



Sen. Don Harmon

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LRB096 09396 RLJ 25920 a

1 AMENDMENT TO HOUSE BILL 3986

2 AMENDMENT NO. _____. Amend House Bill 3986 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Building Commission Act is amended
5 by changing Sections 3, 14, 20.3, 20.5, 20.15, 20.20, and 20.25
6 and adding Section 20.12 as follows:

7 (50 ILCS 20/3) (from Ch. 85, par. 1033)

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

11 (a) "Commission" means a Public Building Commission
12 created pursuant to this Act.

13 (b) "Commissioner" or "Commissioners" means a Commissioner
14 or Commissioners of a Public Building Commission.

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

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

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

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

25 (g) "Presiding officer" includes the mayor or president of
26 a city, village or town, the presiding officer of a county

1 board, or the presiding officer of any other board or
2 commission, as the case may be.

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

4 (i) "Building" means an improvement to real estate to be
5 made available for use by a municipal corporation for the
6 furnishing of governmental services to its citizens, together
7 with any land or interest in land necessary or useful in
8 connection with the improvement.

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

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

15 (l) "Design-build" means a delivery system that provides
16 responsibility within a single contract for the furnishing of
17 architecture, engineering, land surveying and related services
18 as required, and the labor, materials, equipment, and other
19 construction services for the project.

20 (m) "Design-build contract" means a contract for a public
21 project under this Act between the Commission and a
22 design-build entity to furnish architecture, engineering, land
23 surveying, and related services as required, and to furnish the
24 labor, materials, equipment, and other construction services
25 for the project. The design-build contract may be conditioned
26 upon subsequent refinements in scope and price and may allow

1 the Commission to make modifications in the project scope
2 without invalidating the design-build contract.

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

12 (o) "Design professional" means any individual, sole
13 proprietorship, firm, partnership, joint venture, corporation,
14 professional corporation, or other entity that offers services
15 under the Illinois Architecture Practice Act of 1989 (225 ILCS
16 305/), the Professional Engineering Practice Act of 1989 (225
17 ILCS 325/), the Structural Engineering Licensing Act of 1989
18 (225 ILCS 340/), or the Illinois Professional Land Surveyor Act
19 of 1989 (225 ILCS 330/).

20 (p) "Evaluation criteria" means the requirements for the
21 ~~separate phases of the~~ selection process for design-build
22 proposals as defined in this Act and may include the
23 specialized experience, technical qualifications and
24 competence, capacity to perform, past performance, experience
25 with similar projects, assignment of personnel to the project,
26 and other appropriate factors. ~~Price may not be used as a~~

1 ~~factor in the evaluation of Phase I proposals.~~

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

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

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

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

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

21 (Source: P.A. 94-1071, eff. 1-1-07; 95-595, eff. 6-1-08.)

22 (50 ILCS 20/14) (from Ch. 85, par. 1044)

23 Sec. 14. A Public Building Commission is a municipal
24 corporation and constitutes a body both corporate and politic
25 separate and apart from any other municipal corporation or any

1 other public or governmental agency. It may sue and be sued,
2 plead and be impleaded, and have a seal and alter such at
3 pleasure, have perpetual succession, make and execute
4 contracts, leases, deeds and other instruments necessary or
5 convenient to the exercise of its powers, and make and from
6 time to time amend and repeal its by-laws, rules and
7 regulations not inconsistent with this Act. In addition, it has
8 and shall exercise the following public and essential
9 governmental powers and functions and all other powers
10 incidental or necessary, to carry out and effectuate such
11 express powers:

12 (a) To select, locate and designate, at any time and from
13 time to time, one or more areas lying wholly within the
14 territorial limits of the municipality or of the county seat of
15 the county in which the Commission is organized, or within the
16 territorial limits of the county if the site is to be used for
17 county purposes, or (in the case of a county having a
18 population of at least 20,000 but not more than 21,000 as
19 determined by the 1980 federal census) within the territorial
20 limits of the county if the site is to be used for municipal
21 purposes, as the site or sites to be acquired for the erection,
22 alteration or improvement of a building or buildings, public
23 improvement or other facilities for the purposes set forth in
24 this Section. The site or sites selected shall be conveniently
25 located within such county, municipality or county seat and of
26 an area in size sufficiently large to accomplish and effectuate

1 the purpose of this Act and sufficient to provide for proper
2 architectural setting and adequate landscaping for such
3 building or buildings, public improvement or other facilities.

4 (1) Where the governing body of the county seat or the
5 governing body of any municipality with 3,000 or more
6 inhabitants has adopted the original resolution for the
7 creation of the Commission, the site or sites selected, and in
8 the case of a project for an Airport Authority, the site or
9 sites selected, the project and any lease agreements, are
10 subject to approval by a majority of the members of the
11 governing body of the county seat or by a majority of the
12 members of the governing body of the municipality. However,
13 where the site is for a county project and is outside the
14 limits of a municipality, the approval of the site shall be by
15 the county board.

