



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5381

Introduced 2/9/2024, by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

See Index

Amends the Municipal Design-Build Contracts Division of the Illinois Municipal Code and the School Design-Build Contracts Article of the School Code. Provides that a municipality or school district may use the design-build process to compare and potentially enter into contracts with design-build entities or design professionals (rather than only a design-build entities). Provides that design-build entities and design professionals must also include qualifications as well as proposals (rather than only proposals). Requires notice (rather than allows notice) to be published in construction industry publications or posted on construction industry websites. Provides that a municipality or school district must solicit requests for qualifications and proposals (rather than requests for proposals). Requires a municipality or school district to select at least one design professional if at least one proposal is made by a design professional. Provides that criteria in Phase I must include the experience of personnel, including evaluating design and construction separately (rather than only the experience of personnel). Provides that a design-build entity or design professional shall not be disqualified solely due to having previously been awarded a project or projects under any applicable public procurement law of the State. Provides that the municipality or school district must allow 30 days (rather than sufficient time) for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the municipality or school district, but no shortlist is required if no less than 3 (rather than 2) or more than 6 design-build entities or design professionals are selected to submit proposals. Provides that the municipality or school district must provide the notice of award in writing at the time it awards the contract.

LRB103 38330 AWJ 68465 b

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 Illinois Municipal Code is amended by
5 changing Sections 11-39.2-5, 11-39.2-10, 11-39.2-15,
6 11-39.2-20, 11-39.2-25, 11-39.2-35, 11-39.2-40, and 11-39.2-45
7 as follows:

8 (65 ILCS 5/11-39.2-5)

9 Sec. 11-39.2-5. Purpose. The purpose of this Division is
10 to authorize municipalities to compare and potentially use
11 design-build processes to increase the efficiency and
12 effectiveness of delivering public projects.

13 (Source: P.A. 103-491, eff. 1-1-24.)

14 (65 ILCS 5/11-39.2-10)

15 Sec. 11-39.2-10. Definitions. As used in this Division:

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

18 "Design-bid-build" means the traditional delivery system
19 used on public projects that incorporates the
20 qualifications-based selection process for architects and the
21 competitive bidding process for construction as set forth in
22 this Code.

1 "Design-build" means a delivery system that provides
2 responsibility within a single contract for the furnishing of
3 architecture, engineering, land surveying, and related
4 services, as required, and the labor, materials, equipment,
5 and other construction services for the project.

6 "Design-build contract" means a contract for a public
7 project under this Division between a municipality and a
8 design-build entity or design professional to furnish:
9 architecture, engineering, land surveying, public art or
10 interpretive exhibits, and related services, as required, and
11 the labor, materials, equipment, and other construction
12 services for the project.

13 "Design-build entity" means an individual, sole
14 proprietorship, firm, partnership, joint venture, corporation,
15 professional corporation, or other entity that proposes to
16 design and construct any public project under this Division.

17 "Design professional" means an individual, sole
18 proprietorship, firm, partnership, joint venture, corporation,
19 professional corporation, or other entity that offers services
20 under the Illinois Architecture Practice Act of 1989, the
21 Professional Engineering Practice Act of 1989, the Structural
22 Engineering Practice Act of 1989, or the Illinois Professional
23 Land Surveyor Act of 1989.

24 "Evaluation criteria" means the requirements for the
25 separate phases of the selection process as defined in this
26 Division and may include the specialized experience, technical

1 qualifications and competence, capacity to perform, past
2 performance, experience with similar projects, assignment of
3 personnel to the project, and other appropriate factors.

4 "Proposal" means the offer to enter into a design-build
5 contract as submitted by a design-build entity or design
6 professional in accordance with this Division.

7 "Public art designer" means an individual, sole
8 proprietorship, firm, partnership, joint venture, corporation,
9 professional corporation, or other entity that has
10 demonstrated experience with the design and fabrication of
11 public art, including any media that has been planned and
12 executed with the intention of being staged in the physical
13 public domain outside and accessible to all or any art which is
14 exhibited in a public space, including publicly accessible
15 buildings, or interpretive exhibits, including communication
16 media that is designed to engage, excite, inform, relate, or
17 reveal the intrinsic nature or indispensable quality of a
18 topic or story being presented.

19 "Request for qualifications and proposal" means the
20 document used by the municipality to solicit qualifications
21 and proposals for a design-build comparison and potential
22 contract.

