

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 adding Division 39.2 to Article 11 as follows:

6 (65 ILCS 5/Art. 11 Div. 39.2 heading)

7 DIVISION 39.2. MUNICIPAL DESIGN-BUILD CONTRACTS

8 (65 ILCS 5/11-39.2-1 new)

9 Sec. 11-39.2-1. Short title. This Division may be cited as  
10 the Municipal Design-Build Authorization Act.

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

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

16 (65 ILCS 5/11-39.2-10 new)

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

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

20 "Design-bid-build" means the traditional delivery system

1 used on public projects that incorporates the competitive  
2 bidding process set forth in this Code.

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

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

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

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

25 "Evaluation criteria" means the requirements for the  
26 separate phases of the selection process as defined in this

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

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

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

20 "Request for proposal" means the document used by the  
21 municipality to solicit proposals for a design-build contract.

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

1 drawings that can be reasonably inferred and are suited to  
2 allow a design-build entity to develop a proposal.

3 (65 ILCS 5/11-39.2-15 new)

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

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

19 (b) The request for proposal must be prepared for each  
20 project and must contain, without limitation, the following  
21 information:

22 (1) The name of the municipality.

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

25 (3) The proposed budget for the project, the source of

1 funds, and the currently available funds at the time the  
2 request for proposal is submitted.

3 (4) Prequalification criteria for design-build  
4 entities wishing to submit proposals. The municipality  
5 must include, at a minimum, its normal qualifications,  
6 licensing, registration, and other requirements; however,  
7 nothing precludes the use of additional prequalification  
8 criteria by the municipality.

9 (5) Material requirements of the contract, such as the  
10 proposed terms and conditions, required performance and  
11 payment bonds, insurance, and the entity's plan to comply  
12 with the utilization goals for business enterprises  
13 established in the Business Enterprise for Minorities,  
14 Women, and Persons with Disabilities Act and with Section  
15 2-105 of the Illinois Human Rights Act.

16 (6) The performance criteria.

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

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

22 (c) The municipality may include any other relevant  
23 information that it chooses to supply. The design-build entity  
24 may rely upon the accuracy of this documentation in the  
25 development of its proposal.

26 (d) The date that proposals are due must be at least 21

1 calendar days after the date of the issuance of the request for  
2 proposal. If the cost of the project is estimated to exceed  
3 \$12,000,000, then the proposal due date must be at least 28  
4 calendar days after the date of the issuance of the request for  
5 proposal. The municipality must include in the request for  
6 proposal a minimum of 30 days to develop the Phase II  
7 submissions after the selection of entities from the Phase I  
8 evaluation is completed.

9 (65 ILCS 5/11-39.2-20 new)

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

12 (a) The municipality must develop, with the assistance of  
13 a licensed design professional or public art designer, a  
14 request for proposal, which must include scope and performance  
15 criteria. The scope and performance criteria must be in  
16 sufficient detail and contain adequate information to  
17 reasonably apprise the qualified design-build entities of the  
18 municipality's overall programmatic needs and goals, including  
19 criteria and preliminary design plans, general budget  
20 parameters, schedule, and delivery requirements.

21 (b) Each request for proposal must also include a  
22 description of the level of design to be provided in the  
23 proposals. This description must include the scope and type of  
24 renderings, drawings, and specifications that, at a minimum,  
25 will be required by the municipality to be produced by the

1 design-build entities.

2 (c) The scope and performance criteria must be prepared by  
3 a design professional or public art designer who is an  
4 employee of the municipality, or the municipality may contract  
5 with an independent design professional or public art designer  
6 selected under the Local Government Professional Services  
7 Selection Act to provide these services.

8 (d) The design professional or public art designer that  
9 prepares the scope and performance criteria is prohibited from  
10 participating in any design-build entity proposal for the  
11 project.

12 (e) The design-build contract may be conditioned upon  
13 subsequent refinements in scope and price and may allow the  
14 municipality to make modifications in the project scope  
15 without invalidating the design-build contract.

16 (65 ILCS 5/11-39.2-25 new)

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

18 (a) The municipality must use a two-phase procedure for  
19 the selection of the successful design-build entity. Phase I  
20 of the 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 municipality must 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

1 of design-build entities that the municipality has set forth.  
2 Each request for proposal must establish the relative  
3 importance assigned to each evaluation factor and subfactor,  
4 including any weighting of criteria to be employed by the  
5 municipality. The municipality must maintain a record of the  
6 evaluation scoring to be disclosed in event of a protest  
7 regarding the solicitation.

