39 Ill. Reg. 8822, effective June 15, 2015)

Section 200.30 Determination of Eligibility for Status Based Grants

- a) The grant applicant must show proof of the following:
 - 1) He or she is, at the time of entry on mobilization, a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component or is a family member of the service member. Proof of residency for military members will consist of information obtained from the supporting documents provided; DD 214, item 7b; or orders and military pay statement, along with the individual's certification on the application. Proof of a familial relationship will consist of information obtained from DEERS.
 - 2) The Illinois National Guard or Reserve component member was on active military duty for at least 60 consecutive days (effective December 9, 2009; previously 30 days) in support of an emergency as defined in section 200.10 (effective July 3, 2014; previously as a result of the September 11, 2001 terrorist attacks); or who has been called to State active duty for 30 or more consecutive days of duty. Proof of ~~active~~ duty will consist of a DD 214, DD 220, or copy of the orders issued by an authorized headquarters ordering the member to such duty and a ~~military~~ pay statement reflecting duty performance.

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- 3) The Illinois National Guard or Reserve component member holds a pay grade no higher than O-3, if an officer, W-3, if a warrant officer, or E8 (effective December 9, 2009; previously E9), if an enlisted member. Individuals or families will be eligible for the grant based upon rank at the time the period of service for which applying begins. Proof of pay grades will consist of information obtained from supporting documents, DEERS or REDD.
 - 4) Service members deployed for a consecutive (not cumulative) period of duty of more than six months will become eligible for additional status based grants for each consecutive six month period. After the beginning of the seventh, thirteenth, etc, months, applicants may reapply. The subsequent application must include sufficient documentation to validate that the continuous duty was performed in support of [an emergency operations](#) as defined in Section 200.10. (This subsection (a)(4) is effective January 1, 2008. Members on active duty on January 1, 2008 will become eligible once they have completed six months on or after January 1, 2008.) [Status grants for State active duty are limited to twice in a 12 month period.](#)
 - 5) If a custodial parent or guardian is applying for a grant on behalf of a service member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS or a Power of Attorney that authorizes [those such](#) transactions.
- b) The following members are ineligible to receive grants:
- 1) All officers and warrant officers with pay grades of O-4, W-4 or higher and E9 (effective December 9, 2009; previously E9s were eligible);
 - 2) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service for duty as prescribed in subsection (a)(2);
 - 3) Members who, at any time prior to approval of a grant application under this Section, receive a punitive discharge or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge.

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(Source: Amended at 39 Ill. Reg. 8822, effective June 15, 2015)

Section 200.40 Determination of Eligibility for Casualty Based Grants – National Guard and Reserve Service Members

- a) The grant applicant must show proof of the following:
- 1) He or she is, at the time of entry on mobilization, a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component or is a family member of the service member. Proof of residency for military members will consist of information obtained from the supporting documents provided; DD 214, item 7b; or orders and military pay statement, along with the individual's certification on the application. Proof of a familial relationship will consist of information obtained from DEERS.
 - 2) The Illinois National Guard or Reserve component member was on active military duty for at least 60 consecutive days (effective December 9, 2009; previously 30 days) in support of an emergency as defined in Section 200.10 (effective July 3, 2014; previously as a result of the September 11, 2001 terrorist attacks). Proof of active duty will consist of a DD 214, DD 220, or copy of the orders issued by an authorized headquarters ordering the member to activesuch duty and a military pay statement reflecting duty performance.
 - 3) The Adjutant General is authorized to waive the 60-day (effective December 9, 2009; previously 30 days) requirement in subsection (a)(2) upon a written request indicating the circumstances justifying such a waiver. The Adjutant General may use discretion in granting or denying such requests.
 - 4) The Department of Military Affairs will verify the member's casualty status with official documents provided by the service member or official message from the U.S. Department of Defense, including, but not limited to, Line of Duty Investigations, DOD Casualty Reports, Incident Reports, and intake medical reports/medical assessments. Documentation will include proof that the service member sustained an injury as a result of terrorist activity; sustained an injury in combat, or related to combat, as a

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direct result of hostile action; or sustained an injury going to or returning from a combat mission, provided that the incident leading to the injury was directly related to hostile action. This includes injuries to service members who are wounded mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile force. This rule is retroactive, but does not apply to applications for casualty based grants that were disbursed prior to December 7, 2004. No payments shall be made without this verification.