23 "Scope and performance criteria" means the requirements
24 for the public project, such as the intended usage, capacity,
25 size, scope, quality and performance standards, life-cycle
26 costs, and other programmatic criteria that are expressed in

1 performance-oriented and quantifiable specifications and
2 drawings that can be reasonably inferred and are suited to
3 allow a design-build entity or design professional to develop
4 a proposal.

5 (Source: P.A. 103-491, eff. 1-1-24.)

6 (65 ILCS 5/11-39.2-15)

7 Sec. 11-39.2-15. Solicitation of proposals.

8 (a) A municipality may enter into design-build contracts.

9 In addition to the requirements set forth in its local
10 ordinances, when the municipality elects to use the
11 design-build delivery method, it must issue a notice of intent
12 to receive proposals for the project at least 14 days before
13 issuing the request for the proposal. The municipality must
14 publish the advance notice in the manner prescribed by
15 ordinance, which must include posting the advance notice
16 online on its website. The municipality shall ~~may~~ publish the
17 notice in construction industry publications or post the
18 notice on construction industry websites. A brief description
19 of the proposed procurement must be included in the notice.
20 The municipality must provide a copy of the request for
21 proposal to any party requesting a copy. A municipality must
22 allow design professionals to submit proposals hereunder.

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

- 1 (1) The name of the municipality.
- 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 or design professionals wishing to submit
9 qualifications and proposals. The municipality must
10 include, at a minimum, its normal qualifications,
11 licensing, registration, and other requirements; however,
12 nothing precludes the use of additional prequalification
13 criteria by the municipality.
- 14 (5) Material requirements of the contract, such as the
15 proposed terms and conditions, required performance and
16 payment bonds, insurance, and the entity's plan to comply
17 with the utilization goals for business enterprises
18 established in the Business Enterprise for Minorities,
19 Women, and Persons with Disabilities Act and with Section
20 2-105 of the Illinois Human Rights Act.
- 21 (6) The performance criteria.
- 22 (7) The evaluation criteria for each phase of the
23 solicitation. Price may not be used as a factor in the
24 evaluation of Phase I proposals.
- 25 (8) The number of entities that will be considered for
26 the technical and cost evaluation phase.

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

5 (d) The date that proposals are due must be at least 21
6 calendar days after the date of the issuance of the request for
7 proposal. If the cost of the project is estimated to exceed
8 \$12,000,000, then the proposal due date must be at least 28
9 calendar days after the date of the issuance of the request for
10 proposal. The municipality must include in the request for
11 proposal a minimum of 60 ~~30~~ days to develop the Phase II
12 submissions after the selection of entities from the Phase I
13 evaluation is completed.

14 (Source: P.A. 103-491, eff. 1-1-24.)

15 (65 ILCS 5/11-39.2-20)

16 Sec. 11-39.2-20. Development of scope and performance
17 criteria.

18 (a) The municipality must develop, with the assistance of
19 a licensed design professional or public art designer, a
20 request for qualifications and proposal, which must include
21 scope and performance criteria. The scope and performance
22 criteria must be in sufficient detail and contain adequate
23 information to reasonably apprise the qualified design-build
24 entities or design professionals of the municipality's overall
25 programmatic needs and goals, including criteria and

1 preliminary design plans, general budget parameters, schedule,
2 and delivery requirements.

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

9 (c) The scope and performance criteria must be prepared by
10 a design professional or public art designer who is an
11 employee of the municipality, or the municipality may contract
12 with an independent design professional or public art designer
13 selected under the Local Government Professional Services
14 Selection Act to provide these services.

15 (d) The design professional or public art designer that
16 prepares the scope and performance criteria is prohibited from
17 participating in any design-build entity or design
18 professional proposal for the project.

19 (e) The design-build contract may be conditioned upon
20 subsequent refinements in scope and price and may allow the
21 municipality to make modifications in the project scope
22 without invalidating the design-build contract.

23 (Source: P.A. 103-491, eff. 1-1-24.)

24 (65 ILCS 5/11-39.2-25)

25 Sec. 11-39.2-25. Procedures for Selection.

1 (a) The municipality must use a two-phase procedure for
2 the selection of the successful design-build entity or design
3 professional. Phase I of the procedure will evaluate and
4 shortlist the design-build entities or design professionals
5 based on qualifications, and Phase II will evaluate the
6 technical and cost proposals. A municipality must select at
7 least one design professional if one is submitted in Phase I.

