

AN ACT concerning local government.

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

Section 5. The Illinois Municipal Code is amended by changing Sections 11-135.5-15, 11-135.5-25, and 11-135.5-35 and by adding Sections 11-135.5-7, 11-135.5-50, 11-135.5-55, 11-135.5-60, 11-135.5-65, 11-135.5-70, and 11-135.5-75 as follows:

(65 ILCS 5/11-135.5-7 new)

Sec. 11-135.5-7. Definitions. As used in this Division:

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

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

"Design-build entity" means any individual, sole proprietorship, firm, partnership, joint venture, corporation,

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

"Design professional" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that offers services under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, or the Illinois Professional Land Surveyor Act of 1989.

"Evaluation criteria" means the requirements for the separate phases of the selection process as defined in this Division and may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.

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

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

"Scope and performance criteria" means the requirements for the commission project, including, but not limited to, the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and quantifiable specifications and drawings that can be reasonably inferred

and are suited to allow a design-build entity to develop a proposal.

(65 ILCS 5/11-135.5-15)

Sec. 11-135.5-15. Establishment of commission; members; initial costs and funding.

(a) Establishment of commission. Two or more municipalities, at least one of which is located in whole or in part in the county of Cook, Kane, Kendall, Lake, McHenry, or Will and has 140,000 or more inhabitants at the time of establishment of a regional water commission, excluding cities of 500,000 or more inhabitants, may acquire, either by purchase or construction, a waterworks system or a common source of supply of water, or both, and may operate jointly a waterworks system or a common source of supply of water, or both, and improve and extend the same, as provided in this Division. The municipality meeting the requirement to have 140,000 or more inhabitants as required by this paragraph must have attained that population as of December 16, 2021 (the effective date of Public Act 102-684) ~~this amendatory Act of the 102nd General Assembly.~~

The corporate authorities of the municipalities desiring to avail themselves of the provisions of this Division shall establish a regional water commission by adopting an ordinance determining and electing to acquire and operate jointly a waterworks system or a common source of supply of water, or

both, as the case may be, and approving an intergovernmental agreement among the municipalities establishing the regional water commission. This agreement may be amended at any time upon the adoption, by the corporate authorities of all member municipalities, of ~~concurring~~ ordinances approving the amendment to the agreement ~~by the corporate authorities of all member municipalities.~~

(b) Addition or withdrawal of members; dissolution. The agreement may provide for additional municipalities to join the commission upon adoption of an ordinance by the corporate authorities of the joining municipality and, upon such consents, conditions, and approvals of the board of commissioners and of existing member municipalities as shall be provided in the agreement. The agreement shall provide the manner and terms on which a municipality may withdraw from membership in the commission and on which the commission may terminate and dissolve in whole or in part.

(c) Filing of agreement. Promptly upon entering into the agreement or any amendment to it, a copy of such agreement or amendment shall be filed in the office of the Secretary of State. Promptly upon the addition or withdrawal of a municipality, or, upon the dissolution of the commission, that fact shall be certified by an officer of the commission to the Secretary of State.

(d) Development costs. A municipality whose corporate authorities adopted an ordinance and approved an

intergovernmental agreement to acquire and operate jointly a waterworks system or a common source of supply of water, or both, as the case may be, under the provisions of this Division, may from time to time pay, advance, or obligate itself to the commission to bear a proportionate share of the development costs, including principal and interest, of any project proposed by the commission, including plans, feasibility reports, and engineering, even if the project is never constructed or water is never supplied by the commission to such municipality.

