

ENERGY SAVINGS PERFORMANCE CONTRACTING STATUTES

ILLINOIS (as of January 26, 2011)

	Statute	Procurement Method	Competitive Bidding/ Selection Requirements	Term of Contract	Guarantee Requirement	Restrictions/ Miscellaneous
State	<p>No explicit PC-enabling legislation. <i>But see</i> 30 ILCS 500/25-45: “State purchasing officers may enter into energy conservation program contracts that provide for utility cost savings. The chief procurement officer shall promulgate and adopt rules for the implementation of this Section.” 30 ILCS 500/25-45.</p> <p>According to Title 44 of the Illinois Administrative Code, certain state authorities are explicitly allowed to enter into performance contracts. These authorities include the Dept. of Central Mgmt. Services, the Governor, the Executive Director of the State Board of Elections, the Chief Procurement Officer for institutions of Higher Education, the Attorney General and the Secretary of State. <i>See, e.g.</i>, 44 Ill. Adm. Code. §§ 1.2055(m) and 2000.2055(m).</p>	<p>Through state purchasing officers or through methods authorized by state purchasing officers.</p> <p>Note: 30 ILCS 500/20-50 concerning specifications for Invitation to Bid <i>deleted</i> “and shall include a restriction on the use of specifications drafted by a potential bidder” <i>But See</i> 30 ILCS 500/50-10.5(e)</p> <p>No person or business shall bid or enter into a contract under this Code if the person or business (1) assisted the State of Illinois or a State agency in determining whether there is a need for a contract except as part of a response to a publicly issued request for information; or (2) assisted the State of Illinois or State agency by reviewing, drafting, or preparing any invitation for bids, a request for proposal, or request for information or provided similar assistance except as part of a publicly issued opportunity to review drafts of all or part</p>	None specified	None specified	None specified	<p>30 ILCS 500/53-30(b-1)</p> <p>Bidder must disclose the name and address of each lobbyist and other agent of the bidder or offerer who has communicated with any State officer or employee concerning the bid or offer.</p>

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		of these documents. This subsection does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business: (i) initiates a communication to provide general information about products, services or industry best practices and, if applicable, that communication is documented in accordance with Section 50-39 or (ii) responds to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services or technologies.				
Counties	50 ILCS 515 (2009)	RFP	<p>“The unit of local government shall select the qualified provider <u>that best meets the needs</u> of the unit of local government.” 50 ILCS 515/15.</p> <p>The government unit can enter into the ESC if the amount it would spend on energy conservation measures would not exceed the</p>	<p><u>20</u> years -</p> <p>(Payments for services may be over 20 years) 50 ILCS 515/20</p> <p>A unit of local government may enter into a guarantee energy savings contract with a qualified provider if it finds that the amount it would</p>	<p>Either the energy or operational cost savings, or both, must meet or exceed the costs of the energy conservation measures within <u>20</u> years. The provider must reimburse the local government for any shortfall of guaranteed energy savings projected in the contract.</p> <p>50 ILCS 515/20.</p>	<p>The guaranteed energy savings contract may provide for payments over a period of time, not to exceed 20 years from the date of the final installation of the measures.</p> <p>If an energy audit is performed by an ESC within 3 years immediately</p>

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			amount to be saved within a 10 year period. (50 ILCS 515/30) Public Act 096-0795 Local Government Electronic Reverse Auction Act – procurement of supplies and services does not specifically include ESP but excludes construction	spend on energy conservation measured recommended in the proposal would not exceed the amount to be saved within a 10 year period. 50 ILCS 515/15.		preceding solicitation, Unit must publish reference document in solicitation for ECM including executive summary of audit and disclosure of any ESC that participated in the preparation of specifications issues by the Unit 50 ILCS 515/50
Municipalities	50 ILCS 515 (2009)	RFP	Same as counties.	20 years 50 ILCS 515/50	Same as counties.	Same as counties.
Townships/ Villages	50 ILCS 515 (2009)	RFP	Same as counties.	20 years	Same as counties.	Same as counties.
School Districts (to include area vocational center)	105 ILCS 5/19b (2007) School Energy Conservation and Savings Measures	RFP - competitive selection achieved by negotiated procurement 105 ILCS 5/19b-1.4	The school district or area vocational center shall select the qualified provider that <u>best meets the needs of the school district or area vocational center.</u> 105 ILCS 5/19b-3.	20 years. 105 ILCS 5/19b-4.	Guaranteed energy savings contract - Savings must be guaranteed to the extent necessary to pay the costs of the energy conservation measures. Energy savings may include energy reduction and offsetting sources of renewable energy funds including renewable energy credits and carbon credits. 105 ILCS 5/19b-1.2.	A licensed architect or registered professional engineer evaluating a proposal for the school district must not have any financial or contractual relationship with a qualified provider or other source that would constitute a conflict of interest 105 ILCS 5/19b-2

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State Universities	110 ILCS 62/1 (2008) Public University Energy Conservation Act –	RFP – competitive selection achieved by negotiated procurement 110 ILCS 62/5-25	The public university shall select the qualified provider that <u>best meets the needs of the university.</u> 110 ILCS 62/15	20 years 110 ILCS 62/15	Either the energy or operational cost savings, or both, must meet or exceed the costs of the energy conservation measures within 20 years. 110 ILCS 62/20. Energy savings may include energy reduction and offsetting sources of renewable energy funds including renewable energy credits and carbon credits. 110 ILCS 62/5-15	Public University defined as: University of Illinois, Southern Illinois University, Northern Illinois University, Eastern Illinois University, Western Illinois University, Northeastern Illinois University, Chicago State University, Governors State University or Illinois State University 110 ILCS 62/5-5 Conflict of Interest provision same as School District - 110 ILCS 62/10
Community Colleges	30 ILCS 805/5A-5 <i>et seq.</i> (2009)	RFP	The community college shall select the qualified provider that <u>best meets the needs of the district.</u> 110 ILCS 805/5A-35	20 years	Either the energy or operational cost savings, or both, must meet or exceed the costs of the energy conservation measures. The provider must reimburse the local government for any shortfall of guaranteed energy savings projected in the contract. 110 ILCS 805/5A-40.	