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

19 The municipality must include the following criteria in
20 every Phase I evaluation of design-build entities or design
21 professionals: (i) experience of personnel, evaluating design
22 and construction separately; (ii) successful experience with
23 similar project types; (iii) financial capability; (iv)
24 timeliness of past performance; (v) experience with similarly
25 sized projects; (vi) successful reference checks of the firm;
26 (vii) commitment to assign personnel for the duration of the

1 project and qualifications of the entity's consultants; and
2 (viii) ability or past performance in meeting or exhausting
3 good faith efforts to meet the utilization goals for business
4 enterprises established in the Business Enterprise for
5 Minorities, Women, and Persons with Disabilities Act and with
6 Section 2-105 of the Illinois Human Rights Act. The
7 municipality may include any additional, relevant criteria in
8 Phase I that it deems necessary for a proper qualification
9 review.

10 The municipality may not consider any design-build entity
11 or design professional for evaluation or award if the entity
12 has any pecuniary interest in the project or has other
13 relationships or circumstances, such as long-term leasehold,
14 mutual performance, or development contracts with the
15 municipality, that may give the design-build entity or design
16 professional a financial or tangible advantage over other
17 design-build entities or design professionals in the
18 preparation, evaluation, or performance of the design-build
19 contract or that create the appearance of impropriety. A
20 design-build entity or design professional shall not be
21 disqualified under this Section solely due to having
22 previously been awarded a project or projects under any
23 applicable public procurement law of the State. No proposal
24 may be considered that does not include an entity's plan to
25 comply with the requirements established in the Business
26 Enterprise for Minorities, Women, and Persons with

1 Disabilities Act, for both the design and construction areas
2 of performance, and with Section 2-105 of the Illinois Human
3 Rights Act.

4 Upon completion of the qualification evaluation, the
5 municipality must create a shortlist of the most highly
6 qualified design-build entities or design professionals. The
7 municipality, in its discretion, is not required to shortlist
8 the maximum number of entities as identified for Phase II
9 evaluation if no less than 3 ~~2~~ design-build entities or design
10 professionals nor more than 6 are selected to submit Phase II
11 proposals.

12 The municipality must notify the entities selected for the
13 shortlist in writing. This notification must commence the
14 period for the preparation of the Phase II technical and cost
15 evaluations. The municipality must allow 30 days ~~sufficient~~
16 ~~time~~ for the shortlist entities to prepare their Phase II
17 submittals considering the scope and detail requested by the
18 municipality.

19 (c) The municipality must include in the request for
20 proposal the evaluating factors to be used in the technical
21 and cost submission components of Phase II. Each request for
22 proposal must establish, for both the technical and cost
23 submission components of Phase II, the relative importance
24 assigned to each evaluation factor and subfactor, including
25 any weighting of criteria to be employed by the municipality.
26 The municipality must maintain a record of the evaluation

1 scoring to be disclosed in event of a protest regarding the
2 solicitation.

3 The municipality must include the following criteria in
4 every Phase II technical evaluation of design-build entities
5 or design professionals: (i) compliance with objectives of the
6 project; (ii) compliance of proposed services to the request
7 for proposal requirements; (iii) quality of products or
8 materials proposed; (iv) quality of design parameters; (v)
9 design concepts; (vi) innovation in meeting the scope and
10 performance criteria; and (vii) constructability of the
11 proposed project. The municipality may include any additional
12 relevant technical evaluation factors it deems necessary for
13 proper selection.

14 The municipality must include the following criteria in
15 every Phase II cost evaluation: the total project cost, the
16 construction costs, and the time of completion. The
17 municipality may include any additional relevant technical
18 evaluation factors it deems necessary for proper selection.
19 The total project cost criteria weighting factor may not
20 exceed 30%.

21 The municipality must directly employ or retain a licensed
22 design professional or a public art designer to evaluate the
23 technical and cost submissions to determine if the technical
24 submissions are in accordance with generally accepted industry
25 standards. Upon completion of the technical submissions and
26 cost submissions evaluation, the municipality may award the

1 ~~design-build~~ contract to the highest overall ranked entity.

2 (Source: P.A. 103-491, eff. 1-1-24.)

3 (65 ILCS 5/11-39.2-35)

4 Sec. 11-39.2-35. Submission of qualifications and
5 proposals. Qualifications and proposals ~~Proposals~~ must be
6 properly identified and sealed. Qualifications and proposals
7 ~~Proposals~~ may not be reviewed until after the deadline for
8 submission has passed as set forth in the request for
9 qualifications and proposals.

