

Section 100.180 Business Entity Registration Procedures

- a) This Section and Section 100.185 are adopted to comply with Public Act 95-971, as amended by Public Act 96-848. Any business entity whose existing State contracts, whose bids and proposals on State contracts or whose bids and proposals on State contracts combined with the business entity's existing State contracts in aggregate annually total more than \$50,000 shall register with SBEL in accordance with Section 9-35 of the Election Code [10 ILCS 5/9-35]. Those business entities that wish to submit a bid or proposal on a State contract must register with SBEL prior to submitting their bid or proposal. SBEL will provide a certificate of registration upon successful completion of the registration process.
- b) Definitions
 - 1) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", "affiliated person", and "executive employee" shall have the meanings ascribed to those terms in Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37] (Procurement Code).
 - 2) The term "annually", as used in Section 20-160 of the Procurement Code, when referring to the aggregation of State contracts, shall mean the calendar year in which the contracts are bid on or awarded.
 - 3) Unless otherwise indicated, any time frame involving a certain number of days shall refer to business days. Business days shall be those days in which the office of SBEL is open to the public for a minimum of 7 hours.
 - 4) The term "political committee" shall mean any political committee required to file as such under the provisions of Article 9 of the Election Code (campaign disclosure law), regardless of whether the committee has filed a Statement of Organization pursuant to Section 9-3 of the Election Code.
 - 5) The term "minor child" shall mean any affiliated person who has not attained 18 years of age as of the time of registration of the business entity with which the person is affiliated.
- c) Business entities shall register on a secure website provided by SBEL by first creating an on-line account. SBEL will verify the authenticity of that account at the time of registration.
- d) Registration Procedures
 - 1) The following information must be supplied at the time of, and for the purpose of listing in, the registration:
 - A) The name and address of the business entity. The address shall be the office designated by the entity as its principal office or its headquarters.
 - B) The name and address of each affiliated entity of the business entity, including a description of the affiliation. The address shall be that of the principal office or headquarters of the affiliated entity.
 - C) The name and address of each affiliated person of the business entity, including a description of the affiliation. (Every affiliated person or persons within a business entity that is required to register electronically must be listed on the registration form. If there are no affiliated persons, the person whose position within the business entity comes closest to meeting the definition of affiliated person shall be listed on the registration form. The electronic registration system will not accept a blank entry where a name is required.) The name and address of a minor

child who must be disclosed on the business entity's registration by virtue of the fact that such person falls under the definition of affiliated person shall not be posted on the SBEL website.

- D) The Federal Employer Identification Number (FEIN), if the business has obtained such a number. If the business does not have a FEIN, an Illinois Business Tax Number (IBT) must be provided. If the business has neither of these numbers, it must provide an identifying number unique to that business that is capable of verification by SBEL. A sole proprietorship may use a social security number as a unique identifier if it does not have a FEIN or an IBT.
- 2) Registration shall be accomplished in one of the two following methods:
 - A) A web-based program through which information may be entered, saved and transmitted upon completion. Changes may be made by accessing the program, making the changes, and submitting those changes to SBEL via the program contained on SBEL's website.
 - B) A format, provided by SBEL, designed specifically for large business entities through which data may be submitted in lieu of completion of the web-based option. Though this method is geared toward larger business entities, any business entity may choose to use this method.
- e) The Board shall provide a certificate of registration to the business entity upon registration and upon any change of information submitted by the entity. The certificate shall be electronic and accessible to the business entity through the SBEL website and shall be password protected.
 - 1) Any business entity required to register under Section 20-160 of the Procurement Code shall provide a copy of the registration certificate, by first class mail, e-mail or hand delivery within 10 days after registration, to each affiliated entity and each affiliated person listed by the registrant.
 - 2) Any business entity required to register under Section 20-160 of the Procurement Code shall provide a copy of the registration certificate, by first class mail, e-mail or hand delivery within 10 days after the addition of any affiliated entity or affiliated person whose identity is required to be disclosed, to that affiliated person or entity. The delivery of the registration certificate to a minor child who is an affiliated person shall be accomplished by providing it as described in this Section to either parent or the legal guardian of the minor child. The business entity shall document in writing the date of submission of the certificate of registration to the appropriate entities and persons.
 - 3) Any business entity required to register under Section 20-160 of the Procurement Code shall notify each political committee to which it makes a contribution, in writing at the time of the contribution, that the business entity is registered with SBEL under Section 20-160. The business entity shall document in writing the date of submission of the notice of registration to the appropriate political committee. A copy of the certificate of registration may serve as the required written notice.
 - 4) Any affiliated entity or affiliated person of a business entity required to register under Section 20-160 of the Procurement Code shall notify each political committee to which it makes a contribution that it is affiliated with a business entity registered with SBEL under Section 20-160 and the business entity with which it is affiliated. The notification shall be in writing and shall occur at the time the contribution is made to the committee. The affiliated entities or persons shall document in writing the date of submission of the notice of registration to the appropriate political committee. A copy of the certificate of registration may serve as the required written notice.

