

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Building Commission Act is amended by
5 changing Sections 3 and 20 and by adding Sections 2.5, 20.3,
6 20.4, 20.5, 20.10, 20.15, 20.20, and 20.25 as follows:

7 (50 ILCS 20/2.5 new)

8 Sec. 2.5. Legislative policy; conditions for use of
9 design-build. It is the intent of the General Assembly that a
10 commission be allowed to use the design-build delivery method
11 for public projects if it is shown to be in the commission's
12 best interest for that particular project.

13 It shall be the policy of the commission in the procurement
14 of design-build services to publicly announce all requirements
15 for design-build services and to procure these services on the
16 basis of demonstrated competence and qualifications and with
17 due regard for the principles of competitive selection.

18 The commission shall, prior to issuing requests for
19 proposals, promulgate and publish procedures for the
20 solicitation and award of contracts pursuant to this Act.

21 The commission shall, for each public project or projects
22 permitted under this Act, make a written determination,
23 including a description as to the particular advantages of the

1 design-build procurement method, that it is in the best
2 interests of the commission to enter into a design-build
3 contract for the project or projects.

4 In making that determination, the following factors shall
5 be considered:

6 (1) The probability that the design-build procurement
7 method will be in the best interests of the commission by
8 providing a material savings of time or cost over the
9 design-bid-build or other delivery system.

10 (2) The type and size of the project and its
11 suitability to the design-build procurement method.

12 (3) The ability of the design-build entity to define
13 and provide comprehensive scope and performance criteria
14 for the project.

15 The commission shall require the design-build entity to
16 comply with the utilization goals established by the corporate
17 authorities of the commission for minority and women business
18 enterprises and to comply with Section 2-105 of the Illinois
19 Human Rights Act.

20 This Section is repealed 5 years after the effective date
21 of this amendatory Act of the 95th General Assembly.

22 (50 ILCS 20/3) (from Ch. 85, par. 1033)

23 Sec. 3. The following terms, wherever used, or referred to
24 in this Act, mean unless the context clearly requires a
25 different meaning:

1 (a) "Commission" means a Public Building Commission
2 created pursuant to this Act.

3 (b) "Commissioner" or "Commissioners" means a Commissioner
4 or Commissioners of a Public Building Commission.

5 (c) "County seat" means a city, village or town which is
6 the county seat of a county.

7 (d) "Municipality" means any city, village or incorporated
8 town of the State of Illinois.

9 (e) "Municipal corporation" includes a county, city,
10 village, town, (including a county seat), park district, school
11 district in a county of 3,000,000 or more population, board of
12 education of a school district in a county of 3,000,000 or more
13 population, sanitary district, airport authority contiguous
14 with the County Seat as of July 1, 1969 and any other municipal
15 body or governmental agency of the State, and until July 1,
16 2011, a school district that (i) was organized prior to 1860,
17 (ii) is located in part in a city originally incorporated prior
18 to 1840, and (iii) entered into a lease with a Commission prior
19 to 1993, and its board of education, but does not include a
20 school district in a county of less than 3,000,000 population,
21 a board of education of a school district in a county of less
22 than 3,000,000 population, or a community college district in a
23 county of less than 3,000,000 population, except that until
24 July 1, 2011, a school district that (i) was organized prior to
25 1860, (ii) is located in part in a city originally incorporated
26 prior to 1840, and (iii) entered into a lease with a Commission

1 prior to 1993, and its board of education, are included.

2 (f) "Governing body" includes a city council, county board,
3 or any other body or board, by whatever name it may be known,
4 charged with the governing of a municipal corporation.

5 (g) "Presiding officer" includes the mayor or president of
6 a city, village or town, the presiding officer of a county
7 board, or the presiding officer of any other board or
8 commission, as the case may be.

9 (h) "Oath" means oath or affirmation.

10 (i) "Building" means an improvement to real estate to be
11 made available for use by a municipal corporation for the
12 furnishing of governmental services to its citizens, together
13 with any land or interest in land necessary or useful in
14 connection with the improvement.

15 (j) "Delivery system" means the design and construction
16 approach used to develop and construct a project.

17 (k) "Design-bid-build" means the traditional delivery
18 system used on public projects that incorporates the Local
19 Government Professional Services Selection Act (50 ILCS 510/)
20 and the principles of competitive selection.

21 (l) "Design-build" means a delivery system that provides
22 responsibility within a single contract for the furnishing of
23 architecture, engineering, land surveying and related services
24 as required, and the labor, materials, equipment, and other
25 construction services for the project.

