



ACCOUNTING BULLETIN

TO: Fiscal Officers of All State Agencies

FROM: Steven L. Valasek, Director of State Accounting

DATE: October 15, 2010

SUBJECT: Timely Execution of Contracts – Revised Requirements

NUMBER: 164

The Illinois Office of the Comptroller (IOC) issued Accounting Bulletin #162 on July 13, 2010 about the Timely Execution of Contracts based on Public Acts 96-0795 and 96-0920. Since that time, Public Act 96-1000 was signed which again changed the requirements for the Timely Execution of Contracts. This Act removed the reference to an affidavit; therefore, a Late Execution Waiver Request (hereafter referred to as Waiver Request) is required instead of a Late Execution Affidavit. Due to this change in the requirements, the IOC has issued the following Accounting Bulletin which replaces Accounting Bulletin #162.

Public Acts 96-0795, 96-0920, and 96-1000 amended the Illinois Procurement Code (30 ILCS 500/20-80(d)). These Acts made the following changes: 1) increases the contract filing threshold for Professional & Artistic Services contracts from \$5,000 to \$10,000, 2) requires that all contracts be reduced to writing and signed by all necessary parties before services are rendered or goods are received, and 3) allows for the Chief Procurement Officer to request an exception to #2.

These new requirements apply to all contracts (defined at 30 ILCS 500/1-15.30) subject to the Illinois Procurement Code solicited on or after July 1, 2010.

Contracts that are exempt from the Illinois Procurement Code [30 ILCS 500/1-10 (b)] are also exempt from this requirement.

The following section was amended as follows (new language is underlined and deleted language is lined through):

30 ILCS 500/ 20-80(d):

~~“(d) Timely execution of Professional and artistic services contracts. 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 for services involving professional or artistic skills involving an expenditure of more than \$5,000 for the same type of service at the same location during any fiscal year 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 necessary parties. A chief procurement officer may request an exception to this subsection 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 must be approved by the Comptroller and Treasurer. When a contract for professional or artistic skills in excess of \$5,000 was not reduced to writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the State agency files with the Comptroller:~~

~~(1) a written contract covering the services, and~~

~~(2) an affidavit, signed by the chief executive officer of the State agency or his or her designee, stating that the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced to writing before the services commenced.~~

~~A copy of this affidavit shall be filed with the Auditor General. This Section shall not apply to emergency purchases if notice of the emergency purchase is filed with the Procurement Policy Board and published in the Bulletin as~~

required by this Code. The Comptroller shall maintain professional or artistic service contracts filed under this Section separately from other filed contracts.’

The IOC will pre-audit contracts for this requirement at both the initial execution of a contract and at any renewal of a contract. If any contract for goods or services is executed after the beginning date of the contract, the IOC will reject the contract.

30 ILCS 500/20-80(d) allows the following two exceptions:

1. Emergency purchase transactions (award code “E”) are exempt from this requirement. To process an emergency purchase transaction that was executed after the beginning date of the contract, the agency must submit a copy of the Procurement Bulletin publication with the contract.
2. The Chief Procurement Officer (CPO) can request an exception to this requirement by submitting a Waiver Request to the IOC.

A Waiver Request must contain all the following elements:

- obligation number
- contracting agency number and name;
- contact person, phone number and address;
- vendor name;
- **either** a request for an exception along with a detailed explanation of why the goods were received or the services were commenced before the agreement was executed, **or** a statement that the goods were not received or the services were not performed before the agreement was executed.
- original signature of the CPO as supported by a signature card (SCO-471).

A copy of the contract must be submitted with the Waiver Request. The contract will be date stamped upon receipt. Upon final determination of the Waiver Request, the IOC will return the contract to the agency along with the original Waiver Request

This new requirement is effective immediately. The IOC will continue to accept affidavits (pursuant to Accounting Bulletin #162) that are received at the IOC until October 25, 2010.

The Waiver Request and a copy of the contract must be submitted to:

Illinois Office of the Comptroller
Attn: Director of State Accounting
325 West Adams
Springfield, IL 62704-1871

The IOC will coordinate the review process with the Treasurer's Office. If the Waiver Request is approved, the Waiver Request and date stamped contract will be returned to the contact person. If the Waiver Request is not approved, the contact person will be notified.

Once the Waiver Request is approved, the agency can submit the date stamped contract, the original Waiver Request and the Contract Obligation Document to the IOC Obligation Unit for processing.

NOTE: Late Filing requirements were not changed by this legislation. Agencies are still required to submit two copies of a "Late Filing Affidavit" when their contract or grant is not filed with the IOC within 30 days of execution [30 ILCS 500/20-80 (c)].

If you have any questions concerning this bulletin, please contact Thwyla Drury at (217) 782-3686. Agencies may access this and other Accounting, Payroll and SAMS Bulletins on the Comptroller's website at www.ioc.state.il.us under Resource Library.

LATE EXECUTION WAIVER REQUEST

IOC Control Number

Obligation Number

Agency # and Name: (_ _ _) _____

Agency Contact Person: _____ Phone Number: _____

Address: _____

Vendor Name: _____

Mark and complete one of the following:

() I am requesting an exception to the requirements of 30 ILCS 500/20-80(d). The contract could not be reduced to writing and signed by all necessary parties prior to the goods being received or prior to the services being commenced because: _____

(OR)

() The contract was reduced to writing and signed by all necessary parties before the goods were received or services were commenced. The goods were received or services were commenced on the following date: _____

I am the Chief Procurement Officer, or an authorized designee for the Chief Procurement Officer, for the above listed agency and I am duly authorized to make this request. I know and understand the contents of this request, and all statements herein are true and correct.

Chief Procurement Officer Signature

Date

(For Comptroller and Treasurer Use Only)

Comptroller Date

Treasurer Date

Approved

Denied