- 5) If a custodial parent or guardian is applying for a grant on behalf of a service member's dependent, then the custodial parent or guardian must provide proof of guardianship of a member's dependent currently enrolled in DEERS or a Power of Attorney that authorizes these transactions.
 - 6) There are no grade limitations to eligibility for the casualty based grant.
- b) Casualty grant applications received on the same day as status or needs applications will be processed first.
- c) The following members are ineligible to receive grants under this Section:
- 1) Members who, at any time prior to the approval of a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge;
 - 2) Members whose casualty status is the result of a self-inflicted wound or other misconduct or willful negligence by the member, or if the casualty occurs when the member is in an AWOL, deserter, or dropped-from-rolls status;
 - 3) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service for duty as prescribed in subsection (a)(2);
 - 4) Deceased members, as other compensations are paid by the State of Illinois.

(Source: Amended at 39 Ill. Reg. 8822, effective June 15, 2015)

DEPARTMENT OF MILITARY AFFAIRS

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Section 200.41 Determination of Eligibility for Casualty Based Grants – Active Duty Service Members

- a) The grant applicant must show proof of the following:
- 1) He or she, at least 60 days prior to the date of injury, was a resident of Illinois and a member of the active duty armed forces. Proof of residency for military members will consist of information obtained from the supporting documents provided: DD Form 214, orders, Leave and Earnings Statement (LES), and/or a copy of the service member's Illinois State income tax return from the previous calendar year and the individual's certification on the application.
 - 2) The service member identified in subsection (a)(1) is/was on active military duty for at least 60 consecutive days in support of an emergency as defined in Section 200.10 (effective July 3, 2014; previously as a result of the September 11, 2001 terrorist attacks). Proof of duty will consist of the individual deployment orders clearly indicating the purpose and period of duty and an LES reflecting Hazardous Duty Pay, Combat Pay, or Combat Zone Tax Exclusion.
 - 3) The Adjutant General is authorized to waive the 60 day requirement in subsection (a)(2) upon written request indicating the circumstances justifying the waiver. The Adjutant General may use discretion in granting or denying these requests.
 - 4) The Department of Military Affairs will verify the member's casualty status with official documents provided by the service member or official message from the U.S. Department of Defense, including but not limited to Line of Duty Investigations, DOD Casualty Reports, Incident Reports and intake medical reports/medical assessments. Documentation shall include proof that the service member sustained an injury on or after November 23, 2009 as a result of terrorist activity; sustained an injury in combat, or related to combat, as a direct result of hostile action; or sustained an injury going to or returning from a combat mission, provided that the incident leading to the injury was directly related to hostile action. Injuries to service members who are wounded mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile

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force are eligible. No payments can be made without sufficient documentation.

- 5) If a family member or other person not listed in DEERS signs the application, the applicant must provide a Power of Attorney authorizing the transactions on behalf of the service member.
 - 6) There are no pay grade limitations to eligibility for the casualty based grant.
- b) Casualty grant applications received on the same day as status or needs applications will be processed first.
 - c) The following members are ineligible to receive grants under this Section:
 - 1) Members who, at any time prior to the approval of a grant application under this Section, received a punitive discharge or an administrative discharge with service characterized as Under Other Than Honorable Conditions or a lower characterized discharge;
 - 2) Members whose casualty status is the result of a self-inflicted wound or other misconduct or willful negligence by the member, or if the casualty occurs when the member is in an Absent Without Leave (AWOL), deserter or dropped-from-rolls status;
 - 3) Deceased members, as other compensations may be paid by the State of Illinois or Department of Defense.

(Source: Amended at 39 Ill. Reg. 8822, effective June 15, 2015)

CHIEF PROCUREMENT OFFICER FOR THE
DEPARTMENT OF TRANSPORTATION

JULY 2015 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Chief Procurement Officer for the Department of Transportation – Contract Procurement; 44Ill. Admin. Code 6

1) Rulemaking:

A) Description: The Chief Procurement Officer for the Department of Transportation (CPO) will be amending this Part, as necessary to reflect changes made to 30 ILCS 500 by the 98th General Assembly.