Whenever the corporate authorities of a municipality determine that the municipality will pay, advance, or be obligated for its proportionate share of development costs as provided in this subsection, they shall adopt an ordinance declaring their intention that the municipality will do so, fix the maximum amount of the municipality's share of the cost the municipality proposes to pay or that the municipality will advance or to obligate the municipality for, and fix the period over which it is proposed to pay the obligation (not exceeding 10 years), ~~and the maximum amount to be paid annually,~~ if such obligation is to be paid in installments. The time of payment of any such installment obligation may be extended for a period not exceeding 10 years from the final maturity date of the original obligation. On and after the date such ordinance becomes effective, the municipality shall include an amount sufficient to pay the annual installments of

its obligation each year in the next succeeding appropriation ordinances. The commission may require that if any such municipality whose corporate authorities determined to pay, to advance, or to obligate the municipality to the commission for development costs defaults in such payments, advances, or obligations, then the remaining municipalities whose corporate authorities have determined to pay, to advance, or to obligate the respective municipalities to the commission for development costs will be required to pay for all or a portion of the payments, advances by, or obligations of the defaulting municipality. No prior appropriation shall be required for the corporate authorities of a municipality to authorize the payments, advances, or obligations herein provided for.

Whenever the corporate authorities of a municipality have obligated the municipality for development costs as herein provided and after the effective date of the ordinance under which the municipality became obligated for a specific amount for development costs of a project and after approval of such obligation by the commission, the commission is authorized to borrow funds temporarily for payment of such development costs in advance of permanent financing. The commission may from time to time and pursuant to an appropriate ordinance or resolution borrow money and issue its interim notes to evidence borrowings for such purpose, including all necessary and incidental expenses in connection therewith.

An ordinance or resolution authorizing the issuance of

such notes shall describe the project and the development costs to be undertaken and specify the principal amount, rate of interest as authorized under Section 2 of the Bond Authorization Act, and the maturity date, which shall coincide with the due date of the obligations or the installments thereof incurred by the respective municipalities pursuant to this Section not, however, to exceed 10 years from date.

Contemporaneously with the issuance of revenue bonds under Section 11-135.5-30, all outstanding interim notes issued for development costs of a project though they have not then matured shall be paid, both principal and interest to date of payment, from funds derived from the sale of revenue bonds for the permanent financing of any such project for which interim notes may have been issued and such interim notes shall be surrendered and cancelled, or, in the alternative, the commission may determine to pay such interim notes out of receipts from other sources available to the commission, including grants and loans.

Whenever a member municipality has incurred development costs for a project and has advanced funds or otherwise obligated itself for the payment of such costs, the commission is authorized to accept assignment of such debt instruments and the payment obligations thereunder and to thereafter make all necessary payments to meet such obligations out of receipts from other sources available to the commission, including grants and loans, or provide for credits against

amounts otherwise due to the commission from the municipality, including interest on the amounts due.

As used in this subsection, "development costs" means the costs of development of a project, including debt incurred and principal and interest payments, whether incurred by the commission or a member municipality.

(e) Construction and operating costs. A municipality, the corporate authorities of which adopted an ordinance and approved an intergovernmental agreement to acquire and operate jointly a waterworks system or a common source of supply of water, or both, as the case may be, under the provisions of this Division, may from time to time pay, advance, or obligate itself to the commission to bear a proportionate share of the construction and operating costs of any project proposed by the commission.

Whenever the corporate authorities of a municipality determine that the municipality will pay, advance, or be obligated for its proportionate share of construction or operating costs as above provided, they shall adopt an ordinance declaring their intention to do so, fix the maximum amount of the municipality's share of the cost it proposes to pay, to advance, or to obligate itself for, and fix the period over which it is proposed to pay the obligation, ~~and state the maximum amount to be paid annually,~~ if such obligation is to be paid in installments. On and after the date such ordinance becomes effective, the municipality shall include an amount

sufficient to pay the annual installments of its obligation each year in the next succeeding appropriation ordinances. The commission may require that if any such municipality whose corporate authorities determined that the municipality will pay, advance, or be obligated to the commission for construction or operating costs defaults in such payments, advances, or obligations, then the remaining municipalities whose corporate authorities have determined that the municipality will pay, advance, or be obligated to the commission for construction or operating costs will be required to pay for all or a portion of the payments, advances by, or obligations of the defaulting municipality. No prior appropriation shall be required for the corporate authorities of a municipality to authorize the payments, advances, or obligations herein provided for.