26 (m) "Design-build contract" means a contract for a public

1 project under this Act between the Commission and a
2 design-build entity to furnish architecture, engineering, land
3 surveying, and related services as required, and to furnish the
4 labor, materials, equipment, and other construction services
5 for the project. The design-build contract may be conditioned
6 upon subsequent refinements in scope and price and may allow
7 the Commission to make modifications in the project scope
8 without invalidating the design-build contract.

9 (n) "Design-build entity" means any individual, sole
10 proprietorship, firm, partnership, joint venture, corporation,
11 professional corporation, or other entity that proposes to
12 design and construct any public project under this Act. A
13 design-build entity and associated design-build professionals
14 shall conduct themselves in accordance with the laws of this
15 State and the related provisions of the Illinois Administrative
16 Code, as referenced by the licensed design professionals Acts
17 of this State.

18 (o) "Design professional" means any individual, sole
19 proprietorship, firm, partnership, joint venture, corporation,
20 professional corporation, or other entity that offers services
21 under the Illinois Architecture Practice Act of 1989 (225 ILCS
22 305/), the Professional Engineering Practice Act of 1989 (225
23 ILCS 325/), the Structural Engineering Licensing Act of 1989
24 (225 ILCS 340/), or the Illinois Professional Land Surveyor Act
25 of 1989 (225 ILCS 330/).

26 (p) "Evaluation criteria" means the requirements for the

1 separate phases of the selection process for design-build
2 proposals as defined in this Act and may include the
3 specialized experience, technical qualifications and
4 competence, capacity to perform, past performance, experience
5 with similar projects, assignment of personnel to the project,
6 and other appropriate factors. Price may not be used as a
7 factor in the evaluation of Phase I proposals.

8 (q) "Proposal" means the offer to enter into a design-build
9 contract as submitted by a design-build entity in accordance
10 with this Act.

11 (r) "Request for proposal" means the document used by the
12 Commission to solicit proposals for a design-build contract.

13 (s) "Scope and performance criteria" means the
14 requirements for the public project, including but not limited
15 to, the intended usage, capacity, size, scope, quality and
16 performance standards, life-cycle costs, and other
17 programmatic criteria that are expressed in
18 performance-oriented and quantifiable specifications and
19 drawings that can be reasonably inferred and are suited to
20 allow a design-build entity to develop a proposal.

21 (t) "Guaranteed maximum price" means a form of contract in
22 which compensation may vary according to the scope of work
23 involved but in any case may not exceed an agreed total amount.

24 Definitions in this Section with respect to design-build
25 shall have no effect beginning 5 years after the effective date
26 of this amendatory Act of the 95th General Assembly.

1 (Source: P.A. 94-1071, eff. 1-1-07.)

2 (50 ILCS 20/20) (from Ch. 85, par. 1050)

3 Sec. 20. Contracts let to lowest responsible bidder;
4 competitive bidding; advertisement for bids; design-build
5 contracts.

6 (a) All contracts to be let for the construction,
7 alteration, improvement, repair, enlargement, demolition or
8 removal of any buildings or other facilities, or for materials
9 or supplies to be furnished, where the amount thereof is in
10 excess of \$5,000, shall be awarded as a design-build contract
11 in accordance with Sections 20.3 through 20.20 or shall be let
12 to the lowest responsible bidder, or bidders on open
13 competitive bidding.

14 (b) A contract awarded on the basis of competitive bidding
15 shall be awarded after public advertisement published at least
16 once in each week for three consecutive weeks prior to the
17 opening of bids, in a daily newspaper of general circulation in
18 the county where the commission is located. Nothing contained
19 in this Section shall be construed to prohibit the Board of
20 Commissioners from placing additional advertisements in
21 recognized trade journals. Advertisements for bids shall
22 describe the character of the proposed contract in sufficient
23 detail to enable the bidders thereon to know what their
24 obligation will be, either in the advertisement itself, or by
25 reference to detailed plans and specifications on file in the

1 office of the Public Building Commission at the time of the
2 publication of the first announcement. Such advertisement
3 shall also state the date, time, and place assigned for the
4 opening of bids. No ~~and no~~ bids shall be received at any time
5 subsequent to the time indicated in said advertisement.

6 (c) In addition to the requirements of Section 20.3, the
7 Commission shall advertise a design-build solicitation at
8 least once in a daily newspaper of general circulation in the
9 county where the Commission is located. The date that Phase I
10 submissions by design-build entities are due must be at least
11 14 calendar days after the date the newspaper advertisement for
12 design-build proposals is first published. The advertisement
13 shall identify the design-build project, the due date, the
14 place and time for Phase I submissions, and the place where
15 proposers can obtain a complete copy of the request for
16 design-build proposals, including the criteria for evaluation
17 and the scope and performance criteria. The Commission is not
18 precluded from using other media or from placing advertisements
19 in addition to the one required under this subsection.

