



**Roland W. Burris**

Comptroller  
State of Illinois

201 State House  
Springfield, Illinois 62706  
217/782-6000

TO: Chief Fiscal Officers of All State Agencies

DATE: October 13, 1988

SUBJECT: New Legislation Affecting State Contracts

The purpose of this memo is to bring to your attention two recently enacted laws that contain requirements applicable to State contracts including certifications that must be incorporated in their contents. One of these laws is currently in effect.

Public Act 85-827 (HB 2248) which became effective on January 1, 1988, prohibits a state agency from contracting with an individual for goods or services if that individual is in default of an educational loan as defined in the Act. Section 3 provides that "... any contract used by any state agency shall include a statement certifying that the individual is not in default on an educational loan as provided in this section."

Pursuant to this law, any contract with an individual executed on or after January 1, 1988, must have the following statement, or words of similar import, as a provision of the contract:

The vendor certifies that he is not in default on an educational loan as provided in Public Act 85-827.

The above statement must be an actual contractual provision attested to by the vendor by signing the contract. It may not be stamped or otherwise affixed to the contract after the vendor signs. It may be included on a separate sheet after contract execution if the agency obtains the vendor's signature on that separate sheet.

Each agency should obtain a copy of this Act as it makes additional requirements relating to State employees and employment application forms.

Public Act 85-1295 (SB 2002) which creates the criminal offenses of bid-rigging, bid rotating and kickbacks in regards to public contracts has established a new requirement for executing certain contract amendments

and has prescribed a new certification that must be included in the content of all State contracts for goods, services, and construction. It takes effect January 1, 1989.

Section 33E-9 provides as follows:

Sec. 33E-9. Change orders. Any person employed by any unit of State or local government who knowingly authorizes a change in any governmental contract without a determination in writing by the unit of State or local government or its designee on whose behalf the contract was signed, that the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, were not within the contemplation of the contract as signed or are in the best interest of the unit of State or local government and authorized by law commits a Class 4 felony. Such written determination shall be preserved in a permanent contract file that is open to the public. This Section shall only apply to change orders which authorize or necessitate an increase or decrease in either the cost of a contract by \$10,000 or more or the time of completion by 30 days or more.

Section 33E-11 provides as follows:

Sec. 33E-11. Every bid submitted to and contract executed by the State or unit of local government shall contain a certification by the contractor that the contractor is not barred from bidding on the contract as a result of a violation of either Section 33E-3 or 33E-4 of this Article. The State and units of local government shall provide the appropriate forms for such certification.

Pursuant to Sec. 33E-9, any amendment to an existing contract executed on or after January 1, 1989 which increases or decreases the cost of the contract by \$10,000 or more or the time of completion by 30 days or more must be supported by and filed with a written determination fashioned to the circumstances. This office will retain all written determinations for public inspection.

In addition, in accordance with Sec. 33E-11, any contract, regardless of amount, executed on or after January 1, 1989 must contain the following certification (or words of similar import):

The contractor certifies that it has not been barred from bidding on this contract as a result of a violation of Section 33E-3 or 33E-4 of the Criminal Code of 1961.

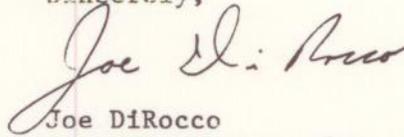
The above certification must be included as a provision of the contract, attested to by the contractor by signing the contract. It may not be stamped or otherwise affixed on the contract after execution.

State agencies should also obtain a copy of P.A. 85-1295 as it contains other provisions which affect the State's contracting process.

This office will monitor for compliance with the above statutory provisions. Contracts not in compliance are subject to return.

If you have any questions concerning this matter, please call me at 782-3608.

Sincerely,

A handwritten signature in cursive script that reads "Joe DiRocco". The signature is written in dark ink and is positioned above the typed name.

Joe DiRocco  
Manager, Contract/Voucher Division