

STATE OF ILLINOIS
PROCUREMENT POLICY BOARD

Terrence Healy, Chairman

Members: Michael Bass, Ed Bedore, Ricardo Morales, Carmen Triche-Colvin

RESOLUTION OF PROCUREMENT POLICY BOARD

WHEREAS, the Procurement Policy Board is aware of certain solicitations for bid and/or requests for proposal published by the State of Illinois soliciting competitive bidding from private sector vendors, contain express language stating that certain incentives offered by vendors to the State ("Vendor Incentives"), including up front cash payments to the State, will be considered when awarding a contract;

WHEREAS, Section 20-50 of the Illinois Procurement Code (30 ILCS 500/20-50 reads in part:

. . . a solicitation or specification for a contract, including a contract of a college, university or institution under the jurisdiction of the governing board listed in Section 1-15.100, may not require, stipulate, suggest, or encourage a monetary or other financial contribution or donation as an explicit or implied term or condition for awarding or completing the contract . . .

WHEREAS, the Procurement Policy Board believes it should make a statement expressing its opinion of a request for such Vendor Incentives.

NOW, THEREFORE,

BE IT RESOLVED, that the Procurement Policy Board believes that the intent of 30 ILCS 500/20-50 is to prohibit situations that a required monetary or financial contribution or donation influenced the award of a State contract. In the context of Vendor Incentives, even if there is no intent by the State to violate the statute and even if the motive of the State is to obtain the lowest total cost of ownership for the State, the Board believes that an up front cash payment or signing bonus or cash advance differ from incentives earned by meeting certain transaction levels that trigger discounts, better pricing or rebates and that evaluations of up-front cash as a

specification for determining the award of a State contract are prohibited by Section 20-50 of the Procurement Code.

FURTHER RESOLVED, in the opinion of the Procurement Policy Board such up front cash Vendor Incentives as currently contained in solicitations to bid and/or request for proposal do the following: (i) pass along costs of the State's incentive to local governments participating in joint purchasing with the State; (ii) negatively impacts small and medium size businesses when inability to provide an incentive to the State precludes them from bidding; and (iii) appears to function as short term borrowing that is paid back over the term of the contract.

FURTHER RESOLVED, that the requirement of Vendor Incentives that result in an up front cash payment to the State should be prohibited.

ADOPTED by the Procurement Policy Board this 12 day of April 2005.


TERRENCE HEALY, Chairman

ATTEST:



VOTES:

Ayes: 4

Nays: 0

Absent: 0