



Illinois Department of Transportation

Office of Highways Project Implementation / Bureau of Local Roads & Streets
2300 South Dirksen Parkway / Room 205 / Springfield, Illinois / 62764

March 18, 2024

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Cathy Jenkins
COUNTY CLERK
VERMILION CO. IL

CIRCULAR LETTER 2024-11

CATEGORY: POLICY AND PRACTICES NOTIFICATION

BONDING & RETAINAGE REQUIREMENTS PER PUBLIC ACT 103-0570

COUNTY ENGINEERS / SUPERINTENDENTS OF HIGHWAYS / MUNICIPAL ENGINEERS / PUBLIC WORKS DIRECTORS / MAYORS / METROPOLITAN PLANNING ORGANIZATIONS – DIRECTORS / TOWNSHIP HIGHWAY COMMISSIONERS / CONSULTING ENGINEERS

Public Act 103-0570 amended the Public Construction Bond Act in several ways for both the Department of Transportation (Department), and Units of Local Government as it relates to the limits of public work construction projects values requiring bonds, allowable retainage amounts; and the effective dates and duration these requirements are applicable. The effective date of this Public Act is January 1, 2024.

The following discussion summarizes the intent of this Public Act:

BONDING LIMITS:

a) Projects Let by the Illinois Department of Transportation (State Let):

For contracts for public works issued or let by the Department every contractor is required to furnish, supply, and deliver a bond to the Department only if the public works contract will cost more than \$500,000. This threshold is now higher than the previous amount of \$50,000; and will be in effect until January 1, 2029. In addition to this requirement the Department is required to provide and publish additional information, as contained in the Public Act.

b) Projects Let by Local Public Agencies (Local Let):

For contracts for public works issued or let by local governmental units (or Local Public Agencies), every contractor is required to furnish, supply, and deliver a bond to the local governmental unit if the public works contract will cost more than \$150,000 – unless the local governmental unit passes by ordinance or resolution an amount below the new \$150,000 threshold. This threshold is now higher than the previous amount of \$50,000; and will be in effect until January 1, 2029.

Please note that on and after January 1, 2029, for all public works contracts issued by either the Department or a local governmental unit, the threshold bond requirement value will revert to the \$50,000 amount, unless otherwise adjusted by statute.

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RETAINAGE LIMITS:

Public Act 103-0570 also amended regulations associated with retainage that impacts a local governmental unit.

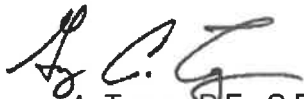
The new Public Act now requires that when bonds are furnished, prior to the completion of 50% of the contract for public works, the local governmental unit may not withhold retainage in excess of 10% of any payment made prior to the date of completion of 50%.

When more than 50% of the contract for public works is complete, the local governmental unit shall reduce the retainage so that no more than 5% is held, and no more than 5% of the amount of any subsequent payments may be withheld as retainage.

In addition, the new Public Act also places identical retainage requirements on the contractor to its subcontractors.

If you have any questions contact our Local Policy Unit, dot.localpolicy@illinois.gov

Sincerely,



George A. Tapas, P.E., S.E
Engineer of Local Roads and Streets

cc: Aaron Metzger, Illinois Association of County Engineers
Molly Rockford, Illinois Association of County Engineers
Brad Cole, Illinois Municipal League
Jerry Crabtree, Township Officials of Illinois
Craig Smith, Township Highway Commissioners of Illinois