16 (2) Where the original resolution for the creation of the
17 Commission has been adopted by the governing body of the
18 county, the site or sites selected, and in the case of a
19 project for an Airport Authority, the site or sites selected,
20 the project and any lease agreements, are subject to approval
21 by a majority of the members of the governing body of the
22 county and to approval by 3/4 of the members of the governing
23 body of the county seat, except that approval of 3/4 of the
24 members of the governing body of the county seat is not
25 required where the site is for a county or (in the case of a
26 county having a population of at least 20,000 but not more than

1 21,000 as determined by the 1980 federal census) a municipal
 2 project and is outside the limits of the county seat, in which
 3 case approval by 3/4 of the members of the governing body of
 4 any municipality where the site or sites will be located is
 5 required; and, if such site or sites so selected, and in the
 6 case of a project for an Airport Authority, the site or sites
 7 selected, the project and any lease agreements, are not
 8 approved by 3/4 of the members of the governing body of the
 9 county seat the Commission may by resolution request that the
 10 approval of the site or sites so selected, and in the case of a
 11 project for an Airport Authority, the site or sites selected,
 12 the project and any lease agreements, be submitted to a
 13 referendum at the next general election in accordance with the
 14 general election law, and shall present such resolution to the
 15 county clerk. Upon receipt of such resolution the county clerk
 16 shall immediately notify the board of election commissioners,
 17 if any; however, referenda pursuant to such resolution shall
 18 not be called more frequently than once in 4 years. The
 19 proposition shall be in substantially the following form:

20 -----
 21 Shall be acquired for the
 22 erection, alteration or improvement of
 23 a building or buildings pursuant to YES
 24 the Public Building Commission Act,
 25 approved July 5, 1955, which project
 26 it is estimated will cost \$....., -----

1 including the cost of the site
2 acquisition and for the payment of which
3 revenue bonds in the amount of \$....., NO
4 maturing and bearing interest at
5 the rate of% per annum, may be
6 issued?

7 -----

8 If a majority of the electors voting on the proposition
9 vote in favor of the proposition, the site or sites so
10 selected, and in the case of a project for an Airport
11 Authority, the site or sites selected, the project and any
12 lease agreements, shall be approved. Except where approval of
13 the site or sites has been obtained by referendum, the area or
14 areas may be enlarged by the Board of Commissioners, from time
15 to time, as the need therefor arises. The selection, location
16 and designation of more than one area may, but need not, be
17 made at one time but may be made from time to time.

18 (b) To acquire the fee simple title to or any lesser
19 interest in the real property located within such area or
20 areas, including easements and reversionary interests in the
21 streets, alleys and other public places and personal property
22 required for its purposes, by purchase, gift, legacy, or by the
23 exercise of the power of eminent domain, and title thereto
24 shall be taken in the corporate name of the Commission. Eminent
25 domain proceedings shall be in all respects in the manner
26 provided for the exercise of the right of eminent domain under

1 the Eminent Domain Act. All land and appurtenances thereto,
2 acquired or owned by the Commission are to be deemed acquired
3 or owned for a public use or public purpose.

4 Any municipal corporation which owns fee simple title to or
5 any lesser interest in real property located within such an
6 area, may convey such real property, or any part thereof or
7 interest therein, to the Commission with a provision in such
8 conveyance for the reverter of such real property or interest
9 therein to the transferor municipal corporation at such time as
10 all revenue bonds and other obligations of the Commission
11 incident to the real property or interest therein so conveyed,
12 have been paid in full, and such Commission is hereby
13 authorized to accept such a conveyance.

14 (c) To demolish, repair, alter or improve any building or
15 buildings within the area or areas and to erect a new building
16 or buildings, improvement and other facilities within the area
17 or areas to provide space for the conduct of the executive,
18 legislative and judicial functions of government, its various
19 branches, departments and agencies thereof and to provide
20 buildings, improvements and other facilities for use by local
21 government in the furnishing of essential governmental,
22 health, safety and welfare services to its citizens; to furnish
23 and equip such building or buildings, improvements and other
24 facilities, and maintain and operate them so as to effectuate
25 the purposes of this Act.

26 (d) To pave and improve streets within such area or areas,

1 and to construct, repair and install sidewalks, sewers,
2 waterpipes and other similar facilities and site improvements
3 within such area or areas and to provide for adequate
4 landscaping essential to the preparation of such site or sites
5 in accordance with the purposes of this Act.

6 (e) To make provisions for offstreet parking facilities.

7 (f) To operate, maintain, manage and to make and enter into
8 contracts for the operation, maintenance and management of such
9 buildings and other facilities and to provide rules and
10 regulations for the operation, maintenance and management
11 thereof.