Whenever a municipality, through its corporate authorities, has paid, advanced, or obligated the municipality for development, construction, or operating costs as herein provided, the commission may contract with the municipality, on such terms as may be agreed, for the repayment to the municipality by the commission of any payment or advance made by the municipality to the commission and to charge, in addition to all other charges and rates authorized under this Division, such rates and charges for water sold by the commission as shall be necessary to provide for such repayment. In addition, any payment or advance of such costs

made by a municipality pursuant to this Section may be repaid by the commission to the municipality: (i) from the proceeds of revenue bonds authorized to be issued by the commission pursuant to this Division; ~~(ii) or, in the alternative, the commission may determine to pay all or part of such amounts~~ out of receipts from other sources available to the commission, including grants and loans; or (iii) by the commission providing credits against amounts otherwise due to the commission from the municipality, including interest on the amounts due.

Whenever a member municipality has incurred construction and operating costs for a project and has advanced funds or otherwise obligated itself for the payment of such costs, the commission is authorized to accept assignment of such debt instruments and the payment obligations thereunder and to thereafter make all necessary payments to meet such obligations: (i) from the proceeds of revenue bonds authorized to be issued by the commission pursuant to this Division; ~~(ii) or, in the alternative, the commission may determine to pay all or part of such amounts~~ out of receipts from other sources available to the commission, including grants and loans; or (iii) by the commission providing credits against amounts otherwise due to the commission from the municipality, including interest on the amounts due.

As used in this subsection, "construction and operating costs" means the costs of construction and operation of a

project, including debt incurred and principal and interest payments, whether incurred by the commission or a member municipality.

(f) Commission facilities. A waterworks system or a common source of supply of water, or both, purchased or constructed by the commission: (1) may be located within or without the corporate limits of any member municipality; (2) may include, or may consist of, without limitation, facilities for receiving, storing, and transmitting water from any source for supplying water to member municipalities and other purchasers of water from the commission; and (3) may include, without limitation, facilities that are developed, acquired, constructed, extended, or improved by the commission that may at any time be owned by another unit of local government if such facilities will serve the waterworks system or provide a common source of supply of water for the commission.

(Source: P.A. 102-684, eff. 12-16-21.)

(65 ILCS 5/11-135.5-25)

Sec. 11-135.5-25. Board organization and powers.

(a) Organization of board. A commission shall organize by electing a chair from among its own members and shall elect persons, who need not be commissioners, to such other offices as shall be designated in the agreement. It shall adopt its own bylaws, rules, and regulations and provide for its meetings. The commission has full and complete supervision, management,

and control of the waterworks system or the common source of supply of water, or both, as provided in the agreement and ordinances for acquiring and operating the same, and in their maintenance, operation, and extension. The board of commissioners shall determine the general policy of the commission, shall approve the annual budget, shall make all appropriations (which may include appropriations made at any time in addition to those made in any annual appropriation document), shall approve all contracts for the purchase or sale of water, shall adopt ordinances or resolutions providing for the issuance of bonds or notes by the commission, shall adopt its bylaws, rules, and regulations, and shall have such other powers and duties as may be prescribed in the agreement. Such agreement may further specify the voting and approval requirements for actions regarding the commission's powers and duties, including those powers and actions of the commission which shall be authorized only upon votes of greater than a majority of all commissioners or only upon consents of the corporate authorities of a certain number of member municipalities, or both.

The agreement may provide for the establishment of a technical advisory committee to consist of a municipal employee member from each member municipality as designated by ordinance or other official action, from time to time by the corporate authorities of the member municipality, and having the qualifications as prescribed in the agreement, and also

may provide for such functions and duties of the committee as will support the efficient administration and operation of the commission.

The board of commissioners may establish other committees from time to time, consisting of either members of the board or members who are municipal employees from each member municipality, in order to support the efficient administration and operation of the commission.