10 Proposals must include a bid bond in the form and security
11 as designated in the request for qualifications and proposal
12 ~~proposals~~. Qualifications and proposal ~~Proposals~~ must also
13 contain a separate sealed envelope with the cost information
14 within the overall proposal submission. Qualifications and
15 proposals ~~Proposals~~ must include a list of all design
16 professionals, public art designers, and other entities to
17 which any work may be subcontracted during the performance of
18 the contract.

19 Proposals must meet all material requirements of the
20 request for proposal or they may be rejected as nonresponsive.
21 The municipality may reject any and all proposals.

22 The drawings and specifications of the proposal shall ~~may~~
23 remain the property of the design-build entity or design
24 professional.

25 The municipality must review the proposals for compliance

1 with the performance criteria and evaluation factors.

2 Proposals may be withdrawn prior to evaluation for any
3 cause. After evaluation begins by the municipality, clear and
4 convincing evidence of error is required for withdrawal.

5 After a response to a request for qualifications or a
6 request for proposal has been submitted as provided in this
7 Section, a design-build entity or design professional may not
8 replace, remove, or otherwise modify any firm identified as a
9 member of the proposer's team unless authorized to do so by the
10 municipality.

11 (Source: P.A. 103-491, eff. 1-1-24.)

12 (65 ILCS 5/11-39.2-40)

13 Sec. 11-39.2-40. Award; performance. The municipality may
14 award the contract to the highest overall ranked design-build
15 entity or design professional. Notice of award must be made in
16 writing at the same time. Unsuccessful design-build entities
17 or design professionals must also be notified in writing. The
18 municipality may not request a best and final offer after the
19 receipt of proposals of all qualified design-build entities or
20 design professionals. The municipality may negotiate with the
21 selected design-build entity or design professional after
22 award, but prior to contract execution, for the purpose of
23 securing better terms than originally proposed if the salient
24 features of the request for proposal are not diminished.

25 A design-build entity and associated design professionals

1 must conduct themselves in accordance with the relevant laws
2 of this State and the related provisions of the Illinois
3 Administrative Code.

4 (Source: P.A. 103-491, eff. 1-1-24.)

5 (65 ILCS 5/11-39.2-45)

6 Sec. 11-39.2-45. Reports and evaluation. At the end of
7 every 6-month period following the contract award, and again
8 prior to final contract payout and closure, a selected
9 design-build entity or design professional must detail, in a
10 written report submitted to the municipality, its efforts and
11 success in implementing the entity's plan to comply with the
12 utilization goals for business enterprises established in the
13 Business Enterprise for Minorities, Women, and Persons with
14 Disabilities Act and the provisions of Section 2-105 of the
15 Illinois Human Rights Act.

16 (Source: P.A. 103-491, eff. 1-1-24.)

17 Section 10. The School Code is amended by changing
18 Sections 15A-5, 15A-10, 15A-15, 15A-20, 15A-25, 15A-35,
19 15A-40, and 15A-45 as follows:

20 (105 ILCS 5/15A-5)

21 Sec. 15A-5. Purpose. The purpose of this Article is to
22 authorize school districts to compare and potentially use
23 design-build processes to increase the efficiency and

1 effectiveness of delivering public projects.

2 (Source: P.A. 103-491, eff. 1-1-24.)

3 (105 ILCS 5/15A-10)

4 Sec. 15A-10. Definitions. As used in this Article:

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

7 "Design-bid-build" means the traditional delivery system
8 used on public projects that incorporates the
9 qualifications-based selection process for architects and the
10 competitive bidding process for construction as set forth in
11 this Code.

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

17 "Design-build contract" means a contract for a public
18 project under this Article between a school district and a
19 design-build entity or design professional to furnish:
20 architecture, engineering, land surveying, public art or
21 interpretive exhibits, and related services, as required, and
22 the labor, materials, equipment, and other construction
23 services for the project.

24 "Design-build entity" means an individual, sole
25 proprietorship, firm, partnership, joint venture, corporation,

1 professional corporation, or other entity that proposes to
2 design and construct any public project under this Article.

3 "Design professional" means an individual, sole
4 proprietorship, firm, partnership, joint venture, corporation,
5 professional corporation, or other entity that offers services
6 under the Illinois Architecture Practice Act of 1989, the
7 Professional Engineering Practice Act of 1989, the Structural
8 Engineering Practice Act of 1989, or the Illinois Professional
9 Land Surveyor Act of 1989.