B) Statutory Authority: 30 ILCS 500

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: Within 6 months

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Bill Grunloh, Chief Procurement Officer
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield IL 62764

217/558-5434

G) Related rulemakings and other pertinent information: None

PROPERTY TAX APPEAL BOARD

JULY 2015 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citations): Practice and Procedure for Hearings Before the Property Tax Appeal Board, (86 Ill. Adm. Code 1910)
- 1) Rulemaking:
- A) Description: The Property Tax Appeal Board anticipates amending the following rules:
- Section 1910.30 – Provide for the electronic filing of the petition and evidence.
- Section 1910.31 – Provide for the electronic filing of amendments.
- Section 1910.40 – Provide for the electronic filing of the board of review notes on appeal and supporting documentation.
- Section 1910.60 – Provided for the electronic filing of the request to intervene and supporting evidence.
- Section 1910.66 – Provide for the electronic filing of rebuttal evidence.
- Section 1910.95 – Allow for the electronic service of documents by the parties in those appeals where a change in assessed valuation of \$1 million or more is sought.
- B) Statutory Authority: [35 ILCS 200/Art. 7] and [35 ILCS 200/16-160 through 16-195].
- C) Scheduled meeting/hearing dates: None.
- D) Date agency anticipates First Notice: Unknown at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Louis G. Apostol, JD, CAE
Executive Director & General Counsel

PROPERTY TAX APPEAL BOARD

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Property Tax Appeal Board
Stratton Office Building, Room 402
401 South Spring Street
Springfield IL 62706

217/785-4456 or 847/294-4399
Fax: 217/785-4425
Email: louis.apostol@illinois.gov

- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citations): Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)
- 1) Rulemaking:
- A) Description: This rulemaking will implement Public Act 98-1123 which amended the definition for ASTCs and added a requirement for compliance with federal rules as a prerequisite for certification, updated change of ownership requirements that are similar to those in the Hospital Licensing Requirements and makes other technical changes.
- B) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- C) Scheduled meeting/hearing dates: Summer 2015
- D) Date agency anticipates First Notice: Summer 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: ASTCs will be required to demonstrate compliance with federal rules as a prerequisite for certification as well as comply with more stringent change of ownership requirements.
- F) Agency contact person for information:
- Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield, Illinois 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citations): Regional Poison Control Center Code (77 Ill. Adm. Code 215)

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: This rulemaking will implement Public Act 97-135 which changed the number of poison control centers that can be designated by the Director of the Department of Public Health. This rulemaking will also update criteria for certification of regional poison control centers and make other technical changes.
 - B) Statutory Authority: Poison Control System Act [410 ILCS 47]
 - C) Scheduled meeting/hearing dates: Fall 2015
 - D) Date agency anticipates First Notice: Fall 2015
 - E) Effect on small businesses, small municipalities or not for profit corporations: All poison control centers in Illinois will need to comply with the updated rulemaking.
 - F) Agency contact person for information:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
dph.rules@illinois.gov
 - G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citations): Adverse Health Care Events Reporting Code (77 Ill. Adm. Code 235)
 - 1) Rulemaking:

DEPARTMENT OF PUBLIC HEALTH

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- A) Description: This rulemaking will implement Public Act 98-683 which mandated the Department of Public Health to require that reporting be done in accordance with the most recent National Quality Forum's list of serious reportable events.
- B) Statutory Authority: Adverse Health Care Events Reporting Law of 2005 [410 ILCS 522]
- C) Scheduled meeting/hearing dates: Summer 2015
- D) Date agency anticipates First Notice: Summer 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: Hospitals and ambulatory surgery centers will need to report adverse events to a newly developed electronic reporting system and be trained in reporting requirements.
- F) Agency contact person for information:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Hospital Licensing Requirements (77 Ill. Adm. Code 250)

1) Rulemaking:

- A) Description: This rulemaking will update requirements for governing boards for separately licensed hospitals and correct cross references in a construction section.

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- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: Summer 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendments will streamline requirements for governing boards for separately licensed hospitals that are owned by the same health group.
- F) Agency contact person for information:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield, Illinois 62761

Telephone: 217/782-2043
Fax: 217/524-8165
Email: dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information:

e) Part(s) (Heading and Code Citations): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

- 1) Rulemaking:
 - A) Description: This rulemaking will update Subpart S requirements to implement Public Act 96-1372
 - B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
 - C) Scheduled meeting/hearing dates: Summer 2015

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: The rulemakings will reflect the statutory requirements for long-term care facilities that serve residents with serious mental illness, making compliance less confusing.
- F) Agency contact person for information:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

1) Rulemaking:

- A) Description: This rulemaking will implement Public Act 96-0339 which created the ID/DD Community Care Act, and Public Act 97-0038, which incorporated into the ID/DD Community Care Act many of the amendments that were made to the Nursing Home Care Act under Public Act 96-1372.
- B) Statutory Authority: ID/DD Community Care Act [210 ILCS 47]
- C) Scheduled meeting/hearing dates: Spring 2015
- D) Date agency anticipates First Notice: Fall 2015

