

**Procurement Reform Legislation
Public Act 100-0043/SB 8**

Purchases Which the Procurement Code Does Not Apply

Section 1-10(b) of the Code outlines specific types of purchases which the Code does not apply. Senate Bill 8 added/modified the following types of purchases which the Code does not apply:

- (1) Contracts between the State and its political subdivisions or other governments or between State governmental bodies do not apply under the code.
- (13) Contract for services, commodities, and equipment to support the delivery of timely forensic sciences services in consultation with and subject to the approval of the Chief Procurement Officer ("CPO") – this provision has a January 1, 2019 sunset clause.
- (14) Contract for participation expenditures required by a domestic or international trade show or exhibition of an exhibitor, member or sponsor.

Senate Bill 8 also requires the posting of a notice to the Procurement Bulletin for specific types of purchases to which the Code does not apply under this section. These purchases are subject to further definition by the CPO.

Higher Education Specific Exempt Purchases - Reinstated

Section 1-13(b) of the Code has been restored which provides higher education-specific exemptions to the Code. All subheadings under this section are newly reinstated due to the expiration of the previous exemptions allowed under this section.

- (1) Memberships in professional, academic, research, or athletic organizations on behalf of a public institution of higher education, an employee of a public institution of higher education, or a student at a public institution of higher education.
- (2) Procurement expenditures for events or activities paid for exclusively by revenues generated by the event or activity, gifts or donations for the event or activity, private grants, or any combination thereof.
- (3) Procurement expenditures for events or activities for which the use of specific potential contractors is mandated or identified by the sponsor of the event or activity, provided that the sponsor is providing a majority of the funding for the event or activity.
- (6) Procurement expenditures for placement of students in externships, practicums, field experiences, and for medical residencies and rotations.
- (7) Contracts for programming and broadcast license rights for university-operated radio and television stations.

Senate Bill 8 also requires the posting of a notice to the Procurement Bulletin within 14 calendar day of contract execution for an exempt purchase under this section. These purchases are subject to further definition by the CPO and, depending on funding source, may require compliance with Federal purchase requirements.

Higher Education Specific Exempt Purchases – Modified/New

Section 1-13(b) of the Code has been restored which provides higher education-specific exemptions to the Code. Modified subheadings and new subheadings include:

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

- (5) Procurement expenditures for periodicals, books, subscriptions, database licenses, and other publications procured for use by a university library or academic department, except for expenditures related to procuring textbooks for student use or materials for resale or rental.
- (8) Procurement expenditures necessary to perform sponsored research and other sponsored activities under grants and contracts funded by the sponsor or by sources other than State appropriations.
- (9) Contracts with a foreign entity for research or educational activities, provided that the foreign entity either does not maintain an office in the United States or is the sole source of the service or product.

Senate Bill 8 also requires the posting of a notice to the Procurement Bulletin within 14 calendar day of contract execution for an exempt purchase under this section. These purchases are subject to further definition by the CPO and depending on funding source may require compliance with Federal purchase requirements.

Additional Exempt Purchases – Medical Supplies and Services

Section 1-13(b-5) of the Code has been restored which provides an additional exemption to the Code. This section is newly reinstated due to the expiration of the previous exemption allowed under this section and has been modified to allow for additional medical supply and service purchases:

(B-5) Except as provided in this subsection, the provisions of this Code shall not apply to contracts for medical supplies, and to contracts for medical services necessary for the delivery of care and treatment at medical, dental or veterinary teaching facilities and at any university-operated health care center or dispensary that provides care, treatment, and medications for students, faculty and staff. Other supplies and services needed for these teaching facilities shall be subject to the jurisdiction of the Chief Procurement Officer for Public Institutions of Higher Education who may establish expedited procurement procedures and may waive or modify certification, contract, hearing, process and registration requirements required by the Code. All procurements made under this subsection shall be documented and may require publication in the Illinois Procurement Bulletin.

These purchases are subject to further definition by the CPO and depending on funding source, may require compliance with Federal purchase requirements.

Additional Exempt Purchases – Research

Section 1-13 (c) allows for purchases necessary to perform sponsored research and other sponsored activities under grants and contracts funded by the sponsor or by sources other than State appropriations.

These purchases may be subject to further definition by the CPO and, depending on funding source, may require compliance with Federal purchase requirements.

New Procurement Definitions

Section 15

15.40 Electronic Procurement

15.47 Master contract -Additional language added to section 525/1

15.48 No-cost contract – means a contract in which the State of Illinois does not make a payment to or receive a payment from the vendor, but the vendor has the contractual authority to charge an entity other than the State of Illinois for supplies or services at the State’s contracted rate to fulfill the State’s mandated requirements.

Additional language regarding no-cost contracting is added to *Section 53-10*. However, Institutions are giving an exception.