12 (g) To employ and discharge without regard to any Civil
13 Services Act, engineering, architectural, construction,
14 design-build, legal and financial experts and such other
15 employees as may be necessary in its judgment to carry out the
16 purposes of this Act and to fix compensation for such
17 employees, and enter into contracts for the employment of any
18 person, firm, or corporation, and for professional services
19 necessary or desirable for the accomplishment of the objects
20 and purposes of the Commission and the proper administration,
21 management, protection and control of its property.

22 (h) To rent all or any part or parts of such building,
23 buildings, or other facilities to any municipal corporation
24 that organized or joined in the organization of the Public
25 Building Commission or to any branch, department, or agency
26 thereof, or to any branch, department, or agency of the State

1 or Federal government, or to any other state or any agency or
2 political subdivision of another state with which the
3 Commission has entered into an intergovernmental agreement or
4 contract under the Intergovernmental Cooperation Act, or to any
5 municipal corporation with which the Commission has entered
6 into an intergovernmental agreement or contract under the
7 Intergovernmental Cooperation Act, or to any other municipal
8 corporation, quasi municipal corporation, political
9 subdivision or body politic, or agency thereof, doing business,
10 maintaining an office, or rendering a public service in such
11 county for any period of time.

12 (i) To rent such space in such building or buildings as
13 from time to time may not be needed by any governmental agency
14 for such other purposes as the Board of Commissioners may
15 determine will best serve the comfort and convenience of the
16 occupants of such building or buildings, and upon such terms
17 and in such manner as the Board of Commissioners may determine.

18 (j) To execute written leases evidencing the rental
19 agreements authorized in paragraphs (h) and (i) of this
20 Section.

21 (k) To procure and enter into contracts for any type of
22 insurance or indemnity against loss or damage to property from
23 any cause, including loss of use and occupancy, against death
24 or injury of any person, against employer's liability, against
25 any act of any member, officer or employee of the Public
26 Building Commission in the performance of the duties of his

1 office or employment or any other insurable risk, as the Board
2 of Commissioners in its discretion may deem necessary.

3 (l) To accept donations, contributions, capital grants or
4 gifts from any individuals, associations, municipal and
5 private corporations and the United States of America, or any
6 agency or instrumentality thereof, for or in aid of any of the
7 purposes of this Act and to enter into agreements in connection
8 therewith.

9 (m) To borrow money from time to time and in evidence
10 thereof to issue and sell revenue bonds in such amount or
11 amounts as the Board of Commissioners may determine to provide
12 funds for the purpose of acquiring, erecting, demolishing,
13 improving, altering, equipping, repairing, maintaining and
14 operating buildings and other facilities and to acquire sites
15 necessary and convenient therefor and to pay all costs and
16 expenses incident thereto, including, but without in any way
17 limiting the generality of the foregoing, architectural,
18 engineering, legal and financing expense, which may include an
19 amount sufficient to meet the interest charges on such revenue
20 bonds during such period or periods as may elapse prior to the
21 time when the project or projects may become revenue producing
22 and for one year in addition thereto; and to refund and
23 refinance, from time to time, revenue bonds so issued and sold,
24 as often as may be deemed to be advantageous by the Board of
25 Commissioners.

26 (n) To enter into any agreement or contract with any

1 lessee, who, pursuant to the terms of this Act, is renting or
2 is about to rent from the Commission all or part of any
3 building or buildings or facilities, whereby under such
4 agreement or contract such lessee obligates itself to pay all
5 or part of the cost of maintaining and operating the premises
6 so leased. Such agreement may be included as a provision of any
7 lease entered into pursuant to the terms of this Act or may be
8 made the subject of a separate agreement or contract between
9 the Commission and such lessee.

10 (Source: P.A. 94-1055, eff. 1-1-07; 95-614, eff. 9-11-07.)

11 (50 ILCS 20/20.3)

12 (Section scheduled to be repealed on June 1, 2013)

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

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

25 (b) The request for proposal shall be prepared for each

1 project and must contain, without limitation, the following
2 information:

3 (1) The name of the Commission.

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

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

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

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

22 (6) The performance criteria.

23 (7) The evaluation criteria for ~~each phase of~~ the
24 solicitation.

25 (8) The number of entities that will be considered for
26 the technical and cost evaluations ~~evaluation phase~~.

1 (c) The Commission may include any other relevant
2 information that it chooses to supply. The design-build entity
3 shall be entitled to rely upon the accuracy of this
4 documentation in the development of its proposal.