8 The municipality must include the following criteria in  
9 every Phase I evaluation of design-build entities: (i)  
10 experience of personnel; (ii) successful experience with  
11 similar project types; (iii) financial capability; (iv)  
12 timeliness of past performance; (v) experience with similarly  
13 sized projects; (vi) successful reference checks of the firm;  
14 (vii) commitment to assign personnel for the duration of the  
15 project and qualifications of the entity's consultants; and  
16 (viii) ability or past performance in meeting or exhausting  
17 good faith efforts to meet the utilization goals for business  
18 enterprises established in the Business Enterprise for  
19 Minorities, Women, and Persons with Disabilities Act and with  
20 Section 2-105 of the Illinois Human Rights Act. The  
21 municipality may include any additional, relevant criteria in  
22 Phase I that it deems necessary for a proper qualification  
23 review.

24 The municipality may not consider any design-build entity  
25 for evaluation or award if the entity has any pecuniary  
26 interest in the project or has other relationships or



1 circumstances, such as long-term leasehold, mutual  
2 performance, or development contracts with the municipality,  
3 that may give the design-build entity a financial or tangible  
4 advantage over other design-build entities in the preparation,  
5 evaluation, or performance of the design-build contract or  
6 that create the appearance of impropriety. No proposal may be  
7 considered that does not include an entity's plan to comply  
8 with the requirements established in the Business Enterprise  
9 for Minorities, Women, and Persons with Disabilities Act, for  
10 both the design and construction areas of performance, and  
11 with Section 2-105 of the Illinois Human Rights Act.

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

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

26 (c) The municipality must include in the request for

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

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

20 The municipality must include the following criteria in  
21 every Phase II cost evaluation: the total project cost, the  
22 construction costs, and the time of completion. The  
23 municipality may include any additional relevant technical  
24 evaluation factors it deems necessary for proper selection.  
25 The total project cost criteria weighting factor may not  
26 exceed 30%.

1       The municipality must directly employ or retain a licensed  
2 design professional or a public art designer to evaluate the  
3 technical and cost submissions to determine if the technical  
4 submissions are in accordance with generally accepted industry  
5 standards. Upon completion of the technical submissions and  
6 cost submissions evaluation, the municipality may award the  
7 design-build contract to the highest overall ranked entity.

8           (65 ILCS 5/11-39.2-30 new)

9       Sec. 11-39.2-30. Small projects. In any case where the  
10 total overall cost of the project is estimated to be less than  
11 \$12,000,000, the municipality may combine the two-phase  
12 procedure for selection described in Section 11-39.2-25 into  
13 one combined step if all the requirements of evaluation are  
14 performed in accordance with Section 11-39.2-25.

15           (65 ILCS 5/11-39.2-35 new)

16       Sec. 11-39.2-35. Submission of proposals. Proposals must  
17 be properly identified and sealed. Proposals may not be  
18 reviewed until after the deadline for submission has passed as  
19 set forth in the request for proposals.

20       Proposals must include a bid bond in the form and security  
21 as designated in the request for proposals. Proposals must  
22 also contain a separate sealed envelope with the cost  
23 information within the overall proposal submission. Proposals  
24 must include a list of all design professionals, public art

1 designers, and other entities to which any work may be  
2 subcontracted during the performance of the contract.

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

6 The drawings and specifications of the proposal may remain  
7 the property of the design-build entity.

8 The municipality must review the proposals for compliance  
9 with the performance criteria and evaluation factors.

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

13 After a response to a request for qualifications or a  
14 request for proposal has been submitted as provided in this  
15 Section, a design-build entity may not replace, remove, or  
16 otherwise modify any firm identified as a member of the  
17 proposer's team unless authorized to do so by the  
18 municipality.

19 (65 ILCS 5/11-39.2-40 new)

20 Sec. 11-39.2-40. Award; performance. The municipality may  
21 award the contract to the highest overall ranked design-build  
22 entity. Notice of award must be made in writing. Unsuccessful  
23 design-build entities must also be notified in writing. The  
24 municipality may not request a best and final offer after the  
25 receipt of proposals of all qualified design-build entities.

1 The municipality may negotiate with the selected design-build  
2 entity after award, but prior to contract execution, for the  
3 purpose of securing better terms than originally proposed if  
4 the salient features of the request for proposal are not  
5 diminished.