(b) Water contracts to acquire water supply. A commission may contract to acquire a supply of water on such terms and conditions as it finds in the best interests of the commission for a period not exceeding 101 years. The term of the water supply contract may, at the end of the initial or extended term, be extended by an amendment, renewal, or revision beyond 101 years by further agreement of the parties. A commission may contract with any person, corporation, political subdivision, municipal corporation, or other governmental or non-governmental entity for a supply of water, and any such political subdivision, municipal corporation, or other governmental entity is authorized to enter into such a contract with the commission. A commission may accept from a municipality that is a member of the commission the assignment of a contract to acquire a supply of water and to accept and perform the duties and obligations and make all payments required pursuant to such assigned contract.

A contract made by or assigned to a commission for a supply

of water may contain provisions whereby the commission is obligated to pay for such supply of water without setoff or counterclaim and irrespective of whether such supply of water is ever furnished, made available, or delivered to the commission or whether any project for the supply of water contemplated by the contract is completed, operable, or operating and notwithstanding any suspension, interruption, interference, reduction, or curtailment of the supply of water from such project.

No prior appropriation shall be required before entering into or accepting assignment of such contract, and no appropriation shall be required to authorize payments to be made under the terms of the contract, notwithstanding any provision of this Code to the contrary. The contract shall not be a debt within the meaning of any statutory or constitutional limitations.

(c) Water contracts to provide water supply to members. The commission is authorized to contract with the municipalities which established the commission, and with other municipalities that have become members pursuant to the process established in the intergovernmental agreement, for a supply of water to those municipalities, for a period not exceeding 101 years, and those municipalities are authorized to enter into such contracts with the commission. The term of the water supply contract may, at the end of the initial or extended term, be extended by an amendment, renewal, or

revision beyond 101 years by further agreement of the parties.

Any such contract made by a commission and any such municipalities to supply water may contain provisions whereby the purchasing municipality is obligated to pay for such supply of water without setoff or counterclaim and irrespective of whether such supply of water is ever furnished, made available, or delivered to the purchasing municipality or whether any project for the supply of water contemplated by any such contract is completed, operable, or operating and notwithstanding any suspension, interruption, interference, reduction, or curtailment of the supply of water from such project. Any such contract may provide that if one or more of the other purchasers' defaults in the payment of its obligations under the contract or similar contract made with the supplier of the water, the remaining purchasers party to such contract or such similar contract shall be required to pay for all or a portion of the obligations of the defaulting purchaser. Each municipality that enters into such a contract shall be obligated and have the duty to include an amount sufficient to pay the annual amount of its obligation each year in the next succeeding appropriation ordinances. No prior appropriation shall be required for a municipality to authorize the payments, advances, or obligations provided for in such contracts or this subsection.

(d) Water contracts to provide water supply to nonmembers and extend system. A commission may supply water to and

contract with a person, corporation, political subdivision, municipal corporation, or other governmental or non-governmental entity, in addition to the municipalities which have formed the commission and other municipalities that have become members pursuant to the process established in the intergovernmental agreement, and to construct water transmission and distribution lines within a radius of 25 miles outside the corporate limits of member municipalities for the purpose of furnishing water to any additional entities which contract with the commission for a supply of water, upon such payment, terms, and conditions as may be mutually agreed upon. Any such contract shall be a continuing, valid, and binding obligation of the purchaser for such period of years, not to exceed 40, as may be provided in such contract.

Any such contract entered into to supply water to a municipal corporation or political subdivision shall provide that the payments to be made thereunder shall be from the revenues to be derived by such municipality or political subdivision from the operation of the waterworks system or combined waterworks and sewer system of such municipality or political subdivision or from receipts from other sources available to the municipality or political subdivision, including grants and loans. Any such contract made by a commission and a purchaser that is such a municipal corporation or political subdivision to supply water may contain provisions whereby the purchaser is obligated to pay