5 (d) Proposals shall be due within a reasonable period of
6 time to allow for entities to prepare their responses, given
7 the size and complexity of the contemplated project. In the
8 event that the Commission contemplates a multiple step
9 procurement process, the request for proposals shall provide a
10 schedule for the proposal process. ~~The date that proposals are~~
11 ~~due must be at least 21 calendar days after the date of the~~
12 ~~issuance of the request for proposal. In the event the cost of~~
13 ~~the project is estimated to exceed \$12,000,000, then the~~
14 ~~proposal due date must be at least 28 calendar days after the~~
15 ~~date of the issuance of the request for proposal. The~~
16 ~~Commission shall include in the request for proposal a minimum~~
17 ~~of 30 days to develop the Phase II submissions after the~~
18 ~~selection of entities from the Phase I evaluation is completed.~~

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

21 (Source: P.A. 95-595, eff. 6-1-08.)

22 (50 ILCS 20/20.5)

23 (Section scheduled to be repealed on June 1, 2013)

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

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

1 proposals the evaluating factors to be used to assess the
2 qualifications of the design-build entities. The Commission
3 shall maintain a record of the evaluation scoring. The record
4 shall be disclosed in the event of any protest regarding the
5 solicitation.

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

21 The Commission may not consider any design-build entity for
22 evaluation or award if the entity has any pecuniary interest in
23 the project or has other relationships or circumstances,
24 including but not limited to, long-term leasehold, mutual
25 performance, or development contracts with the Commission,
26 that may give the design-build entity a financial or tangible

1 advantage over other design-build entities in the preparation,
2 evaluation, or performance of the design-build contract, or
3 that create the appearance of impropriety. No design-build
4 proposal shall be considered that does not include an entity's
5 plan to comply with the requirements established in the
6 minority and women business enterprises and economically
7 disadvantaged firms established by the corporate authorities
8 of the Commission and with Section 2-105 of the Illinois Human
9 Rights Act.

10 (b) The Commission shall not be required to review the
11 technical and cost proposals of the firms that it finds to be
12 unqualified pursuant to the evaluation criteria in subsection
13 (a). The Commission shall include in the request for proposals
14 the evaluating factors to be used to assess the technical and
15 cost proposals of the qualified design-build entities. The
16 Commission shall maintain a record of the evaluation scoring.
17 The record shall be disclosed in the event of any protest
18 regarding the solicitation.

19 The Commission shall include the following criteria in
20 every technical evaluation of the design-build entities: (1)
21 compliance with the objectives of the project; (2) compliance
22 of proposed services to the request for proposal requirements;
23 (3) quality of products or materials proposed; (4) quality of
24 design parameters; (5) design concepts; (6) innovation in
25 meeting the scope and performance criteria; and (7)
26 constructability of the proposed project. The Commission may

1 include any relevant technical evaluation factors it deems
2 necessary for proper selection.

3 The Commission shall include the following criteria in
4 every cost evaluation: (1) guaranteed maximum project cost or
5 lump sum project cost and (2) proposed schedule for project
6 completion. The Commission may include any additional relevant
7 technical evaluation factors it deems necessary for proper
8 selection.

9 The Commission shall directly employ or retain a licensed
10 design professional to evaluate the technical and cost
11 submissions to determine if the technical submissions are in
12 accordance with generally accepted industry standards.

13 Upon completion of the technical and cost evaluations, the
14 Commission may award a design-build contract to the qualified
15 design-build entity that the Commission determines offers the
16 best value in terms of quality, cost, and proposed time of
17 completion.

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

23 ~~(b) The Commission shall include in the request for~~
24 ~~proposal the evaluating factors to be used in Phase I. These~~
25 ~~factors are in addition to any prequalification requirements of~~
26 ~~design build entities that the Commission has set forth. Each~~

1 ~~request for proposal shall establish the relative importance~~
2 ~~assigned to each evaluation factor and subfactor, including any~~
3 ~~weighting of criteria to be employed by the Commission. The~~
4 ~~Commission must maintain a record of the evaluation scoring to~~
5 ~~be disclosed in event of a protest regarding the solicitation.~~

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

23 ~~The Commission may not consider any design build entity for~~
24 ~~evaluation or award if the entity has any pecuniary interest in~~
25 ~~the project or has other relationships or circumstances,~~
26 ~~including but not limited to, long term leasehold, mutual~~

1 ~~performance, or development contracts with the Commission,~~
2 ~~that may give the design build entity a financial or tangible~~
3 ~~advantage over other design build entities in the preparation,~~
4 ~~evaluation, or performance of the design build contract or that~~
5 ~~create the appearance of impropriety. No design build proposal~~
6 ~~shall be considered that does not include an entity's plan to~~
7 ~~comply with the requirements established in the minority and~~
8 ~~women business enterprises and economically disadvantaged~~
9 ~~firms established by the corporate authorities of the~~
10 ~~Commission and with Section 2-105 of the Illinois Human Rights~~
11 ~~Act.~~

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

19 ~~The Commission shall notify the entities selected for the~~
20 ~~shortlist in writing. This notification shall commence the~~
21 ~~period for the preparation of the Phase II technical and cost~~
22 ~~evaluations. The Commission must allow sufficient time for the~~
23 ~~shortlist entities to prepare their Phase II submittals~~
24 ~~considering the scope and detail requested by the Commission.~~

