

1 AN ACT concerning State government.

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

4 Section 5. The Department of Transportation Law of the  
5 Civil Administrative Code of Illinois is amended by changing  
6 Section 2705-595 and by adding Section 2705-607 as follows:

7 (20 ILCS 2705/2705-595)

8 Sec. 2705-595. Prequalification of minority-owned and  
9 women-owned contractors.

10 (a) The Department shall, within 30 days after the  
11 effective date of this amendatory Act of the 96th General  
12 Assembly, establish a committee to review the rules for  
13 prequalification of contractors adopted by the Department at 44  
14 Illinois Administrative Code 650. The purpose of the review is  
15 to determine whether the rules for prequalification operate as  
16 a barrier to minority-owned and women-owned contractors  
17 becoming prequalified to bid on or make proposals for  
18 Department contracts. The committee shall, in addition to  
19 Department staff, be constituted with membership representing  
20 the construction industry and minority-owned and women-owned  
21 contractors. The committee shall complete its work and make  
22 recommendations for any changes to the rules for  
23 prequalification to the Secretary of Transportation within 180

1 days after the effective date of this amendatory Act of the  
2 96th General Assembly.

3 (b) The Department, in conjunction with the Capital  
4 Development Board, shall hold 2 public hearings to determine  
5 whether a more effective, efficient, and less burdensome method  
6 exists to prequalify an architect, engineer, or contractor. The  
7 hearings shall also specifically determine how the Department  
8 can obtain greater participation in the bidding process of  
9 small contractors and minority, female, disabled, and veteran  
10 architects, engineers, and contractors. The Department and the  
11 Capital Development Board shall collect data to review at the  
12 hearings, which shall include, but is not limited to,  
13 percentages and the number of minority, female, disabled, and  
14 veteran employees who are hired for each trade necessary for  
15 each project. The Department and the Capital Development Board  
16 shall issue their joint findings and recommendations to the  
17 Governor and the General Assembly no later than January 1,  
18 2018.

19 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
20 for the effective date of P.A. 96-795).)

21 (20 ILCS 2705/2705-607 new)

22 Sec. 2705-607. Performance evaluation; contractor.

23 (a) For purposes of this Section, "Performance Factor"  
24 means a numerical value determined by the contractor's  
25 performance evaluation in a work category during the previous

1 year.

2 (b) At the close of each construction season, the  
3 Department, other State agencies or authorities using  
4 contractors based on the prequalification standards of the  
5 Department, and officials of a unit of local government  
6 administering a contract approved for award by the Department,  
7 shall evaluate each contractor who performed work for them  
8 during the previous year as either a prime contractor or a  
9 subcontractor. The information shall be submitted on the  
10 Contractor's Annual Performance Report and shall be subject to  
11 disclosure under the Freedom of Information Act. The  
12 performance evaluation shall be based upon:

13 (1) the quality of work performed for each work  
14 category under 44 Ill. Admin. Code 650; and

15 (2) the overall execution of work measured by:

16 (A) organization and prosecution of work;

17 (B) cooperation with public agency personnel  
18 responsible for contract administration and  
19 inspection;

20 (C) traffic control and site protection under  
21 contract requirements;

22 (D) compliance with the Equal Employment  
23 Opportunity program and labor requirements;

24 (E) erosion control; and

25 (F) the contractor's ability to meet the Quality  
26 Control plan and Quality Assurance plan under contract

1           requirements for materials production and construction  
2           quality control.

3           (c) The performance evaluation scale is a rating from 0 to  
4           8 in accordance with the following definitions:

5                   (1) "8" means excellent;

6                   (2) "7" means good;

7                   (3) "6" means satisfactory;

8                   (4) "3" means marginal; and

9                   (5) "0" means poor.

10           (d) The quality and evaluating categories under execution  
11           of work are rated as follows:

12                   (1) to determine the contractor's quality of  
13                   performance, the Department shall consider the project's  
14                   durability and appearance, knowledge of supervisory  
15                   personnel, and compliance with contract requirements and  
16                   shall evaluate the performance based on the following  
17                   scale:

18                           (A) if the contractor exceeded project  
19                           requirements in all areas considered, he or she shall  
20                           receive an 8;

21                           (B) if the contractor exceeded project  
22                           requirements in a majority of areas considered, he or  
23                           she shall receive a 7;

24                           (C) if the contractor met project requirements in  
25                           all areas considered, he or she shall receive a 6;

26                           (D) if the contractor did not meet project

1 requirements in one area considered, he or she shall  
2 receive a 3; and

3 (E) if the contractor did not meet project  
4 requirements in 2 or more areas considered, he or she  
5 shall receive a 0;