20 (d) The Board of Commissioners may reject any and all bids
21 and proposals received and may readvertise for bids or issue a
22 new request for design-build proposals.

23 (e) All bids shall be open to public inspection in the
24 office of the Public Building Commission for a period of at
25 least forty-eight (48) hours before award is made. The
26 successful bidder for such work shall enter into contracts

1 furnished and prescribed by the Board of Commissioners and in
2 addition to any other bonds required under this Act the
3 successful bidder shall execute and give bond, payable to and
4 to be approved by the Commission, with a corporate surety
5 authorized to do business under the laws of the State of
6 Illinois, in an amount to be determined by the Board of
7 Commissioners, conditioned upon the payment of all labor
8 furnished and materials supplied in the prosecution of the
9 contracted work. If the bidder whose bid has been accepted
10 shall neglect or refuse to accept the contract within five (5)
11 days after written notice that the same has been awarded to
12 him, or if he accepts but does not execute the contract and
13 give the proper security, the Commission may accept the next
14 lowest bidder, or readvertise and relet in manner above
15 provided.

16 (f) In case any work shall be abandoned by any contractor
17 or design-build entity, the Commission may, if the best
18 interests of the Commission be thereby served, adopt on behalf
19 of the Commission all subcontracts made by such contractor or
20 design-build entity for such work and all such sub-contractors
21 shall be bound by such adoption if made; and the Commission
22 shall, in the manner provided in this Act ~~herein,~~ readvertise
23 and relet, or request proposals and award design-build
24 contracts for, the work specified in the original contract
25 exclusive of so much thereof as shall be accepted. Every
26 contract when made and entered into, as ~~herein~~ provided in this

1 Section or Section 20.20 ~~for~~, shall be executed in duplicate,
2 one copy of which shall be held by the Commission, and filed in
3 its records, and one copy of which shall be given to the
4 contractor or design-build entity.

5 (g) The provisions of this Section with respect to
6 design-build shall have no effect beginning 5 years after the
7 effective date of this amendatory Act of the 95th General
8 Assembly.

9 (Source: P.A. 84-249.)

10 (50 ILCS 20/20.3 new)

11 Sec. 20.3. Solicitation of design-build proposals.

12 (a) When the Commission elects to use the design-build
13 delivery method, it must issue a notice of intent to receive
14 proposals for the project at least 14 days before issuing the
15 request for the proposal. The Commission must publish the
16 advance notice in a daily newspaper of general circulation in
17 the county where the Commission is located. The Commission is
18 encouraged to use publication of the notice in related
19 construction industry service publications. A brief
20 description of the proposed procurement must be included in the
21 notice. The Commission must provide a copy of the request for
22 proposal to any party requesting a copy.

23 (b) The request for proposal shall be prepared for each
24 project and must contain, without limitation, the following
25 information:

1 (1) The name of the Commission.

2 (2) A preliminary schedule for the completion of the
3 contract.

4 (3) The proposed budget for the project, the source of
5 funds, and the currently available funds at the time the
6 request for proposal is submitted.

7 (4) Prequalification criteria for design-build
8 entities wishing to submit proposals. The Commission shall
9 include, at a minimum, its normal prequalification,
10 licensing, registration, and other requirements, but
11 nothing contained herein precludes the use of additional
12 prequalification criteria by the Commission.

13 (5) Material requirements of the contract, including
14 but not limited to, the proposed terms and conditions,
15 required performance and payment bonds, insurance, and the
16 entity's plan to comply with the utilization goals
17 established by the corporate authorities of the Commission
18 for minority and women business enterprises and to comply
19 with Section 2-105 of the Illinois Human Rights Act.

20 (6) The performance criteria.

21 (7) The evaluation criteria for each phase of the
22 solicitation.

23 (8) The number of entities that will be considered for
24 the technical and cost evaluation phase.

25 (c) The Commission may include any other relevant
26 information that it chooses to supply. The design-build entity

1 shall be entitled to rely upon the accuracy of this
2 documentation in the development of its proposal.

3 (d) The date that proposals are due must be at least 21
4 calendar days after the date of the issuance of the request for
5 proposal. In the event the cost of the project is estimated to
6 exceed \$12,000,000, then the proposal due date must be at least
7 28 calendar days after the date of the issuance of the request
8 for proposal. The Commission shall include in the request for
9 proposal a minimum of 30 days to develop the Phase II
10 submissions after the selection of entities from the Phase I
11 evaluation is completed.