25 ~~(c) The Commission shall include in the request for~~
26 ~~proposal the evaluating factors to be used in the technical and~~

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

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

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

24 ~~The Commission shall directly employ or retain a licensed~~
25 ~~design professional to evaluate the technical and cost~~
26 ~~submissions to determine if the technical submissions are in~~

1 ~~accordance with generally accepted industry standards.~~

2 ~~Upon completion of the technical submissions and cost~~
3 ~~submissions evaluation, the Commission may award the~~
4 ~~design-build contract to the highest overall ranked entity.~~

5 (c) ~~(d)~~ This Section is repealed 5 years after the
6 effective date of this amendatory Act of the 95th General
7 Assembly.

8 (Source: P.A. 95-595, eff. 6-1-08.)

9 (50 ILCS 20/20.12 new)

10 Sec. 20.12. Competitive negotiation. If the Executive
11 Director determines it is in the Commission's best interests,
12 the Commission may enter into competitive negotiations with the
13 qualified design-build entities. The Commission shall provide
14 the qualified design-build entities with appropriate notice of
15 the Commission's intent to enter into competitive
16 negotiations. Such notice shall include a detailed description
17 of the competitive negotiation process, which may include value
18 engineering or similar revisions to the scope of the project.
19 The Commission may require each qualified design-build entity
20 to furnish its best and final offer for the design and
21 construction of the project. Upon completion of the competitive
22 negotiations, the Commission may award a design-build contract
23 to the qualified design-build entity that the Commission
24 determines has offered the best value in terms of quality,
25 cost, and proposed time of completion.

1 (50 ILCS 20/20.15)

2 (Section scheduled to be repealed on June 1, 2013)

3 Sec. 20.15. Submission of design-build proposals.
4 Design-build proposals must be properly identified and sealed.
5 Proposals may not be reviewed until after the deadline for
6 submission has passed as set forth in the request for
7 proposals. All design-build entities submitting proposals
8 shall be disclosed after the deadline for submission ~~, and all~~
9 ~~design-build entities who are selected for Phase II evaluation~~
10 ~~shall also be disclosed at the time of that determination.~~

11 Design-build ~~Phase II design-build~~ proposals shall include
12 a bid bond in the form and security as designated in the
13 request for proposals. Proposals shall also contain a separate
14 sealed envelope with the cost information within the overall
15 proposal submission. Proposals shall include a list of all
16 design professionals and other entities to which any work
17 identified in Section 30-30 of the Illinois Procurement Code as
18 a subdivision of construction work may be subcontracted during
19 the performance of the contract.

20 Proposals must meet all material requirements of the
21 request for proposal or they may be rejected as non-responsive.
22 The Commission shall have the right to reject any and all
23 proposals.

24 The drawings and specifications of any unsuccessful
25 design-build proposal shall remain the property of the

1 design-build entity.

2 The Commission shall review the proposals for compliance
3 with the performance criteria and evaluation factors.

4 Proposals may be withdrawn prior to the due date and time
5 for submissions for any cause. After evaluation begins by the
6 Commission, clear and convincing evidence of error is required
7 for withdrawal.

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

10 (Source: P.A. 95-595, eff. 6-1-08.)

11 (50 ILCS 20/20.20)

12 (Section scheduled to be repealed on June 1, 2013)

13 Sec. 20.20. Design-build award. The Commission may award a
14 design-build contract to the qualified design-build entity
15 that the Commission determines has offered the best value in
16 terms of quality, cost, and proposed time of completion. Notice
17 of the award shall be made in writing. Unsuccessful entities
18 shall also be notified in writing. The Commission may award a
19 design-build contract to the highest overall ranked entity.
20 Notice of award shall be made in writing. Unsuccessful entities
21 shall also be notified in writing. The Commission may not
22 request a best and final offer after the receipt of proposals.
23 The Commission may negotiate with the selected design-build
24 entity after award but prior to contract execution for the
25 purpose of securing better terms than originally proposed,

1 ~~provided that the salient features of the request for proposal~~
2 ~~are not diminished.~~

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

5 (Source: P.A. 95-595, eff. 6-1-08.)

6 (50 ILCS 20/20.25)

7 (Section scheduled to be repealed on June 1, 2013)

8 Sec. 20.25. Minority and female owned enterprises; total
9 construction budget.

10 (a) Each year, within 60 days following the end of a
11 commission's fiscal year, the commission shall provide a report
12 to the General Assembly addressing the utilization of minority
13 and female owned business enterprises on design-build
14 projects.

15 ~~(b) The payments for design build projects by any~~
16 ~~commission in one fiscal year shall not exceed 25% of the~~
17 ~~moneys spent on construction projects during the same fiscal~~
18 ~~year.~~

19 (b) ~~(e)~~ This Section is repealed 5 years after the
20 effective date of this amendatory Act of the 95th General
21 Assembly.