6 (2) to determine the contractor's organization and  
7 prosecution, the Department shall consider the  
8 contractor's ability to diligently prosecute work by  
9 planning and scheduling labor, materials, and the work of  
10 subcontractors on the project site and shall evaluate the  
11 organization and prosecution based on the following scale:

12 (A) if the contractor exceeded project  
13 requirements in all areas considered and completed the  
14 project well ahead of schedule, he or she shall receive  
15 an 8;

16 (B) if the contractor exceeded project  
17 requirements in a majority of areas considered and the  
18 project was completed slightly ahead of schedule, he or  
19 she shall receive a 7;

20 (C) if the contractor met project requirements in  
21 all areas considered and the scheduled completion date  
22 was met, he or she shall receive a 6;

23 (D) if the contractor did not meet project  
24 requirements in one area considered and occasionally  
25 did not work when conditions permitted and the  
26 scheduled completion date was met, he or she shall

1 receive a 3; and

2 (E) if the contractor did not meet project  
3 requirements in 2 or more areas considered and the  
4 scheduled completion date was not met, he or she shall  
5 receive a 0;

6 (3) to determine the contractor's cooperation, the  
7 Department shall consider the contractor's willingness to  
8 negotiate contract disputes, to respond to reasonable  
9 requests by the resident engineer, and to respond to  
10 various correspondence from the Department and shall  
11 evaluate the cooperation based on the following scale:

12 (A) if the contractor exceeded project  
13 requirements in all areas considered, he or she shall  
14 receive an 8;

15 (B) if the contractor exceeded project  
16 requirements in a majority of areas considered, he or  
17 she shall receive a 7;

18 (C) if the contractor met project requirements in  
19 all areas considered, he or she shall receive a 6;

20 (D) if the contractor did not meet project  
21 requirements in one area considered, he or she shall  
22 receive a 3; and

23 (E) if the contractor did not meet project  
24 requirements in 2 or more areas considered, he or she  
25 shall receive a 0;

26 (4) to determine the project's traffic control and site

1 protection, the Department shall consider the appearance  
2 of traffic control devices, the response to repair  
3 deficient devices, and the contractor's willingness to  
4 comply with the Traffic Control Plan and shall evaluate  
5 based on the following scale:

6 (A) if the contractor exceeded project  
7 requirements in all areas considered, he or she shall  
8 receive an 8;

9 (B) if the contractor exceeded project  
10 requirements in a majority of areas considered, he or  
11 she shall receive a 7;

12 (C) if the contractor met project requirements in  
13 all areas considered, he or she shall receive a 6;

14 (D) if the contractor did not meet project  
15 requirements in one area considered, he or she shall  
16 receive a 3; and

17 (E) if the contractor did not meet project  
18 requirements in 2 or more areas considered or the  
19 contractor committed an act or omission which  
20 seriously compromised the safety of the public, he or  
21 she shall receive a 0;

22 (5) to determine the contractor's compliance with the  
23 Equal Employment Opportunity program and labor  
24 requirements, the Department shall evaluate the compliance  
25 based on the following scale:

26 (A) if the contractor exceeded project

1 requirements, he or she shall receive an 8;

2 (B) if the contractor met project requirements  
3 through extraordinary effort and initiative, he or she  
4 shall receive a 7;

5 (C) if the contractor met project requirements  
6 with minimum effort and initiative, he or she shall  
7 receive a 6;

8 (D) if the contractor met project requirements,  
9 but had to be motivated by Department personnel, he or  
10 she shall receive a 3; and

11 (E) if the contractor did not meet project  
12 requirements, he or she shall receive a 0;

13 (6) to determine the project's erosion control, the  
14 Department shall consider the contractor's compliance with  
15 the project's erosion control plan and all pertinent  
16 federal and State laws, permits, rules, and regulations and  
17 shall evaluate based on the following scale:

18 (A) if the contractor exceeded project  
19 requirements, he or she shall receive an 8;

20 (B) if the contractor exceeded project  
21 requirements in a majority of the areas, he or she  
22 shall receive a 7;

23 (C) if the contractor met project requirements in  
24 all areas, he or she shall receive a 6;

25 (D) if the contractor did not meet the project  
26 requirements in one area considered, he or she shall



1           receive a 3; and

2           (E) if the contractor did not meet the contract  
3           requirements in 2 or more areas, he or she shall  
4           receive a 0;