10 "Evaluation criteria" means the requirements for the
11 separate phases of the selection process as set forth in this
12 Article and may include the specialized experience, technical
13 qualifications and competence, capacity to perform, past
14 performance, experience with similar projects, assignment of
15 personnel to the project, and other appropriate factors.

16 "Proposal" means the offer to enter into a design-build
17 contract as submitted by a design-build entity or design
18 professional in accordance with this Article.

19 "Public art designer" means an individual, sole
20 proprietorship, firm, partnership, joint venture, corporation,
21 professional corporation, or other entity that has
22 demonstrated experience with the design and fabrication of
23 public art, including any media that has been planned and
24 executed with the intention of being staged in the physical
25 public domain outside and accessible to all or any art that is
26 exhibited in a public space, including publicly accessible

1 buildings, or interpretive exhibits, including communication
2 media that is designed to engage, excite, inform, relate, or
3 reveal the intrinsic nature or indispensable quality of a
4 topic or story being presented.

5 "Request for qualifications and proposal" means the
6 document used by the school district to solicit qualifications
7 and proposals for a design-build comparison and potential
8 contract.

9 "Scope and performance criteria" means the requirements
10 for the public project, such as the intended usage, capacity,
11 size, scope, quality and performance standards, life-cycle
12 costs, and other programmatic criteria that are expressed in
13 performance-oriented and quantifiable specifications and
14 drawings that can be reasonably inferred and are suited to
15 allow a design-build entity or design professional to develop
16 a proposal.

17 (Source: P.A. 103-491, eff. 1-1-24.)

18 (105 ILCS 5/15A-15)

19 Sec. 15A-15. Solicitation of proposals.

20 (a) A school district may enter into design-build
21 contracts. In addition to the requirements set forth by the
22 school board, if the school 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 school district must

1 publish the advance notice in the manner prescribed by the
2 school board, which must include posting the advance notice
3 online on its website. The school district shall ~~may~~ publish
4 the notice in construction industry publications or post the
5 notice on construction industry websites. A brief description
6 of the proposed procurement must be included in the notice.
7 The school district must provide a copy of the request for
8 proposal to any party requesting a copy. A school district
9 must allow design professionals to submit proposals under this
10 Article.

11 (b) The request for proposal must be prepared for each
12 project and must contain, without limitation, the following
13 information:

14 (1) The name of the school district.

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

17 (3) The proposed budget for the project, the source of
18 funds, and the currently available funds at the time the
19 request for proposal is submitted.

20 (4) Prequalification criteria for design-build
21 entities or design professionals wishing to submit
22 qualifications and proposals. The school district must
23 include, at a minimum, its normal qualifications,
24 licensing, registration, and other requirements; however,
25 nothing precludes the use of additional prequalification
26 criteria by the school district.

1 (5) Material requirements of the contract, such as the
2 proposed terms and conditions, required performance and
3 payment bonds, insurance, and the entity's plan to comply
4 with the utilization goals for business enterprises
5 established in the Business Enterprise for Minorities,
6 Women, and Persons with Disabilities Act and with Section
7 2-105 of the Illinois Human Rights Act.

8 (6) The performance criteria.

9 (7) The evaluation criteria for each phase of the
10 solicitation. Price may not be used as a factor in the
11 evaluation of Phase I proposals.

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

14 (c) The school district may include any other relevant
15 information that it chooses to supply. The design-build entity
16 or design professional may rely upon the accuracy of this
17 documentation in the development of its proposal.

18 (d) The date that proposals are due must be at least 21
19 calendar days after the date of the issuance of the request for
20 proposal. If the cost of the project is estimated to exceed
21 \$12,000,000, then the proposal due date must be at least 28
22 calendar days after the date of the issuance of the request for
23 proposal. The school district must include in the request for
24 proposal a minimum of 60 ~~30~~ days to develop the Phase II
25 submissions after the selection of entities from the Phase I
26 evaluation is completed.

1 (Source: P.A. 103-491, eff. 1-1-24.)

2 (105 ILCS 5/15A-20)

3 Sec. 15A-20. Development of scope and performance
4 criteria.

5 (a) The school district must develop, with the assistance
6 of a licensed design professional or public art designer, a
7 request for qualifications and proposal, which must include
8 scope and performance criteria. The scope and performance
9 criteria must be in sufficient detail and contain adequate
10 information to reasonably apprise the qualified design-build
11 entities or design professionals of the school district's
12 overall programmatic needs and goals, including criteria,
13 general budget parameters, schedule, and delivery
14 requirements.