22 (Source: P.A. 95-595, eff. 6-1-08.)

23 (50 ILCS 20/20.10 rep.)

24 Section 10. The Public Building Commission Act is amended

1 by repealing Section 20.10.

2 Section 15. The Chicago Park District Act is amended by
3 adding Sections 26.10-4, 26.10-5, 26.10-6, 26.10-7, 26.10-8,
4 26.10-9, 26.10-10, and 26.10-11 as follows:

5 (70 ILCS 1505/26.10-4 new)

6 Sec. 26.10-4. Definitions. The following terms, whenever
7 used or referred to in this Act, have the following meaning
8 unless the context requires a different meaning:

9 "Delivery system" means the design and construction
10 approach used to develop and construct a project.

11 "Design-bid-build" means the traditional delivery system
12 used on public projects that incorporates the Local Government
13 Professional Services Selection Act (50 ILCS 510/) and the
14 principles of competitive selection.

15 "Design-build" means a delivery system that provides
16 responsibility within a single contract for the furnishing of
17 architecture, landscape architecture, engineering, land
18 surveying and related services as required, and the labor,
19 materials, equipment, and other construction services for the
20 project.

21 "Design-build contract" means a contract for a public
22 project under this Act between the Chicago Park District and a
23 design-build entity to furnish architecture, engineering, land
24 surveying, and related services as required, and to furnish the

1 labor, materials, equipment, and other construction services
2 for the project. The design-build contract may be conditioned
3 upon subsequent refinements in scope and price and may allow
4 the Chicago Park District to make modifications in the project
5 scope without invalidating the design-build contract.

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

15 "Design professional" means any individual, sole
16 proprietorship, firm, partnership, joint venture, corporation,
17 professional corporation, or other entity that offers services
18 under the Illinois Architecture Practice Act of 1989 (225 ILCS
19 305/), the Illinois Landscape Architecture Act of 1989 (225
20 ILCS 315/), the Professional Engineering Practice Act of 1989
21 (225 ILCS 325/), the Structural Engineering Licensing Act of
22 1989 (225 ILCS 340/), or the Illinois Professional Land
23 Surveyor Act of 1989 (225 ILCS 330/).

24 "Evaluation criteria" means the requirements for the
25 separate phases of the selection process for design-build
26 proposals as defined in this Act and may include the

1 specialized experience, technical qualifications and
2 competence, capacity to perform, past performance, experience
3 with similar projects, assignment of personnel to the project,
4 and other appropriate factors. Price may not be used as a
5 factor in the evaluation of Phase I proposals.

6 "Proposal" means the offer to enter into a design-build
7 contract as submitted by a design-build entity in accordance
8 with this Act.

9 "Request for proposal" means the document used by the
10 Chicago Park District to solicit proposals for a design-build
11 contract.

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

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

23 (70 ILCS 1505/26.10-5 new)

24 Sec. 26.10-5. Authorization for design-build;
25 advertisement.

1 (a) The Chicago Park District shall have the power to enter
2 into design-build contracts. In addition to the requirements
3 set forth in its ordinances, the Chicago Park District shall
4 advertise a design-build solicitation at least once in a daily
5 newspaper of general circulation in Cook County. The date that
6 Phase I submissions by design-build entities are due must be at
7 least 14 calendar days after the date the newspaper
8 advertisement for design-build proposals is first published.
9 The advertisement shall identify the design-build project, the
10 due date, the place and time for Phase I submissions, and the
11 place where proposers can obtain a complete copy of the request
12 for design-build proposals, including the criteria for
13 evaluation and the scope and performance criteria. The Chicago
14 Park District is not precluded from using other media or from
15 placing advertisements in addition to the one required under
16 this subsection.

17 (b) The Chicago Park District may reject any and all bids
18 and proposals received and may readvertise for bids or issue a
19 new request for design-build proposals.

20 (70 ILCS 1505/26.10-6 new)

21 Sec. 26.10-6. Solicitation of design-build proposals.

22 (a) When the Chicago Park District elects to use the
23 design-build delivery method, it must issue a notice of intent
24 to receive proposals for the project at least 14 days before
25 issuing the request for the proposal. The Chicago Park District

1 must publish the advance notice in a daily newspaper of general
2 circulation in Cook County. The Chicago Park District is
3 encouraged to use publication of the notice in related
4 construction industry service publications. A brief
5 description of the proposed procurement must be included in the
6 notice. The Chicago Park District must provide a copy of the
7 request for proposal to any party requesting a copy.

8 (b) The request for proposal shall be prepared for each
9 project and must contain, without limitation, the following
10 information:

11 (1) A preliminary schedule for the completion of the
12 contract.

13 (2) The proposed budget for the project, the source of
14 funds, and the currently available funds at the time the
15 request for proposal is submitted.

