



# ACCOUNTING BULLETIN

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TO: Fiscal Officers of All State Agencies

FROM: Steven L. Valasek, Director of State Accounting

DATE: December 30, 2003

SUBJECT: Additional Contract Certification Legislation

NUMBER: 116

The Governor has signed two additional Public Acts that impact contract certifications. PA 93-0552 requires development assistance agreements to contain specific recapture provisions. PA 93-0575 prohibits the bidding on or entering into contracts with the State of Illinois or a State agency by a person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of Section 42 of the Environmental Protection Act for a period of five years from the date of the order.

Public Act 93-0552 creates the State Corporate Accountability for Tax Expenditure Act which requires all development assistance agreements contain recapture provisions pursuant to Section 25 of the Act. Agencies that may potentially be impacted by this legislation include the Department of Commerce and Economic Opportunity, the State Treasurer's Office, the Department of Transportation, and the Department of Revenue.

The following is the IOC's recommended language to be included in every agreement or attached to every agreement that is subject to Public Act 93-0552:

***This agreement is in compliance with the requirements of the Corporate Accountability for Tax Expenditure Act (PA 93-0552).***

Public Act 93-0575 adds Section 50-12 to the Illinois Procurement Code (30 ILCS 500/50-12). Section 50-12 prohibits the bidding on or entering into contracts with the State of Illinois or a State agency by a person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of Section 42 of the Environmental Protection Act for a period of five years from the date of the order containing the finding of violation. 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 500/50-12. The bidder or contractor must also acknowledge that the contracting State agency may declare the contract void if the referenced certification is false.

Section 50-12 provides two exceptions to this requirement: (1) if it is shown that there is no practicable alternative to the State to contracting with that person or business; and (2) where the person or business can show that no person involved in the violation continues to have any involvement with the business.

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 500/50-12 that the bidder or contractor is not barred from being awarded a contract under this Section. The contractor acknowledges that the contracting agency may declare the contract void if this certification is false.***

The IOC will begin to reject contracts for non-compliance with Public Act 93-0552 and Public Act 93-0575 for contracts initiated after January 15, 2004. 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 no signature is 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.