Notice 2012.06
General Services

TO: State Purchasing Officers
    Agency Procurement Staff
    CMS Bureau of Strategic Sourcing

FROM: Matt Brown, Chief Procurement Officer General Services

CC: Procurement Compliance Monitors
    Procurement Policy Board
    Steve Valasek, Assistant Comptroller-Operations

DATE: November 10, 2011

SUBJECT: Vendor Delinquent Debt

This CPO Notice is effective November 10, 2011.

The Illinois Procurement Code (30 ILCS 500) prohibits vendors from submitting offers or entering into contracts if delinquent debt is owed to the State. Section 50-11 of the Code provides as follows:

a) No person shall submit a bid for or enter into a contract or subcontract under this Code if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt. For purposes of this Section, the phrase "delinquent in the payment of any debt" shall be determined by the Debt Collection Bureau. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection, (a) a person controls an entity if the person owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.
(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the contractor or the subcontractor and its affiliate is not barred from being awarded a contract or subcontract under this Section and acknowledges that the Chief Procurement Officer may declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false.

Section 50-60(b) of the Code also provides the vendor must not become delinquent in the payment of debt during the term of the contract. The solicitation and standard contract documents include a section requiring vendors to certify they are in compliance with these provisions of the Code or that they have entered into a deferred payment plan to pay the debt. Failure to certify or otherwise be in compliance with these sections of the Code may result in the Chief Procurement Officer (CPO) voiding the contract if it is in the best interest of the State.

Good procurement practices support verification by agencies of the delinquent debt certification prior to selection or award of a contract. For purposes of this notice:

*Comptroller’s Offset System* is the Illinois Office of the Comptroller Offset System as described in the Illinois State Collection Act [30 ILCS 210].

*Contract Award or Contract Selection* is any procurement subject to the Illinois Procurement Code with total anticipated payments in excess of $10,000. This notice applies to all procurement approaches.

*Delinquent Debt* is a debt of at least $1,000 (cumulative with the debtor) and at least 90 days past due.

*Unsatisfied Delinquent Debt* shall be a debt that is not fully discharged (as of bid day opening) by payment in full to the State, is not subject to a fully executed (by the State and vendor) installment plan to pay off the debt, discharged in bankruptcy, or otherwise satisfied.

*Vendor* is the prime vendor with whom a contract is being established or any subcontractor as defined in section 20-120 of the Code. The terms vendor and contractor may be used interchangeably.

Section 5(f) of Illinois State Collection Act permits state agencies to use the Comptroller’s Offset System for purposes of ensuring compliance with the Procurement Code. Instructions for requesting access to the system may be found at IOC Accounting Bulletin #102 located at: [www.apps.ioc.state.il.us/ioc-pdf/bulletins/AB102.pdf](http://www.apps.ioc.state.il.us/ioc-pdf/bulletins/AB102.pdf).

Prior to notifying the vendor of its selection or award for any contract, state agencies must inquire, using the vendor FEIN or SSN, the Comptroller’s Offset System to determine if any delinquent debt has been placed by a state agency. The inquiry shall be made for the prime vendor and each known subcontractor.

- If no delinquent debt is discovered, the agency shall produce a screen print of the result for inclusion in the procurement file.
- If delinquent debt is discovered, the agency shall:
  - Contact the agency to which the debt is owed (contact information will appear on Offset System screen).
- End -