12 (e) This Section is repealed 5 years after the effective
13 date of this amendatory Act of the 95th General Assembly.

14 (50 ILCS 20/20.4 new)

15 Sec. 20.4. Development of design-build scope and
16 performance criteria.

17 (a) The Commission shall develop, with the assistance of a
18 licensed design professional, a request for proposal, which
19 shall include scope and performance criteria. The scope and
20 performance criteria must be in sufficient detail and contain
21 adequate information to reasonably apprise the qualified
22 design-build entities of the Commission's overall programmatic
23 needs and goals, including criteria and preliminary design
24 plans, general budget parameters, schedule, and delivery
25 requirements.

1 (b) Each request for proposal shall also include a
2 description of the level of design to be provided in the
3 proposals. This description must include the scope and type of
4 renderings, drawings, and specifications that, at a minimum,
5 will be required by the Commission to be produced by the
6 design-build entities.

7 (c) The scope and performance criteria shall be prepared by
8 a design professional who is an employee of the Commission, or
9 the Commission may contract with an independent design
10 professional selected under the Local Government Professional
11 Services Selection Act (50 ILCS 510/) to provide these
12 services.

13 (d) The design professional that prepares the scope and
14 performance criteria is prohibited from participating in any
15 design-build entity proposal for the project.

16 (e) This Section is repealed 5 years after the effective
17 date of this amendatory Act of the 95th General Assembly.

18 (50 ILCS 20/20.5 new)

19 Sec. 20.5. Procedures for design-build selection.

20 (a) The Commission must use a two-phase procedure for the
21 selection of the successful design-build entity. Phase I of the
22 procedure will evaluate and shortlist the design-build
23 entities based on qualifications, and Phase II will evaluate
24 the technical and cost proposals.

25 (b) The Commission shall include in the request for

1 proposal the evaluating factors to be used in Phase I. These
2 factors are in addition to any prequalification requirements of
3 design-build entities that the Commission has set forth. Each
4 request for proposal shall establish the relative importance
5 assigned to each evaluation factor and subfactor, including any
6 weighting of criteria to be employed by the Commission. The
7 Commission must maintain a record of the evaluation scoring to
8 be disclosed in event of a protest regarding the solicitation.

9 The Commission shall include the following criteria in
10 every Phase I evaluation of design-build entities: (1)
11 experience of personnel; (2) successful experience with
12 similar project types; (3) financial capability; (4)
13 timeliness of past performance; (5) experience with similarly
14 sized projects; (6) successful reference checks of the firm;
15 (7) commitment to assign personnel for the duration of the
16 project and qualifications of the entity's consultants; and (8)
17 ability or past performance in meeting or exhausting good faith
18 efforts to meet the utilization goals for minority and women
19 business enterprises established by the corporate authorities
20 of the Commission and in complying with Section 2-105 of the
21 Illinois Human Rights Act. The Commission may include any
22 additional relevant criteria in Phase I that it deems necessary
23 for a proper qualification review. The Commission may include
24 any additional relevant criteria in Phase I that it deems
25 necessary for a proper qualification review.

26 The Commission may not consider any design-build entity for

1 evaluation or award if the entity has any pecuniary interest in
2 the project or has other relationships or circumstances,
3 including but not limited to, long-term leasehold, mutual
4 performance, or development contracts with the Commission,
5 that may give the design-build entity a financial or tangible
6 advantage over other design-build entities in the preparation,
7 evaluation, or performance of the design-build contract or that
8 create the appearance of impropriety. No design-build proposal
9 shall be considered that does not include an entity's plan to
10 comply with the requirements established in the minority and
11 women business enterprises and economically disadvantaged
12 firms established by the corporate authorities of the
13 Commission and with Section 2-105 of the Illinois Human Rights
14 Act.

15 Upon completion of the qualifications evaluation, the
16 Commission shall create a shortlist of the most highly
17 qualified design-build entities. The Commission, in its
18 discretion, is not required to shortlist the maximum number of
19 entities as identified for Phase II evaluation, provided
20 however, no less than 2 design-build entities nor more than 6
21 are selected to submit Phase II proposals.

22 The Commission shall notify the entities selected for the
23 shortlist in writing. This notification shall commence the
24 period for the preparation of the Phase II technical and cost
25 evaluations. The Commission must allow sufficient time for the
26 shortlist entities to prepare their Phase II submittals

1 considering the scope and detail requested by the Commission.

2 (c) The Commission shall include in the request for
3 proposal the evaluating factors to be used in the technical and
4 cost submission components of Phase II. Each request for
5 proposal shall establish, for both the technical and cost
6 submission components of Phase II, the relative importance
7 assigned to each evaluation factor and subfactor, including any
8 weighting of criteria to be employed by the Commission. The
9 Commission must maintain a record of the evaluation scoring to
10 be disclosed in event of a protest regarding the solicitation.