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- E) Effect on small businesses, small municipalities or not for profit corporations: With this rulemaking, DD facilities will be able to comply with the updated rules that accurately reflect the Act.
- F) Agency contact person for information:
- Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield, Illinois 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None
- 2) Rulemaking:
- A) Description: This rulemaking will amend sections related to the use of physical restraints in DD facilities.
- B) Statutory Authority: ID/DD Community Care Act [210 ILCS 47]
- C) Scheduled meeting/hearing dates: Summer 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will update regulations for the use of physical restraints that reflect current best practices.
- F) Agency contact person for information:
- Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

535 W. Jefferson St., 5th Floor
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G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citations): Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code (77 Ill. Adm. Code 515)

1) Rulemaking:

A) Description: This rulemaking will implement Public Act 98-1001 which created the designation of Acute Stroke-Ready Hospitals and Comprehensive Stroke Centers and Public Act 98-0973 which modified terminology and provide for licensure of pre-hospital registered nurses, emergency communications registered nurses and emergency medical responders.

B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

C) Scheduled meeting/hearing dates: Summer 2015

D) Date agency anticipates First Notice: Summer 2015

E) Effect on small businesses, small municipalities or not for profit corporations: Small and not-for-profit corporations will need to comply with the regulations in order to voluntarily be designated as a Stroke Center, Primary Stroke Center, or an Acute Stroke-Ready Hospital facility.

F) Agency contact person for information:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
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- G) Related rulemakings and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Violent Injury Reporting Code (77 Ill. Adm. Code 560)
- 1) Rulemaking:
- A) Description: This rulemaking will establish the Illinois Violent Death Reporting System (IVDRS) which will collect data on violent deaths. Other technical updates to will also be made.
- B) Statutory Authority: Civil Administrative Code of Illinois [20 ILCS 2310/2310-415]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: Law enforcement, medical examiners and coroners will provide death information to the Department of Public Health or the Department's designee.
- F) Agency contact person for information:
- Elizabeth Paton
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DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

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dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): Visa Waiver Program for International Medical Graduates (77 Ill. Adm. Code 591)

1) Rulemaking:

A) Description: This rulemaking will update the statutory authority reference to reflect Public Act 98-1006

B) Statutory Authority: Section 212(e) and 214(l) of the Immigration and Nationality Act (8 USC 1182(e) and 1184(l), 22 CFR 62 (Exchange Visitor Program) and Illinois Rural/Downstate Health Act [410 ILCS 65]

C) Scheduled meeting/hearing dates: Fall 2015

D) Date agency anticipates First Notice: Fall 2015

E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

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- j) Part(s) (Heading and Code Citations): Distribution of Medical Student Scholarship Payback Funds (77 Ill. Adm. Code 594)
- 1) Rulemaking:
- A) Description: This rulemaking will update terminology, clarify the amount dedicated to loan repayment and the percentage of funds awarded from various sources, and incorporate recovery reporting and recovery provisions.
- B) Statutory Authority: Family Practice Residency Act [110 ILCS 935/10] and the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-20 and 2310-205]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- k) Part(s) (Heading and Code Citations): Nursing Education Scholarships (77 Ill. Adm. Code 597)
- 1) Rulemaking:

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- A) Description: This rulemaking will update terminology, make changes related to tuition and stipend determinations for full and part-time recipients, and incorporate reporting and recovery provisions.
- B) Statutory Authority: Nursing Education Scholarship Law [110 ILCS 975]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

1) Part(s) (Heading and Code Citation): Local Health Protection Grant Code (77 Ill. Adm. Code 615)

1) Rulemaking:

- A) Description: Provided SB1800 of the 99th General Assembly is signed into law, this rulemaking will update the frequency of food inspections performed by local health departments for low-risk retail food establishments.

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- B) Statutory Authority: Division 5-25 of the Counties Code [55 ILCS 5], the Public Health District Act [70 ILCS 905], the Illinois Municipal Code [65 ILCS 5], and Section 2310-15 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-15]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: All certified local health departments will be required to follow the requirements outlined in the regulations.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citations): Child Health Examination Code (77 Ill. Adm. Code 665)

1) Rulemaking:

- A) Description: The rulemaking will update requirements to be consistent with current Advisory Committee on Immunization Practices and American Academy of Pediatrics recommendations. This rulemaking will also incorporate provisions of the Immunization Code (77 Ill. Adm. Code 695) which is proposed to be repealed.