15 (b) Each request for qualifications and proposal must also
16 include a description of the level of design to be provided in
17 the proposals. This description must include the scope and
18 type of renderings, drawings, and specifications that, at a
19 minimum, will be required by the school district to be
20 produced by the design-build entities or design professionals.

21 (c) The scope and performance criteria must be prepared by
22 a design professional or public art designer who is an
23 employee of the school district, or the school district may
24 contract with an independent design professional or public art
25 designer selected under the Local Government Professional

1 Services Selection Act to provide these services.

2 (d) The design professional or public art designer that
3 prepares the scope and performance criteria is prohibited from
4 participating in any design-build entity or design
5 professional proposal for the project.

6 (e) The design-build contract may be conditioned upon
7 subsequent refinements in scope and price and may allow the
8 school district to make modifications in the project scope
9 without invalidating the design-build contract.

10 (Source: P.A. 103-491, eff. 1-1-24.)

11 (105 ILCS 5/15A-25)

12 Sec. 15A-25. Procedures for selection.

13 (a) The school district must use a 2-phase procedure for
14 the selection of the successful design-build entity or design
15 professional. Phase I of the procedure must evaluate and
16 shortlist the design-build entities or design professionals
17 based on qualifications, and Phase II must evaluate the
18 technical and cost proposals. A school district must select at
19 least one design professional proposal if one is submitted in
20 Phase I.

21 (b) The school district must include in the request for
22 proposal the evaluating factors to be used in Phase I. These
23 factors are in addition to any prequalification requirements
24 of design-build entities or design professionals that the
25 school district has set forth. Each request for qualifications

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

7 The school district must include the following criteria in
8 every Phase I evaluation of design-build entities or design
9 professionals:

10 (1) experience of personnel, evaluating design and
11 construction separately;

12 (2) successful experience with similar project types;

13 (3) financial capability;

14 (4) timeliness of past performance;

15 (5) experience with similarly sized projects;

16 (6) successful reference checks of the firm;

17 (7) commitment to assign personnel for the duration of
18 the project and qualifications of the entity's
19 consultants; and

20 (8) ability or past performance in meeting or
21 exhausting good faith efforts to meet the utilization
22 goals for business enterprises established in the Business
23 Enterprise for Minorities, Women, and Persons with
24 Disabilities Act and with Section 2-105 of the Illinois
25 Human Rights Act.

26 The school district may include any additional, relevant

1 criteria in Phase I that it deems necessary for a proper
2 qualification review.

3 The school district may not consider a design-build entity
4 or design professional for evaluation or an award if the
5 entity has any pecuniary interest in the project or has other
6 relationships or circumstances, such as long-term leasehold,
7 mutual performance, or development contracts with the school
8 district, that may give the design-build entity or design
9 professional a financial or tangible advantage over other
10 design-build entities or design professionals in the
11 preparation, evaluation, or performance of the design-build
12 contract or that create the appearance of impropriety. A
13 design-build entity shall not be disqualified under this
14 Section solely due to having previously been awarded a project
15 or projects under any applicable public procurement law of the
16 State. No proposal may be considered that does not include an
17 entity's plan to comply with the requirements established in
18 the Business Enterprise for Minorities, Women, and Persons
19 with Disabilities Act, for both the design and construction
20 areas of performance, and with Section 2-105 of the Illinois
21 Human Rights Act.

22 Upon completion of the qualification evaluation, the
23 school district must create a shortlist of the most highly
24 qualified design-build entities or design professionals. The
25 school district, in its discretion, is not required to
26 shortlist the maximum number of entities as identified for

1 Phase II evaluation if no less than 3 ~~2~~ design-build entities
2 or design professionals nor more than 6 are selected to submit
3 Phase II proposals. If a school district receives one response
4 to Phase I, nothing herein shall prohibit the school district
5 from proceeding with a Phase II evaluation of the single
6 respondent, if the school district, in its discretion, finds
7 proceeding to be in its best interest.

8 The school district must notify the entities selected for
9 the shortlist in writing. This notification must commence the
10 period for the preparation of the Phase II technical and cost
11 evaluations. The school district must allow 30 days ~~sufficient~~
12 ~~time~~ for the shortlist entities to prepare their Phase II
13 submittals considering the scope and detail requested by the
14 school district.