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

10 (65 ILCS 5/11-39.2-45 new)

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

21 (65 ILCS 5/11-39.2-50 new)

22 Sec. 11-39.2-50. Exception. Nothing in this Division  
23 prevents a municipality from using a qualification-based  
24 selection process for design professionals or construction

1 managers for design-build projects.

2 (65 ILCS 5/11-39.2-55 new)

3 Sec. 11-39.2-55. Severability. The provisions of this  
4 Division are severable under Section 1.31 of the Statute on  
5 Statutes.

6 Section 10. The School Code is amended by adding Article  
7 15A as follows:

8 (105 ILCS 5/Art. 15A heading new)

9 ARTICLE 15A. SCHOOL DESIGN-BUILD CONTRACTS

10 (105 ILCS 5/15A-1 new)

11 Sec. 15A-1. Short title. This Article may be cited as the  
12 School Design-Build Authorization Law.

13 (105 ILCS 5/15A-5 new)

14 Sec. 15A-5. Purpose. The purpose of this Article is to  
15 authorize school districts to use design-build processes to  
16 increase the efficiency and effectiveness of delivering public  
17 projects.

18 (105 ILCS 5/15A-10 new)

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

20 "Delivery system" means the design and construction

1 approach used to develop and construct a project.

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

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

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 set forth in this  
26 Article 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 in accordance  
6 with this Article.

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 that 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 proposal" means the document used by the  
20 school district to solicit proposals for a design-build  
21 contract.

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



1 drawings that can be reasonably inferred and are suited to  
2 allow a design-build entity to develop a proposal.

3 (105 ILCS 5/15A-15 new)

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

5 (a) A school district may enter into design-build  
6 contracts. In addition to the requirements set forth by the  
7 school board, if the school district elects to use the  
8 design-build delivery method, it must issue a notice of intent  
9 to receive proposals for the project at least 14 days before  
10 issuing the request for the proposal. The school district must  
11 publish the advance notice in the manner prescribed by the  
12 school board, which must include posting the advance notice  
13 online on its website. The school district may publish the  
14 notice in construction industry publications or post the  
15 notice on construction industry websites. A brief description  
16 of the proposed procurement must be included in the notice.  
17 The school district must provide a copy of the request for  
18 proposal to any party requesting a copy.

19 (b) The request for proposal must be prepared for each  
20 project and must contain, without limitation, the following  
21 information:

22 (1) The name of the school district.

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

25 (3) The proposed budget for the project, the source of

1 funds, and the currently available funds at the time the  
2 request for proposal is submitted.

3 (4) Prequalification criteria for design-build  
4 entities wishing to submit proposals. The school district  
5 must include, at a minimum, its normal qualifications,  
6 licensing, registration, and other requirements; however,  
7 nothing precludes the use of additional prequalification  
8 criteria by the school district.

9 (5) Material requirements of the contract, such as the  
10 proposed terms and conditions, required performance and  
11 payment bonds, insurance, and the entity's plan to comply  
12 with the utilization goals for business enterprises  
13 established in the Business Enterprise for Minorities,  
14 Women, and Persons with Disabilities Act and with Section  
15 2-105 of the Illinois Human Rights Act.

16 (6) The performance criteria.

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

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

22 (c) The school district may include any other relevant  
23 information that it chooses to supply. The design-build entity  
24 may rely upon the accuracy of this documentation in the  
25 development of its proposal.

26 (d) The date that proposals are due must be at least 21

1 calendar days after the date of the issuance of the request for  
2 proposal. If the cost of the project is estimated to exceed  
3 \$12,000,000, then the proposal due date must be at least 28  
4 calendar days after the date of the issuance of the request for  
5 proposal. The school district must include in the request for  
6 proposal a minimum of 30 days to develop the Phase II  
7 submissions after the selection of entities from the Phase I  
8 evaluation is completed.

9 (105 ILCS 5/15A-20 new)

10 Sec. 15A-20. Development of scope and performance  
11 criteria.

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

21 (b) Each request for proposal must also include a  
22 description of the level of design to be provided in the  
23 proposals. This description must include the scope and type of  
24 renderings, drawings, and specifications that, at a minimum,  
25 will be required by the school district to be produced by the

1 design-build entities.

2 (c) The scope and performance criteria must be prepared by  
3 a design professional or public art designer who is an  
4 employee of the school district, or the school district may  
5 contract with an independent design professional or public art  
6 designer selected under the Local Government Professional  
7 Services Selection Act to provide these services.