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- B) Statutory Authority: Section 27-8.1 of the School Code [105 ILCS 5/27-8.1], Section 6.2 of the Lead Poisoning Prevention Act [410 ILCS 45/6.2] and Section 2 of the Communicable Disease Prevention Act [410 ILCS 315/2]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: In conjunction with this rulemaking, the Immunization Code (77 Ill. Adm. Code 695) will be repealed.
- n) Part(s) (Heading and Code Citation): College Immunization Code (77 Ill. Adm. Code 694)
- 1) Rulemaking:
 - A) Description: This rulemaking will update immunization requirements for college students and make other technical changes.
 - B) Statutory Authority: College Student Immunization Act [110 ILCS 20]
 - C) Scheduled meeting/hearing dates: Fall 2015

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- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

o) Part (Heading and Code Citation): Immunization Code (77 Ill. Adm. Code 695)

- 1) Rulemaking:
 - A) Description: This rulemaking will repeal Part 695.
 - B) Statutory Authority: Communicable Disease Prevention Act [410 ILCS 315], Section 27-8/1 of the School Code [105 ILCS 5/27-8/1], and Section 7 of the Child Care Act of 1969 [225 ILCS 10/7].
 - C) Scheduled meeting/hearing dates: Fall 2015
 - D) Date agency anticipates First Notice: Fall 2015
 - E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.
 - F) Agency contact person for information:

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

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- G) Related rulemakings and other pertinent information: In conjunction with this rulemaking, the Child Health Examination Code (77 Ill. Adm. Code 665) will be amended to incorporate provisions of Part 695.
- p) Parts (Heading and Code Citations): Food, Drug and Cosmetic Code (77 Ill. Adm. Code 720)
- 1) Rulemaking:
- A) Description: This rulemaking will codify the Food Safety Advisory Committee with specified membership to provide advice and recommendations to the Department on food safety matters.
- B) Statutory Authority: Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.
- F) Agency contact person for information:

Elizabeth Paton
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DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

q) Parts (Heading and Code Citations): Food Service Sanitation Code (77 Ill. Adm. Code 750)

1) Rulemaking:

A) Description: This rulemaking will adopt and incorporate the United States Food and Drug Administration Food Code.

B) Statutory Authority: Food Handling Regulation Enforcement Act [410 ILCS 625]

C) Scheduled meeting/hearing dates: Summer 2015

D) Date agency anticipates First Notice: Summer 2015

E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.

F) Agency contact person for information:

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JULY 2015 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: This rulemaking will implement Public Act 98-0660 concerning requirements for farmers' markets.

B) Statutory Authority: Food Handling Regulation Enforcement Act [410 ILCS 625]

C) Scheduled meeting/hearing dates: Fall 2015

D) Date agency anticipates First Notice: Fall 2015

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may affect small businesses that sell products at farmers' markets.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

3) Rulemaking:

A) Description: Provided HB2486 of the 99th General Assembly is signed into law, this rulemaking will implement that Public Act concerning home kitchens and cottage foods.

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

- B) Statutory Authority: Food Handling Regulation Enforcement Act [410 ILCS 625]
- C) Scheduled meeting/hearing dates: Winter 2015
- D) Date agency anticipates First Notice: Winter 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may affect small businesses that operate as home kitchens and cottage food operations.
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- r) Part Heading and Code Citation): Grade A Pasteurized Milk and Milk Products (77 Ill. Adm. Code 775)
- 1) Rulemaking:
- A) Description: This rulemaking will add requirements for bulk milk hauler sampler training.
- B) Statutory Authority: Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635]
- C) Scheduled meeting/hearing dates: Winter 2015
- D) Date agency anticipates First Notice: Winter 2015

DEPARTMENT OF PUBLIC HEALTH

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- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may affect small businesses operating as bulk milk haulers.
- F) Agency contact person for information:
- Elizabeth Paton
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- G) Related rulemakings and other pertinent information: None
- s) Part (Heading and Code Citation): Manufactured Dairy Products (77 Ill. Adm. Code 785)
- 1) Rulemaking:
- A) Description: This rulemaking will update Part 785 to reflect language in the United States Department of Agriculture Manufactured Dairy Products regulations. Additionally, Part 785 will be updated to include all manufactured dairy products produced outside of Illinois rather than only frozen dessert facilities. Part 785 will also address verified, appropriate testing of cheese.
- B) Statutory Authority: Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: Small businesses that manufacture dairy products may be affected.
- F) Agency contact person for information:
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- G) Related rulemakings and other pertinent information: None
- t) Part (Heading and Code Citation): Illinois Formulary for the Drug Product Selection Program (77 Ill. Adm. Code 790)
- 1) Rulemaking:
- A) Description: This rulemaking will repeal the requirement for the Department to maintain a listing of information on generic drug manufacturers and approved generic drugs. This program was eliminated with the Department in 2004 when the Department's pharmacist position was eliminated.
- B) Statutory Authority: Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: None

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: Noneu) Part (Heading and Code Citation): Tanning Facilities Code (77 Ill. Adm. Code 795)1) Rulemaking:

A) Description: This rulemaking will update reference materials including within Part 795.