16 (3) Prequalification criteria for design-build
17 entities wishing to submit proposals. The Chicago Park
18 District shall include, at a minimum, its normal
19 prequalification, licensing, registration, and other
20 requirements, but nothing contained herein precludes the
21 use of additional prequalification criteria by the Chicago
22 Park District.

23 (4) Material requirements of the contract, including
24 but not limited to, the proposed terms and conditions,
25 required performance and payment bonds, insurance, and the
26 entity's plan to comply with the utilization goals

1 established by the corporate authorities of the Chicago
2 Park District for minority and women business enterprises
3 and to comply with Section 2-105 of the Illinois Human
4 Rights Act.

5 (5) The performance criteria.

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

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

10 (c) The Chicago Park District may include any other
11 relevant information that it chooses to supply. The
12 design-build entity shall be entitled to rely upon the accuracy
13 of this documentation in the development of its proposal.

14 (d) The date that proposals are due must be at least 21
15 calendar days after the date of the issuance of the request for
16 proposal. In the event the cost of the project is estimated to
17 exceed \$12,000,000, then the proposal due date must be at least
18 28 calendar days after the date of the issuance of the request
19 for proposal. The Chicago Park District shall include in the
20 request for proposal a minimum of 30 days to develop the Phase
21 II submissions after the selection of entities from the Phase I
22 evaluation is completed.

23 (70 ILCS 1505/26.10-7 new)

24 Sec. 26.10-7. Development of design-build scope and
25 performance criteria.

1 (a) The Chicago Park District shall develop, with the
2 assistance of a licensed design professional, a request for
3 proposal, which shall include scope and performance criteria.
4 The scope and performance criteria must be in sufficient detail
5 and contain adequate information to reasonably apprise the
6 qualified design-build entities of the Chicago Park District's
7 overall programmatic needs and goals, including criteria and
8 preliminary design plans, general budget parameters, schedule,
9 and delivery requirements.

10 (b) Each request for proposal shall also include a
11 description of the level of design to be provided in the
12 proposals. This description must include the scope and type of
13 renderings, drawings, and specifications that, at a minimum,
14 will be required by the Chicago Park District to be produced by
15 the design-build entities.

16 (c) The scope and performance criteria shall be prepared by
17 a design professional who is an employee of the Chicago Park
18 District, or the Chicago Park District may contract with an
19 independent design professional selected under the Local
20 Government Professional Services Selection Act (50 ILCS 510/)
21 to provide these services.

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

1 Sec. 26.10-8. Procedures for design-build selection.

2 (a) The Chicago Park District must use a two-phase
3 procedure for the selection of the successful design-build
4 entity. Phase I of the procedure will evaluate and shortlist
5 the design-build entities based on qualifications, and Phase II
6 will evaluate the technical and cost proposals.

7 (b) The Chicago Park District shall include in the request
8 for proposal the evaluating factors to be used in Phase I.
9 These factors are in addition to any prequalification
10 requirements of design-build entities that the Chicago Park
11 District has set forth. Each request for proposal shall
12 establish the relative importance assigned to each evaluation
13 factor and subfactor, including any weighting of criteria to be
14 employed by the Chicago Park District. The Chicago Park
15 District must maintain a record of the evaluation scoring to be
16 disclosed in event of a protest regarding the solicitation.

17 The Chicago Park District shall include the following
18 criteria in every Phase I evaluation of design-build entities:
19 (1) experience of personnel; (2) successful experience with
20 similar project types; (3) financial capability; (4)
21 timeliness of past performance; (5) experience with similarly
22 sized projects; (6) successful reference checks of the firm;
23 (7) commitment to assign personnel for the duration of the
24 project and qualifications of the entity's consultants; and (8)
25 ability or past performance in meeting or exhausting good faith
26 efforts to meet the utilization goals for minority and women

1 business enterprises established by the corporate authorities
2 of the Chicago Park District and in complying with Section
3 2-105 of the Illinois Human Rights Act. The Chicago Park
4 District may include any additional relevant criteria in Phase
5 I that it deems necessary for a proper qualification review.
6 The Chicago Park District may include any additional relevant
7 criteria in Phase I that it deems necessary for a proper
8 qualification review.

9 The Chicago Park District may not consider any design-build
10 entity for evaluation or award if the entity has any pecuniary
11 interest in the project or has other relationships or
12 circumstances, including but not limited to, long-term
13 leasehold, mutual performance, or development contracts with
14 the Chicago Park District, that may give the design-build
15 entity a financial or tangible advantage over other
16 design-build entities in the preparation, evaluation, or
17 performance of the design-build contract or that create the
18 appearance of impropriety. No design-build proposal shall be
19 considered that does not include an entity's plan to comply
20 with the requirements established in the minority and women
21 business enterprises and economically disadvantaged firms
22 established by the corporate authorities of the Chicago Park
23 District and with Section 2-105 of the Illinois Human Rights
24 Act.