5           (7) to determine the contractor's ability to meet the  
6           Quality Control plan and Quality Assurance plan, the  
7           Department shall consider the contractor's ability to meet  
8           a Quality Control plan and Quality Assurance plan  
9           inspection, testing, and documentation requirements, to  
10           take control of the product, to take corrective action, and  
11           to communicate production and construction issued to  
12           Department personnel and shall evaluate based on the  
13           following scale:

14           (A) if the contractor exceeded Quality Control  
15           plan and Quality Assurance plan requirements in all  
16           areas considered, he or she shall receive an 8;

17           (B) if the contractor exceeded Quality Control  
18           plan and Quality Assurance plan requirements in a  
19           majority of areas considered, he or she shall receive a  
20           7;

21           (C) if the contractor met Quality Control plan and  
22           Quality Assurance plan requirements in all areas  
23           considered, he or she shall receive a 6;

24           (D) if the contractor did not meet Quality Control  
25           plan and Quality Assurance plan requirements in one  
26           area considered, he or she shall receive a 3; and

1           (E) if the contractor did not meet Quality Control  
2           plan and Quality Assurance plan requirements in 2 or  
3           more areas considered, he or she shall receive a 0.

4           (e) The Department shall calculate the Performance Factor  
5           by first determining the Project Cost Ratio for the relevant  
6           work category. The Project Cost Ratio is the ratio of the value  
7           of all contracts being evaluated to the value of all contracts  
8           performed. The Department shall establish a weighted  
9           performance evaluation value for each performance evaluation  
10           completed by determining the product of the Project Cost Ratio,  
11           the rating for quality given on the relevant performance  
12           evaluation, and the averaged ratings for the execution given on  
13           the relevant performance evaluation divided by 6. Finally, the  
14           Department shall divide the summation of all weighted  
15           performance evaluation values by 6 to arrive at the Performance  
16           Factor.

17           (f) A work rating shall be subject to denial or revocation  
18           if the summation of all weighted performance evaluation values  
19           for a work rating category is less than 6 for 2 successive  
20           years. A work rating shall be subject to denial or revocation  
21           if the summation of all weighted performance evaluation values  
22           for a work rating category is less than 3 for one year.

23           (g) The Department shall evaluate performance on any  
24           individual contract or group of contracts for purposes of  
25           determining the current responsibility of a contractor when the  
26           Engineer of Construction has determined that performance on any

1 contract or contracts may not be acceptable and that an  
2 immediate evaluation is necessary to assess the responsibility  
3 of a contractor in order to protect the interests of the State  
4 in sound procurement practices. If the evaluation ordered by  
5 the Engineer of Construction results in the quality of work or  
6 the average overall execution of work ratings being rated at  
7 less than 3, the work ratings shall be revoked.

8 (h) If a contractor receives a Quality of Work Rating of 0  
9 for any work category being evaluated on any one contract, the  
10 work rating shall be revoked.

11 (i) The Department shall notify the contractor of the  
12 performance evaluation in writing within 14 days of completion  
13 of the evaluation with a detailed explanation of any  
14 substandard items. If a performance evaluation results in a  
15 denied, reduced, or revoked work rating, the contractor may  
16 proceed with the review procedures under 44 Ill. Admin. Code  
17 650.150.

18 (j) If an applicant did not have a contract with the  
19 Department in the previous year, the last evaluation issued  
20 within a 5-year period shall be used. If an applicant has not  
21 had an evaluation in the last 5 years or is applying for an  
22 initial rating in a category and lists no public agencies or  
23 private customers as references, a Performance Factor of "1"  
24 shall be used until an actual evaluation is made.

25 (k) As a component of the Auditor's General biennial  
26 compliance examination of the Department, the Auditor General

1 shall review the Department's compliance with the requirements  
2 under this Section. Upon completion of the examination and  
3 release of the results to the Department, the Auditor General  
4 shall publish the results on its website.

5 Section 10. The Criminal Code of 2012 is amended by adding  
6 Section 33E-15.5 as follows:

7 (720 ILCS 5/33E-15.5 new)

8 Sec. 33E-15.5. Manipulation of work ratings.

9 (a) Any person who knowingly manipulates a work rating  
10 factor for a contractor or subcontractor under Section 2705-907  
11 of the Department of Transportation Law of the Civil  
12 Administrative Code of Illinois that results in a rating  
13 disqualifying or qualifying a contractor or subcontractor who  
14 would have been otherwise qualified or disqualified commits  
15 manipulation of work ratings. A charge of manipulation of work  
16 ratings under this Section shall be investigated by the  
17 Department of Transportation Division of Internal  
18 Investigation.

19 (b) Sentence. Manipulation of work ratings is a Class 4  
20 felony.

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