B) Statutory Authority: Tanning Facility Permit Act [210 ILCS 145]

C) Scheduled meeting/hearing dates: Winter 2015

D) Date agency anticipates First Notice: Winter 2015

E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

v) Part(s) (Heading and Code Citations): Body Art Code (77 Ill. Adm. Code 797)

1) Rulemaking:

- A) Description: In anticipation of the passage of HB3375 of the 99th General Assembly, this rulemaking will implement HB3375 concerning unregistered body art facilities as well as make general and technical updates.
- B) Statutory Authority: Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54]
- C) Scheduled meeting/hearing dates: Winter 2015
- D) Date agency anticipates First Notice: Winter 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: Small businesses that operate as body art facilities that do not comply with the Act, including the requirement to register with the Department, may be subject to fines and fees.
- F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

DEPARTMENT OF PUBLIC HEALTH

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w) Part(s) (Heading and Code Citations): Illinois Health and Hazardous Substances Registry Code (77 Ill. Adm. Code 840)

1) Rulemaking:

A) Description: This rulemaking will update Subpart B: Illinois State Cancer Registry related to the method of reporting as well as the codes for case findings.

B) Statutory Authority: Illinois Health and Hazardous Substances Registry Act [410 ILCS 525]

C) Scheduled meeting/hearing dates: Winter 2015

D) Date agency anticipates First Notice: Spring 2016

E) Effect on small businesses, small municipalities or not for profit corporations: It is anticipated that the amendments will have minimum impact on the regulated industry.

F) Agency contact person for information:

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Assistant General Counsel
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217/782-2043

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G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: This rulemaking will update Subpart C: Adverse Pregnancy Outcomes Reporting System to modify sections describing which infants

DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

should be reported, the fields to be reported and remove the requirement that hospitals distribute copies to local health agencies.

- B) Statutory Authority: Illinois Health and Hazardous Substances Registry Act [410 ILCS 525]
- C) Scheduled meeting/hearing dates: Winter 2015
- D) Date agency anticipates First Notice: Spring 2016
- E) Effect on small businesses, small municipalities or not for profit corporations: It is anticipated that the amendments will have minimum impact on the regulated industry.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

x) Part(s) (Heading and Code Citations): Drinking Water Systems Code (77 Ill. Adm. Code 900)

1) Rulemaking:

- A) Description: This rulemaking will update the Part to reflect federal changes related to construction, operation and monitoring of non-community public water systems.
- B) Statutory Authority: Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9]

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JULY 2015 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: Winter 2015
- D) Date agency anticipates First Notice: Spring 2016
- E) Effect on small businesses, small municipalities or not for profit corporations: No financial impact is anticipated.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

y) Part(s) (Heading and Code Citations): Water Well Construction Code (77 Ill. Adm. Code 920)

1) Rulemaking:

- A) Description: This rulemaking will implement Public Act 98-0951 and add language related to the construction and modification of closed loop wells.
- B) Statutory Authority: Illinois Water Well Construction Code [415 ILCS 30]
- C) Scheduled meeting/hearing dates: Winter 2015
- D) Date agency anticipates First Notice: Winter 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: Closed loop and water well contractors may be affected.

DEPARTMENT OF PUBLIC HEALTH

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F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: Nonez) Part(s) (Heading and Code Citations): Poison Prevention Packaging for E-cigarette Products (77 Ill. Adm. Code 945)1) Rulemaking:

A) Description: This rulemaking will implement Public Act 98-1021 which provides that electronic cigarettes liquids must be sold in child-resistant packaging.

B) Statutory Authority: Illinois Poison Prevention Packaging Act [430 ILCS 40]

C) Scheduled meeting/hearing dates: Fall 2015

D) Date agency anticipates First Notice: Fall 2015

E) Effect on small businesses, small municipalities or not for profit corporations: The economic effect of the proposed rulemaking is unknown. The Department requests any information that would assist in this calculation.

