



# ACCOUNTING BULLETIN

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TO: Fiscal Officers of All State Agencies

FROM: Steven L. Valasek, Director of State Accounting

DATE: December 10, 2003

SUBJECT: New Contract Certification Legislation

NUMBER: 115

As a follow up to Accounting Bulletin 114, there are two other Public Acts that impact contract certifications. PA 93-0307 prohibits the purchase of foreign-made goods produced by forced labor. PA 93-0600 prohibits the bidding on or entering into contracts with the State of Illinois or a State agency by a business that has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of five years from the date of conviction. The effective date of both of these Public Acts is January 1, 2004.

Public Act 93-0307 creates the State Prohibition of Goods from Forced Labor Act to require that contractors certify in every contract entered into with a State Agency for procurements of equipment, materials, or supplies, other than procurements related to a public works contract, that no foreign-made equipment, materials, or supplies furnished to the State under the contract may be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. Any contractor having knowledge when entering into the contract that the above referenced certification is false may be subject to sanctions under the Act.

The following is the IOC's recommended language to include in every contract subject to Public Act 93-0307:

***The contractor certifies in accordance with Public Act 93-0307 that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.***

Public Act 93-0600 adds Section 50-10.5 to the Illinois Procurement Code (30 ILCS 500/50-10.5). Section 50-10.5 prohibits a business from bidding or entering into a contract with the State of Illinois or any State agency 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 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of five years from the date of conviction.

This section requires each bidder or contractor to certify in every bid submitted or contract entered into with the State of Illinois or any State agency that the bidder or contractor is not barred from being awarded a contract pursuant to 30 ILCS 500/50-10.5. The bidder or contractor must also acknowledge that the contracting State agency shall declare the contract void if the referenced certification is false.

Public Act 93-0600 created Section 50-60(c) which requires the contracting agency to declare a contract void if the agency determines during the term of the contract that the contractor is in violation of Section 50-10.5.

The IOC recommends the following language be included in every contract or bid subject to the Illinois Procurement Code:

***The contractor certifies in accordance with 30 ILCS 500/50-10.5 that no officer, director, partner or other managerial agent of the contracting business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of five years prior to the date of the bid or contract. The contractor acknowledges that the contracting agency shall declare the contract void if this certification is false.***

The IOC will begin to reject contracts for non-compliance with the Public Act 93-0307 and Public Act 93-0600 for contracts initiated after December 31, 2003. The date of initiation will be evidenced by the earliest date of the signatures on the contract. If only one signature is dated, that will be considered the initiation date. If none of the signatures are dated, the execution date of the contract will be used as the initiation date.

If you have any questions pertaining to this bulletin, please contact Linda Seelbach at (217) 782-3608. Agencies may access this and other Payroll, SAMS and Accounting Bulletins on the Comptroller's website at [www.ioc.state.il.us](http://www.ioc.state.il.us) under Resource Library.