



ACCOUNTING BULLETIN

TO: Fiscal Officers of All State Agencies

FROM: Steven L. Valasek, Director of State Accounting

DATE: October 15, 2003

SUBJECT: New Contract Certification Legislation

NUMBER: 114

Public Act 93-0025 amends the Illinois State Procurement Code (30 ILCS 500) requirements for a vendor bidding on, or entering into, a contract with a State Agency. Section 50-11 was amended to include “affiliates” of the contractor as part of the requirement and certification process. A definition of “affiliate” has been added to the section. Section 50-12 is a new section. This section states that “no person shall enter into a contract with a State agency under this Code unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act...” This section also requires that every bid submitted and contract executed by the State shall contain a certification by the bidder or contractor that the bidder or contractor is not barred from bidding for or entering into a contract pursuant to this Section, and that the contract can be voided if the certification is false.

The following is a modified version of the Illinois Office of the Comptroller (IOC) recommended language that was introduced in Accounting Bulletin #99:

The contractor or bidder certifies that it, or any affiliate, is not barred from being awarded a contract under 30 ILCS 500. Section 50-11 prohibits a person from entering into a contract with a State agency if it knows or should know that it, or any affiliate, is delinquent in the payment of any debt to the State as defined by the Debt Collection Board. Section 50-12 prohibits a person from entering into a contract with a State agency if it, or any affiliate, has failed to collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act. The contractor further acknowledges that the contracting State agency may declare the contract void if this certification is false or if the contractor, or any affiliate, is determined to be delinquent in the payment of any debt to the State during the term of the contract.

An optional version to the IOC's recommended language is as follows:

The contractor or bidder certifies that it, or any affiliate, is not barred from being awarded a contract under 30 ILCS 500/50-11 and 50-12. The contractor further acknowledges that the contracting State agency may declare the contract void if the preceding certification is false or if the contractor, or any affiliate, is determined to be delinquent in the payment of any debt to the State during the term of the contract.

The IOC will begin to reject contracts for non-compliance with these statutes for contracts initiated after October 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 effective date of the contract will be used as the initiation date.

There are two other Public Acts that impact contract certifications. PA 93-0307 prohibits the purchase of goods produced by forced labor. PA 93-0600 prohibits entering into a contract with a person 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. The IOC will issue additional guidance on these new statutes in the near future.

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 under Resource Library.