F) Agency contact person for information:

Elizabeth Paton

DEPARTMENT OF PUBLIC HEALTH

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G) Related rulemakings and other pertinent information: None

aa) Part(s) (Heading and Code Citations): Compassionate Use of Medical Cannabis Patient Registry (77 Ill. Adm. Code 946)

1) Rulemaking:

- A) Description: This rulemaking will provide for the addition of new debilitating conditions, as recommended by the Medical Cannabis Advisory Board and approved by the Director of Public Health, to those conditions under which qualifying patients may apply for a medical cannabis registration identification card.
- B) Statutory Authority: Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- C) Scheduled meeting/hearing dates: Fall 2015
- D) Date agency anticipates First Notice: Fall 2015
- E) Effect on small businesses, small municipalities or not for profit corporations: No effect is anticipated.
- F) Agency contact person for information:

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DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

bb) Part(s) (Heading and Code Citations): Health Care Data Collection and Submission Code (77 Ill. Adm. Code 1010)

1) Rulemaking:

A) Description: This rulemaking will clarify procedures concerning the release of hospital administrative data, including release of protected health information fields, update the data element list and modify the fee schedule.

B) Statutory Authority: Illinois Health Finance Reform Act [20 ILCS 2215] and Sections 2310-33 and 2310-57 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-33 and 2310-57].

C) Scheduled meeting/hearing dates: Winter 2015

D) Date agency anticipates First Notice: Winter 2015

E) Effect on small businesses, small municipalities or not for profit corporations: The economic effect of the rulemaking is unknown.

F) Agency contact person for information:

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DEPARTMENT OF PUBLIC HEALTH

JULY 2015 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

cc) Part(s) (Heading and Code Citations): Plumbers Licensing Code (68 Ill. Adm. Code 750)

1) Rulemaking:

A) Description: This rulemaking will update the requirements for certified inspectors.

B) Statutory Authority: Illinois Plumbing License Law [225 ILCS 320]

C) Scheduled meeting/hearing dates: Winter 2015

D) Date agency anticipates First Notice: Winter 2015

E) Effect on small businesses, small municipalities or not for profit corporations: No financial impact is anticipated.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JULY 2015 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 80 Ill. Adm. Code 1650

1) Rulemaking:

A) Description: The Teachers' Retirement System anticipates promulgating and amending rules in relation to Illinois Pension Code (40 ILCS 5/1-160) Sec. 1-160: Provisions applicable to new hires, to include provisions specific to Tier II plan participants. Additionally, Subpart P: Competitive Selection Procedures for Investment Services and Section 1650.202 Disability Benefit – Definitions may be updated.

B) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].

C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Sandy Cochran
Teachers' Retirement System
Office of the General Counsel
P.O. Box 19253
2815 West Washington
Springfield IL 62794-9253

217/753-0375

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning proposed changes in methods and standards for establishing medical assistance payment rates for medical services in the Illinois Register: 5 ILCS 100/5-70(c)
2. Summary of information: The Illinois Department of Healthcare and Family Services plans to submit a state plan amendment that would allow hospitals separate reimbursement for Long Acting Reversible Contraceptive (LARC) devices provided in the inpatient hospital setting immediate postpartum. The coverage will be in addition to the Diagnostic Related Group (DRG) reimbursement for labor and delivery.

The change is being made in order to maintain access to necessary medical services. This change will apply to services rendered to Medicaid enrollees, including members of the Affordable Care Act Adult Eligibility group receiving coverage through the Alternative Benefit Plan. This change does not affect access to early and periodic screening, diagnostic, and treatment services for any enrollee receiving either the Alternative Benefit Plan or standard state plan services.

It is estimated this change will provide a cost savings of \$5,000,000 for every 1% of unintended births.

3. Name and address of person to contact concerning this information:

Bureau of Program and Policy Coordination
Division of Medical Programs
Healthcare and Family Services
201 South Grand Avenue East
Springfield, IL 62763-0001
E-mail address: bpra@illinois.gov