Procurement Policy Board Review Timeframe

Section 5-30 (b) has been modified to lower the number of days the Procurement Policy Board (PPB) has to review a proposed contract. Previously the PPB was given 30 calendar days to complete their review and provide a waiver or take no action on a purchase. The changes in Senate Bill 8 lower this timeframe to 14 calendar days.

Authority of State Purchasing Officers

Sections 10-10 (a) through (c) have been modified to allow for increased authority of state purchasing officers (SPOs). *Section A-5* allows SPOs to: attend any procurement meetings, access any records/files, issue reports to the Chief Procurement Officer on procurement issues, and ensure that appropriate records are being maintained. SPOs are also required to report misconduct, waste or inefficiencies with respect to State procurement to the University System.

Updated Small Purchase Limits

Sections 20-20, 35-30 and 35-35 have all been modified to establish new small purchase limits for the purchase of supplies, equipment, general services, and professional and artistic services. The adjusted thresholds do not relieve the University System from demonstrating competition as required under *Section 7.2* of the OBFS Policy and Procedure Manual nor from Bulletin publishing requirements for professional and artistic small purchases.

The following table shows historical small purchase limit with the newly established limits:

Purchase Type	Previous Small Purchase Limit	New Small Purchase Limit
Supplies, Equipment or General Services	Less Than or Equal to \$80,000	Adjusted to Less Than or Equal to \$100,000
Construction	Less Than or Equal to \$100,000	Not changed, Less Than or Equal to \$100,000
Professional and Artistic Services including: Law Accounting Medicine Dentistry Clinical Psychology Custom-Produced Art	Less than \$20,000	Adjusted to Less Than \$100,000

There have been no modifications to the small purchase limit for professional services subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act (less than \$25,000) nor for real property purchases and capital improvement leases subject to competitive solicitation if the purchase is greater than or equal to \$100,000 or greater than or equal to 10,000 square feet of space.

Alternative Competitive Source Selection for Small Dollar Construction Projects

Section 20-20 (a) new language

Any procurement of construction not exceeding \$100,000 may be made by an alternative competitive source selection process. The construction agency shall establish rules for an alternative competitive source selection process.

Bidders Requirements

Section 20-43

Bidder must be a legal entity at time bid is offered but no longer must be registered to do business at time of bid opening. "That Legal entity must be authorized to transact business or conduct affairs in Illinois prior to execution of the contract."

Section 20-160 State Board of Elections registration:

"Upon discovery of noncompliance with this section, if the bidder or offeror made a good faith effort to comply with registration efforts prior to the date the bid or offer is due, a chief procurement officer may provide the bidder or offeror 5 business days to achieve compliance. A chief procurement officer may extend the time to prove compliance by as long as necessary in the event that there is a failure within the State Board of Election's registration system."

Best Value Procurement- NEW

Section 25-85

This applies to purchases of heavy mobile fleet vehicles and off-road construction equipment.

This means a contract award determined by objective criteria related to price, features, functions and life-cycle costs (total cost of ownership, product performance, environmental benefits, etc.) and utilizing a weighted evaluation matrix. Sunsets 1/1/2021

Changes to Printing Requirements Related to Soybean and Vegetable Oil-Based Ink

Section 45-15 has been modified to differentiate between digital printing and offset printing. This section was also modified to indicate that soybean or vegetable oil-based ink is required for offset printing purchases unless otherwise approved by the State Purchasing Officer. This section no longer applies to digital printing services.

Small Business Contracts

Section 45-90

10% goal with authority given to CPO to establish process for institutions.

Continuing Disclosures

Section 50-2

Every entity entered into a contract for more than one year in duration for initial term or for any renewal term shall certify by January 1 of each fiscal year covered by the contract after the initial fiscal year.

Procurement Confidentiality – Employee’s Requirements

Pursuant to Section 50-45

University employees are now an included group of individuals subject to the confidentiality requirements of the Code. Specifically, employees are not allowed to use specifications, competitive solicitation documents, proprietary competitive information, contracts, or selection information to compromise the fairness or integrity of the procurement or contract process. Employees are subject to immediate dismissal, regardless of the Personnel Code, any contract, or any collective bargaining agreement, and may also be subject to criminal prosecution for willful use of confidential information to compromise the fairness or integrity of the procurement or contract process

Joint Purchases

Section 525/1-4.2

Gives the CPO additional control of consortium, group purchasing organizations and cooperatives utilized and allows the CPO to determine processes.

Suspension or Debarment

Section 525/4.3

Allows the CPO to suspend services from contractor or subcontractor for up to 10 years. CPO authorized to establish procedures.

Payments to Subcontractor and Material Suppliers

Section 540/7

Provides details of when and how to handle contractors that have received payment for services but have not paid their subcontractors or material suppliers.

For Questions, contact Matt Oldenburg at mjolde@ilstu.edu or (309)438-7916.