8 (d) The design professional or public art designer that  
9 prepares the scope and performance criteria is prohibited from  
10 participating in any design-build entity proposal for the  
11 project.

12 (e) The design-build contract may be conditioned upon  
13 subsequent refinements in scope and price and may allow the  
14 school district to make modifications in the project scope  
15 without invalidating the design-build contract.

16 (105 ILCS 5/15A-25 new)

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

18 (a) The school district must use a 2-phase procedure for  
19 the selection of the successful design-build entity. Phase I  
20 of the procedure must evaluate and shortlist the design-build  
21 entities based on qualifications, and Phase II must evaluate  
22 the technical and cost proposals.

23 (b) The school district must 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

1 of design-build entities that the school district has set  
2 forth. Each request for proposal must establish the relative  
3 importance assigned to each evaluation factor and subfactor,  
4 including any weighting of criteria to be employed by the  
5 school district. The school district must maintain a record of  
6 the evaluation scoring to be disclosed in event of a protest  
7 regarding the solicitation.

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

10 (1) experience of personnel;

11 (2) successful experience with similar project types;

12 (3) financial capability;

13 (4) timeliness of past performance;

14 (5) experience with similarly sized projects;

15 (6) successful reference checks of the firm;

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

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

25 The school district may include any additional, relevant  
26 criteria in Phase I that it deems necessary for a proper

1 qualification review.

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

20 Upon completion of the qualification evaluation, the  
21 school district must create a shortlist of the most highly  
22 qualified design-build entities. The school district, in its  
23 discretion, is not required to shortlist the maximum number of  
24 entities as identified for Phase II evaluation if no less than  
25 2 design-build entities nor more than 6 are selected to submit  
26 Phase II proposals. If a school district receives one response

1 to Phase I, nothing herein shall prohibit the school district  
2 from proceeding with a Phase II evaluation of the single  
3 respondent, if the school district, in its discretion, finds  
4 proceeding to be in its best interest.

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

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

22 The school district must include the following criteria in  
23 every Phase II technical evaluation of design-build entities:

24 (1) compliance with objectives of the project;

25 (2) compliance of proposed services to the request for  
26 proposal requirements;

1           (3) quality of products or materials proposed;

2           (4) quality of design parameters;

3           (5) design concepts;

4           (6) innovation in meeting the scope and performance  
5           criteria; and

6           (7) constructability of the proposed project.

7           The school district may include any additional relevant  
8           technical evaluation factors it deems necessary for proper  
9           selection.

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

17          The school district must directly employ or retain a  
18          licensed design professional or a public art designer to  
19          evaluate the technical and cost submissions to determine if  
20          the technical submissions are in accordance with generally  
21          accepted industry standards. Upon completion of the technical  
22          submissions and cost submissions evaluation, the school  
23          district may award the design-build contract to the highest  
24          overall ranked entity.



1       Sec. 15A-30. Small projects. In any case in which the  
2 total overall cost of the project is estimated to be  
3 \$12,000,000 or less, the school district may combine the  
4 2-phase procedure for selection described in Section 15A-25  
5 into one combined step if all the requirements of evaluation  
6 are performed in accordance with Section 15A-25.

7           (105 ILCS 5/15A-35 new)

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

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

25       The school district must review the proposals for

1 compliance with the performance criteria and evaluation  
2 factors.

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

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

11 (105 ILCS 5/15A-40 new)

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

23 A design-build entity and associated design professionals  
24 must conduct themselves in accordance with the relevant laws  
25 of this State and the related provisions of the Illinois

1 Administrative Code.

2 (105 ILCS 5/15A-45 new)

3 Sec. 15A-45. Evaluation and report. At the end of every  
4 6-month period following the contract award, and again prior  
5 to final contract payout and closure, a selected design-build  
6 entity must detail, in a written report submitted to the  
7 school district, its efforts and success in implementing the  
8 entity's plan to comply with the utilization goals for  
9 business enterprises established in the Business Enterprise  
10 for Minorities, Women, and Persons with Disabilities Act and  
11 the provisions of Section 2-105 of the Illinois Human Rights  
12 Act.

13 (105 ILCS 5/15A-50 new)

14 Sec. 15A-50. Exception. Nothing in this Article prevents a  
15 school district from using a qualification-based selection  
16 process for design professionals or construction managers for  
17 design-build projects.

18 (105 ILCS 5/15A-90 new)

19 Sec. 15A-90. Severability. The provisions of this Article  
20 are severable under Section 1.31 of the Statute on Statutes.