

2010 BRINGING ADMINISTRATORS TOGETHER CONFERENCE

Senate Bill 51 Public Act 96-0795

Presenters:

Heather Haberaecker

Lourdes Coss

UIC UNIVERSITY OF ILLINOIS
AT CHICAGO

Succeeding in Challenging Times

Objectives

- Provide overview of the changes in public procurement
- Explain how major changes impact user departments
- Explain how other changes may indirectly impact user departments

Overview of Changes

- SB 51 is the result of the report by the Illinois Reform Commission
- State will have 4 new Chief Procurement Officers reporting to the Executive Ethics Commission: Higher Education, Central Management Services, Illinois Department of Transportation, and Capital Development Board
- Final procurement authority shifts from the agency (university or state agencies) to the Executive Ethics Commission
- Changes apply to all procurement and contracts awarded as of July 1st

Major Changes

- **1. Authority and Structure:** Procurement authority transfer to the Executive Ethics Commission (EEC) and establishes a new procurement hierarchy.

Description	Current	Change
Procurement Authority	University	EEC
Chief Procurement Officer (CPO) for Higher Education	Walter K. Knorr appointed by the Governor	To be selected by the EEC – 5 year appointment
State Procurement Officer for UIC	Heather Haberaecker	To be selected by new CPO
Procurement Compliance Monitors	None (role similar to Internal Audit/Ethics Office)	To be selected by the EEC
Chief Procurement Officer (CPO) for Higher Education	Walter K. Knorr appointed by the Governor	To be selected by the EEC – 5 year appointment

Major Changes (cont.)

- **Impact to University**

- Final procurement authority shifts from the University to the EEC through the CPO
- CPO will establish procurement rules applicable to all procurement at or above bid thresholds
- CPO or designee (SPO) will have control over all awards at or above the bid threshold
- Day-to-day procurement authority/decisions shift from OBFS to the EEC through the SPO appointed by the CPO
- PCM will have procurement audit-type responsibilities.

Major Changes (cont.)

- **2. Transparency:** Purchasing Office communication associated with a procurement must be recorded and reported to the Procurement Policy Board (PPB).

Request by end user → Procurement Communications by Purchasing Personnel → Report to the PPB

Material communication
Material Information
Material Argument



Exceptions:
Vendor Conferences
FOIA
Negotiations
Privileged Information

Major Changes (cont.)

- **Transparency Impact**

- Any material communication, material information or material argument must be reported to the Procurement Policy Board
- Communication with non-state employees, constitutional officers, legislators, and their staff must also be reported
- Exceptions: pre-proposal/pre-bid conferences, FOIA, contract negotiations, privileged advice/information
- Some reporting also required on confidential and proprietary vendor information

Major Changes (cont.)

- ▶ **3. Non-Competitive Contracts:** The term is restricted and public hearings must be conducted for sole source and emergency contracts.
 - Sole Source Requests
 - All sole source requests at or above bid threshold require public hearings.
 - Notice of hearing must be posted at least 14 days prior to the date of the hearing and award of a contract.
 - P&A contracts may not be extended more than two months from its original term or increased by more than 5%
 - Extension of Emergency Contract
 - Term cannot exceed 90 days.
 - Notice of hearing must be posted to the Bulletin at least five (5) days prior to hearing.

Changes to MAFBE Participation

► Business Enterprise Program

◦ Goals

- Increase overall goal to 20%
- Increase in the percentage allocated to minorities from 5% to 11%
- Reduction of female goal from 12% (including 3% female minority) to 7%
- Goal for Persons with Disabilities remain 2%
- 10% of construction dollars should go to MAFBE firms and 50% of that amount shall be awarded to female-owned firms

◦ Certification Threshold

- From \$31,400,000 to \$75,000,000
- We may see larger firms come into the MAFBE stream

Changes-Indirect Impact to Campus

- **Procurement File Content Requirements**
 - All evaluation process documentation
 - Reasoning and approval for decision
 - University staff involved in any procurement will need to comply with documentation requirements
 - Procurement file shall be available for public inspection within 7 days of award of contract
- **Subcontractors**
 - If there are any subcontracts, they shall be submitted to the CPO no later than 20 days after award
 - End-user will need to follow up with vendor on the submission of required documentation before proceeding with the work.

Changes-Direct Impact to Vendors

- **Annual Certifications & Registrations – applicable to prime and subcontracts**
 - **Registration with the Secretary of State to do business in Illinois**
 - Applicable to all vendors
 - Payment of a registration fee to the Secretary of State
 - The fee for initial and recurring fee will equal \$175 and \$75 respectively
 - **Subcontractor reporting of all transactions rather than those subcontractors exceeding the small purchase bid level**
 - Administratively burdensome
 - Subcontracts and certifications will need to be compiled by the prime vendor

Changes – Direct Impact to Vendors

- **Conflict of Interest**

- Financial Interest and Potential Conflict of Interest form currently required of vendors is revised to

- Revises business owner threshold to 60% of Governor's salary
- Requires new disclosures required for lobbyists
- Requires disclosure of any debarment, bankruptcy, and other legal actions
- Form applicable to request for bids and request for proposals

- Conflict of interest must be referred to the CPO

Other Changes-Positive Impact

- **Reverse Auction**
 - Acceptable method for procurement primarily for commodities
 - May require pre-qualification of vendors prior to auction
 - Cannot be used for
 - Professional Services
 - Telecommunication Services
 - Communication Services
 - Information Services
 - Construction

Efforts Underway

- Current University SPOs drafted the job description for the new CPO position and a subcommittee has input into the selection process
- EEC expects to make a selection by May 1st
- The SPO subcommittee and other CPOs drafted legislative changes to make SB 51 more workable; awaiting legislative review and consideration

Efforts Underway (cont.)

- Working on strategy so Purchasing Directors could serve as their universities' SPO to save the State money and minimize delays in decisions
- All Universities working collaboratively with other State agencies to prepare for July 1st implementation
- Strategy for all changes submitted April 1st
- Any contract awarded as of July 1st must comply with all requirements

Departmental Changes Required Due to SB 51

- Will need to submit sole source requests earlier since public hearing will now be required
- Will need to submit proposed Board items earlier since an additional SPO approval will be required
- Will likely see other changes in forms and processes as current university/state level committees finish their work

Questions?

Thank you!