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

25 The school district must include the following criteria in
26 every Phase II technical evaluation of design-build entities

1 or design professionals:

2 (1) compliance with objectives of the project;

3 (2) compliance of proposed services to the request for
4 proposal requirements;

5 (3) quality of products or materials proposed;

6 (4) quality of design parameters;

7 (5) design concepts;

8 (6) innovation in meeting the scope and performance
9 criteria; and

10 (7) constructability of the proposed project.

11 The school district may include any additional relevant
12 technical evaluation factors it deems necessary for proper
13 selection.

14 The school district must include the following criteria in
15 every Phase II cost evaluation: the total project cost, the
16 construction costs, and the time of completion. The school
17 district may include any additional relevant technical
18 evaluation factors it deems necessary for proper selection.
19 The total project cost criteria weighting factor may not
20 exceed 30%.

21 The school district must directly employ or retain a
22 licensed design professional or a public art designer to
23 evaluate the technical and cost submissions to determine if
24 the technical submissions are in accordance with generally
25 accepted industry standards. Upon completion of the technical
26 submissions and cost submissions evaluation, the school

1 district may award the ~~design-build~~ contract to the highest
2 overall ranked entity.

3 (Source: P.A. 103-491, eff. 1-1-24.)

4 (105 ILCS 5/15A-35)

5 Sec. 15A-35. Submission of qualifications and proposals.
6 Qualifications and proposals ~~Proposals~~ must be properly
7 identified and sealed. Qualifications and proposals ~~Proposals~~
8 may not be reviewed until after the deadline for submission
9 has passed as set forth in the request for qualifications and
10 proposal.

11 Proposals must include a bid bond in the form and security
12 as designated in the request for qualifications and proposal.
13 Qualifications and proposals ~~Proposals~~ must also contain a
14 separate sealed envelope with the cost information within the
15 overall proposal submission. Qualifications and proposals
16 ~~Proposals~~ must include a list of all design professionals,
17 public art designers, and other entities to which any work may
18 be subcontracted during the performance of the contract.

19 Proposals must meet all material requirements of the
20 request for proposal, or they may be rejected as
21 nonresponsive. The school district may reject any and all
22 proposals.

23 The drawings and specifications of the proposal shall ~~may~~
24 remain the property of the design-build entity or design
25 professional.

1 The school district must review the proposals for
2 compliance with the performance criteria and evaluation
3 factors.

4 Proposals may be withdrawn prior to evaluation for any
5 cause. After evaluation begins by the school district, clear
6 and convincing evidence of error is required for withdrawal.

7 After a response to a request for qualifications or a
8 request for proposal has been submitted under this Section, a
9 design-build entity or design professional may not replace,
10 remove, or otherwise modify any firm identified as a member of
11 the proposer's team unless authorized to do so by the school
12 district.

13 (Source: P.A. 103-491, eff. 1-1-24.)

14 (105 ILCS 5/15A-40)

15 Sec. 15A-40. Award; performance. The school district may
16 award the contract to the highest overall ranked design-build
17 entity or design professional. Notice of award must be made in
18 writing. Unsuccessful design-build entities or design
19 professionals must also be notified in writing at the same
20 time. The school district may not request a best and final
21 offer after the receipt of proposals of all qualified
22 design-build entities or design professionals. The school
23 district may negotiate with the selected design-build entity
24 or design professional after the award, but prior to contract
25 execution, for the purpose of securing better terms than

1 originally proposed if the salient features of the request for
2 proposal are not diminished.

3 A design-build entity and associated design professionals
4 must conduct themselves in accordance with the relevant laws
5 of this State and the related provisions of the Illinois
6 Administrative Code.

7 (Source: P.A. 103-491, eff. 1-1-24.)

8 (105 ILCS 5/15A-45)

9 Sec. 15A-45. Evaluation and report. At the end of every
10 6-month period following the contract award, and again prior
11 to final contract payout and closure, a selected design-build
12 entity or design professional must detail, in a written report
13 submitted to the school district, its efforts and success in
14 implementing the entity's plan to comply with the utilization
15 goals for business enterprises established in the Business
16 Enterprise for Minorities, Women, and Persons with
17 Disabilities Act and the provisions of Section 2-105 of the
18 Illinois Human Rights Act.

19 (Source: P.A. 103-491, eff. 1-1-24.)

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