- 5) In the determination of a complaint alleging a failure to comply with any notification requirement contained in this subsection (e), the failure of a party responsible for providing the required notification to submit written documentation of compliance shall create a rebuttable presumption of noncompliance against that party.
- f) Pursuant to 30 ILCS 500/20-160, each bid submitted to and every contract executed by the State on or after January 1, 2009 shall contain:
 - 1) A certification by the bidder or contractor that either:
 - A) the bidder or contractor is not required to register as a business entity with SBEL pursuant to this Section; or
 - B) the bidder or contractor has registered as a business entity with SBEL and acknowledges a continuing duty to update the registration; and
 - 2) A statement that the contract is voidable under Section 50-60 of the Procurement Code as a result of the bidder's or contractor's failure to comply with Section 20-160 of the Procurement Code.
- g) A business entity whose aggregate bids and proposals on State contracts annually total more than \$50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the contract is awarded. Any change of information, including but not limited to changes in affiliated entities or affiliated persons, must be reported to SBEL within 5 business days following the change or no later than a day before the contract is awarded, whichever date is earlier (see Section 100.185(a)).
- h) A business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000 has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contract or for a period of 2 years following the expiration or termination of the contract, whichever is longer.
 - 1) Any change in information, including but not limited to changes in affiliated entities or affiliated persons, shall be reported to SBEL on a quarterly basis within 10 business days following the final day of January, April, July and October of each year (see Section 100.185(c)).
 - 2) If a business entity required to register under Section 20-160(d) of the Procurement Code has a pending bid or proposal on a State contract, then any change in information shall be reported to SBEL within 5 business days or no later than a day before the contract is awarded, whichever date is earlier (see Section 100.185(c)).
- i) Pursuant to 30 ILCS 500/20-160, a copy of the business entity's certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register. The chief procurement officer of the State agency shall not accept a bid or proposal unless:
 - 1) the certificate of registration is submitted to the agency with the bid or proposal; or
 - 2) a statement that the bidder or contractor is not required to register as a business entity with SBEL is submitted to the agency with the bid or proposal.
- j) A registration, and any changes to a registration, must include the business entity's verification of accuracy.

- k) The requirements of this Section apply regardless of the method of source selection used in awarding the contract.
- l) SBEL will keep and maintain the paper registrations filed in accordance with P.A. 95-1038 and the emergency rules enacted by SBEL in its principal office in Springfield for a period of 3 years following the creation of the electronic registration system on August 1, 2009. The public may view these paper registration submissions of business entities at SBEL's principal office in Springfield during normal business hours. Copies of registrations of business entities submitted to SBEL shall also be available for public inspection at SBEL's principal office in Springfield. The searchable database provided for in Section 9-35 of the Election Code shall be accessible to the public at all times following its creation.
- m) Inactive Status
 - 1) The provisions of this subsection apply to a business entity required to register with SBEL under Section 20-160 of the Procurement Code, that had an existing contract or had bid on a contract within the time periods set out in subsection (h), and that had a duty to maintain the accuracy of its registration. A business entity that has registered with SBEL may change its status to "inactive" provided that:
 - A) the entity bid on a contract the value of which exceeded the \$50,000 qualifying threshold, but was not awarded that contract;
 - B) the entity had a combination of bids and contracts that exceeded the \$50,000 qualifying threshold; however, the entity was not awarded the contract and/or the two year period following the expiration of the contract has lapsed or the term of office of the officeholder responsible for awarding the contract has concluded; or
 - C) the entity has contracts exceeding the \$50,000 qualifying threshold; however the two year period following the expiration of the contract has lapsed or the term of office of the officeholder responsible for awarding the contract has concluded.
 - 2) Nothing in this Section shall affect the duty of a business entity to update its registration when required to do so, nor remove the entity from the prohibition against making contributions to the officeholder responsible for awarding the contract.
 - 3) This "inactive" designation shall be determined by the business entity. The Board shall provide a form in an electronic format accessible on the SBEL website for the entity to indicate that it is currently in inactive status. The form shall include the name and address of the entity; the contract or bid that created the obligation to register with the SBEL, as well as the agency or office that was responsible for awarding the contract, or, if the entity was not required to register with the SBEL, a designation that registration was not required; and the beginning date on which the obligation to update the entity's registration relative to each contract or bid no longer existed. The form shall be signed by the Chief Executive Officer of the business entity or his/her designee, or a person who serves in that capacity, indicating that the signatory verifies that the entity qualifies to be in inactive status based on the criteria contained in subsection (m).
 - 4) In the event a business entity that had previously declared its inactive status on the form prescribed by subsection (m)(3) submits a bid for a State contract whose value exceeds \$50,000, the entity shall rescind its inactive status prior to submitting a bid, shall update its registration so that the information required by Section 9-35(b)(1), (2) and (3) of the Election Code is current. In addition, the entity shall abide by the contribution prohibitions contained in Section 50-37(b) and (c) of the Procurement Code. The rescinding of an entity's inactive status shall be on an electronic form accessible on the SBEL website.

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- n) The complaint provisions contained in Sections 9-20 through 9-22 of the Election Code shall apply to complaints filed alleging a violation of this Section.

(Source: Amended at 35 Ill. Reg. 12973, effective July 19, 2011)