Interested persons may review these proposed changes on the Internet at <http://www2.illinois.gov/hfs/PublicInvolvement/>. Local access to the Internet is available through any local public library. In addition, this material may be viewed at the DHS local offices (except in Cook County). In Cook County, the changes may be reviewed at the Office of the Director, Illinois Department of Healthcare and Family Services, 401 South Clinton Street, Chicago, Illinois. The changes may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements found at 42 *CFR* 447.205.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of June 9, 2015 through June 15, 2015. Rulemaking are scheduled for review at the Committee's July 14, 2015 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>
7/22/15	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys-Fall Archery Season (17 Ill. Adm. Code 720)	4/3/15 39 Ill. Reg. 4757	7/14/15
7/22/15	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys-Fall Gun Season (17 Ill. Adm. Code 715)	4/3/15 39 Ill. Reg. 4742	7/14/15
7/22/15	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys-Spring Season (17 Ill. Adm. Code 710)	4/3/15 39 Ill. Reg. 4710	7/14/15
7/22/15	<u>Department of Natural Resources</u> , Squirrel Hunting (17 Ill. Adm. Code 690)	4/3/15 39 Ill. Reg. 4698	7/14/15
7/22/15	<u>Department of Natural Resources</u> , Youth Hunting Seasons (17 Ill. Adm. Code 685)	4/3/15 39 Ill. Reg. 4691	7/14/15
7/22/15	<u>Department of Natural Resources</u> , Special White-Tailed Deer Season for Disease Control (17 Ill. Adm. Code 675)	4/3/15 39 Ill. Reg. 4687	7/14/15
7/22/15	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting By Use of Bow and Arrow (17 Ill. Adm. Code 670)	4/3/15 39 Ill. Reg. 4663	7/14/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/22/15	<u>Department of Natural Resources, General Hunting and Trapping on Department-Owned or Managed Sites (17 Ill. Adm. Code 510)</u>	4/3/15 39 Ill. Reg. 4523	7/14/15
7/23/15	<u>Department of Central Management Services, Pay Plan (80 Ill. Adm. Code 310)</u>	4/24/15 39 Ill. Reg. 5634	7/14/15
7/23/15	<u>Secretary of State, School Bus Driver Permit (92 Ill. Adm. Code 1035)</u>	3/27/15 39 Ill. Reg. 4296	7/14/15
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7/23/15	<u>Secretary of State, Issuance of Licenses (92 Ill. Adm. Code 1030)</u>	3/27/15 39 Ill. Reg. 4193	7/14/15
7/23/15	<u>Department of Natural Resources, Commercial Fishing and Musseling in Certain Waters of the State (17 Ill. Adm. Code 830)</u>	4/3/15 39 Ill. Reg. 4810	7/14/15
7/23/15	<u>Department of Natural Resources, Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill. Adm. Code 740)</u>	4/3/15 39 Ill. Reg. 4795	7/14/15
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ILLINOIS GENERAL ASSEMBLY

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7/23/15	<u>Department of Natural Resources</u> , Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)	4/3/15 39 Ill. Reg. 4573	7/14/15
7/23/15	<u>Department of Natural Resources</u> , Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550)	4/3/15 39 Ill. Reg. 4560	7/14/15
7/23/15	<u>Department of Natural Resources</u> , Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 Ill. Adm. Code 530)	4/3/15 39 Ill. Reg. 4531	7/14/15
7/24/15	<u>Pollution Control Board</u> , Management of Used and Waste Tires (35 Ill. Adm. Code 848)	2/27/15 39 Ill. Reg. 2814	7/14/15
7/25/15	<u>State Universities Civil Service System</u> , State Universities Civil Service System (80 Ill. Adm. Code 250)	2/13/15 39 Ill. Reg. 2267	7/14/15
7/25/15	<u>Illinois Housing Development Authority</u> , Single Family Mortgage Purchase Program II (Repealer) (47 Ill. Adm. Code 250)	1/2/15 39 Ill. Reg. 225	7/14/15
7/25/15	<u>Illinois Housing Development Authority</u> , Single Family Mortgage Purchase Program (Repealer) (47 Ill. Adm. Code 220)	1/2/15 39 Ill. Reg. 205	7/14/15
7/29/15	<u>Department of Public Health</u> , Reference for Rules in Administrative Hearings under Sections 2-110(d) and 3-410 of the Nursing Home Care Act (Repealer) (77 Ill. Adm. Code 430)	2/6/15 39 Ill. Reg. 1985	7/14/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/29/15	<u>Department of Public Health</u> , Blood Labeling Code (Repealer) (77 Ill. Adm. Code 460)	2/6/15 39 Ill. Reg. 1990	7/14/15
7/29/15	<u>Department of Public Health</u> , Structural Pest Control Code (77 Ill. Adm. Code 830)	2/6/15 39 Ill. Reg. 2010	7/14/15
7/29/15	<u>Department of Public Health</u> , Illinois Blood Bank Code (Repealer) (77 Ill. Adm. Code 490)	3/6/15 39 Ill. Reg. 3355	7/14/15

ILLINOIS ADMINISTRATIVE CODE
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