25 Upon completion of the qualifications evaluation, the
26 Chicago Park District shall create a shortlist of the most

1 highly qualified design-build entities. The Chicago Park
2 District, in its discretion, is not required to shortlist the
3 maximum number of entities as identified for Phase II
4 evaluation, provided however, no less than 2 design-build
5 entities nor more than 6 are selected to submit Phase II
6 proposals.

7 The Chicago Park District shall notify the entities
8 selected for the shortlist in writing. This notification shall
9 commence the period for the preparation of the Phase II
10 technical and cost evaluations. The Chicago Park District must
11 allow sufficient time for the shortlist entities to prepare
12 their Phase II submittals considering the scope and detail
13 requested by the Chicago Park District.

14 (c) The Chicago Park District shall include in the request
15 for proposal the evaluating factors to be used in the technical
16 and cost submission components of Phase II. Each request for
17 proposal shall establish, for both the technical and cost
18 submission components of Phase II, the relative importance
19 assigned to each evaluation factor and subfactor, including any
20 weighting of criteria to be employed by the Chicago Park
21 District. The Chicago Park District must maintain a record of
22 the evaluation scoring to be disclosed in event of a protest
23 regarding the solicitation.

24 The Chicago Park District shall include the following
25 criteria in every Phase II technical evaluation of design-build
26 entities: (1) compliance with objectives of the project; (2)

1 compliance of proposed services to the request for proposal
2 requirements; (3) quality of products or materials proposed;
3 (4) quality of design parameters; (5) design concepts; (6)
4 innovation in meeting the scope and performance criteria; and
5 (7) constructability of the proposed project. The Chicago Park
6 District may include any additional relevant technical
7 evaluation factors it deems necessary for proper selection.

8 The Chicago Park District shall include the following
9 criteria in every Phase II cost evaluation: the guaranteed
10 maximum project cost and the time of completion. The Chicago
11 Park District may include any additional relevant technical
12 evaluation factors it deems necessary for proper selection. The
13 guaranteed maximum project cost criteria weighing factor shall
14 not exceed 30%.

15 The Chicago Park District shall directly employ or retain a
16 licensed design professional to evaluate the technical and cost
17 submissions to determine if the technical submissions are in
18 accordance with generally accepted industry standards.

19 Upon completion of the technical submissions and cost
20 submissions evaluation, the Chicago Park District may award the
21 design-build contract to the highest overall ranked entity.

22 (70 ILCS 1505/26.10-9 new)

23 Sec. 26.10-9. Small design-build projects. In any case
24 where the total overall cost of the project is estimated to be
25 less than \$12,000,000, the Chicago Park District may combine

1 the two-phase procedure for design-build selection described
2 in Section 26.10-8 into one combined step, provided that all
3 the requirements of evaluation are performed in accordance with
4 Section 26.10-8.

5 (70 ILCS 1505/26.10-10 new)

6 Sec. 26.10-10. Submission of design-build proposals.
7 Design-build proposals must be properly identified and sealed.
8 Proposals may not be reviewed until after the deadline for
9 submission has passed as set forth in the request for
10 proposals. All design-build entities submitting proposals
11 shall be disclosed after the deadline for submission, and all
12 design-build entities who are selected for Phase II evaluation
13 shall also be disclosed at the time of that determination.

14 Phase II design-build proposals shall include a bid bond in
15 the form and security as designated in the request for
16 proposals. Proposals shall also contain a separate sealed
17 envelope with the cost information within the overall proposal
18 submission. Proposals shall include a list of all design
19 professionals and other entities to which any work may be
20 subcontracted during the performance of the contract.

21 Proposals must meet all material requirements of the
22 request for proposal or they may be rejected as non-responsive.
23 The Chicago Park District shall have the right to reject any
24 and all proposals.

25 The drawings and specifications of any unsuccessful

1 design-build proposal shall remain the property of the
2 design-build entity.

3 The Chicago Park District shall review the proposals for
4 compliance with the performance criteria and evaluation
5 factors.

6 Proposals may be withdrawn prior to the due date and time
7 for submissions for any cause. After evaluation begins by the
8 Chicago Park District, clear and convincing evidence of error
9 is required for withdrawal.

10 (70 ILCS 1505/26.10-11 new)

11 Sec. 26.10-11. Design-build award. The Chicago Park
12 District may award a design-build contract to the highest
13 overall ranked entity. Notice of award shall be made in
14 writing. Unsuccessful entities shall also be notified in
15 writing. The Chicago Park District may not request a best and
16 final offer after the receipt of proposals. The Chicago Park
17 District may negotiate with the selected design-build entity
18 after award but prior to contract execution for the purpose of
19 securing better terms than originally proposed, provided that
20 the salient features of the request for proposal are not
21 diminished.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."