11 The Commission shall include the following criteria in
12 every Phase II technical evaluation of design-build entities:
13 (1) compliance with objectives of the project; (2) compliance
14 of proposed services to the request for proposal requirements;
15 (3) quality of products or materials proposed; (4) quality of
16 design parameters; (5) design concepts; (6) innovation in
17 meeting the scope and performance criteria; and (7)
18 constructability of the proposed project. The Commission may
19 include any additional relevant technical evaluation factors
20 it deems necessary for proper selection.

21 The Commission shall include the following criteria in
22 every Phase II cost evaluation: the guaranteed maximum project
23 cost and the time of completion. The Commission may include any
24 additional relevant technical evaluation factors it deems
25 necessary for proper selection. The guaranteed maximum project
26 cost criteria weighing factor shall not exceed 30%.

1 The Commission shall directly employ or retain a licensed
2 design professional to evaluate the technical and cost
3 submissions to determine if the technical submissions are in
4 accordance with generally accepted industry standards.

5 Upon completion of the technical submissions and cost
6 submissions evaluation, the Commission may award the
7 design-build contract to the highest overall ranked entity.

8 (d) This Section is repealed 5 years after the effective
9 date of this amendatory Act of the 95th General Assembly.

10 (50 ILCS 20/20.10 new)

11 Sec. 20.10. Small design-build projects. In any case where
12 the total overall cost of the project is estimated to be less
13 than \$12,000,000, the Commission may combine the two-phase
14 procedure for design-build selection described in Section 20.5
15 into one combined step, provided that all the requirements of
16 evaluation are performed in accordance with Section 20.5.

17 This Section is repealed 5 years after the effective date
18 of this amendatory Act of the 95th General Assembly.

19 (50 ILCS 20/20.15 new)

20 Sec. 20.15. Submission of design-build proposals.
21 Design-build proposals must be properly identified and sealed.
22 Proposals may not be reviewed until after the deadline for
23 submission has passed as set forth in the request for
24 proposals. All design-build entities submitting proposals

1 shall be disclosed after the deadline for submission, and all
2 design-build entities who are selected for Phase II evaluation
3 shall also be disclosed at the time of that determination.

4 Phase II design-build proposals shall include a bid bond in
5 the form and security as designated in the request for
6 proposals. Proposals shall also contain a separate sealed
7 envelope with the cost information within the overall proposal
8 submission. Proposals shall include a list of all design
9 professionals and other entities to which any work identified
10 in Section 30-30 of the Illinois Procurement Code as a
11 subdivision of construction work may be subcontracted during
12 the performance of the contract.

13 Proposals must meet all material requirements of the
14 request for proposal or they may be rejected as non-responsive.
15 The Commission shall have the right to reject any and all
16 proposals.

17 The drawings and specifications of any unsuccessful
18 design-build proposal shall remain the property of the
19 design-build entity.

20 The Commission shall review the proposals for compliance
21 with the performance criteria and evaluation factors.

22 Proposals may be withdrawn prior to the due date and time
23 for submissions for any cause. After evaluation begins by the
24 Commission, clear and convincing evidence of error is required
25 for withdrawal.

26 This Section is repealed 5 years after the effective date

1 of this amendatory Act of the 95th General Assembly.

2 (50 ILCS 20/20.20 new)

3 Sec. 20.20. Design-build award. The Commission may award a
4 design-build contract to the highest overall ranked entity.
5 Notice of award shall be made in writing. Unsuccessful entities
6 shall also be notified in writing. The Commission may not
7 request a best and final offer after the receipt of proposals.
8 The Commission may negotiate with the selected design-build
9 entity after award but prior to contract execution for the
10 purpose of securing better terms than originally proposed,
11 provided that the salient features of the request for proposal
12 are not diminished.

13 This Section is repealed 5 years after the effective date
14 of this amendatory Act of the 95th General Assembly.

15 (50 ILCS 20/20.25 new)

16 Sec. 20.25. Minority and female owned enterprises; total
17 construction budget.

18 (a) Each year, within 60 days following the end of a
19 commission's fiscal year, the commission shall provide a report
20 to the General Assembly addressing the utilization of minority
21 and female owned business enterprises on design-build
22 projects.

23 (b) The payments for design-build projects by any
24 commission in one fiscal year shall not exceed 25% of the

1 moneys spent on construction projects during the same fiscal
2 year.

3 (c) This Section is repealed 5 years after the effective
4 date of this amendatory Act of the 95th General Assembly.