for such supply of water without setoff or counterclaim and irrespective of whether such supply of water is ever furnished, made available, or delivered to the purchaser or whether any project for the supply of water contemplated by any such contract is completed, operable, or operating and notwithstanding any suspension, interruption, interference, reduction, or curtailment of the supply of water from such project. The contract may provide that, if one or more of the other purchasers defaults in the payment of its obligations under such contract or similar contract made with the supplier of the water, the remaining purchasers party to such contract or such similar contract shall be required to pay for all or a portion of the obligations of the defaulting purchaser. Each municipal corporation or political subdivision that enters into such a contract shall be obligated and have the duty to include an amount sufficient to pay the annual amount of its obligation each year in the next succeeding appropriation ordinances. No prior appropriation shall be required for a municipality or political subdivision to authorize the payments, advances, or obligations provided for in such contracts or this subsection. Any such contract shall not be a debt within the meaning of any statutory or constitutional limitations.

(e) Additional powers. In addition to any other powers set forth in this Division and in the agreement, a commission has the following powers:

(1) The power to enter into intergovernmental police assistance agreements with any municipality or county.

(2) The power to enter into intergovernmental agreements with any unit of local government or other governmental entity in order to carry out the purposes for which the commission was formed.

(Source: P.A. 102-684, eff. 12-16-21.)

(65 ILCS 5/11-135.5-35)

Sec. 11-135.5-35. Revenues; rates; costs; construction contracts.

(a) Revenue fund. Whenever bonds are issued under this Division, the revenue received from the operation of the properties under the control of the commission shall be set aside as collected and deposited in a separate fund to be used only (1) in paying the cost of the operation and maintenance of those properties, (2) in providing an adequate depreciation fund, (3) in paying the principal of and interest upon the revenue bonds issued by the commission, as provided by this Division, (4) to comply with the covenants of the ordinance or resolution, or the master trust indenture or any applicable supplemental trust indenture or both, authorizing the issuance of such bonds, and (5) to carry out the corporate purposes and powers of the commission.

(b) Rates and charges for waterworks system. If the commission has charge of the operation of a complete

waterworks system, including the distribution mains, the commission shall establish rates and charges for water and the use of commission waterworks system facilities, which shall be sufficient at all times to pay the cost of operation and maintenance, to provide an adequate depreciation fund, to pay the principal of and interest upon all revenue bonds issued as provided by this Division, to comply with the covenants of the ordinance or resolution, or the master trust indenture or any applicable supplemental trust indenture or both, authorizing the issuance of such bonds, and to carry out the corporate purposes and powers of the commission. Charges and rates shall be established, revised, and maintained by ordinance and become payable as the commission may determine by ordinance.

(c) Rates and charges for water source of supply. If the commission has charge of the operation of a common source of supply of water, the municipalities represented by the commission shall contract with the commission for water. These municipalities shall establish such charges and rates for water supplied by them to consumers as will be sufficient at all times (1) to pay the cost of operation and maintenance of the respective waterworks systems (or combined waterworks and sewerage systems) of the municipalities, (2) to provide an adequate depreciation fund therefor, (3) to pay the principal of and interest on all revenue bonds of the municipalities payable from the revenues of the waterworks system (or combined waterworks and sewerage system), and (4) to pay the

charges and rates established by the commission for the sale of water by the commission to, and the use of commission waterworks system facilities by, those municipalities. The commission shall establish such charges and rates for water supplied to those municipalities and the use of commission waterworks system facilities as will be sufficient at all times (1) to pay the cost of operation and maintenance of the common source of supply of water, (2) to provide an adequate depreciation fund therefor, (3) to pay the principal of and interest on the revenue bonds issued by the commission, (4) to comply with the covenants of the ordinance or resolution, or the master trust indenture or any applicable supplemental trust indenture or both, authorizing the issuance of such bonds, and (5) to carry out the corporate purposes and powers of the commission, under the provisions of this Division. Contracts entered into between the commission and the specified municipalities shall include covenants for the establishment of rates and charges as provided in this Section.

(d) Pension costs. Contributions to a retirement fund or other pension alternative authorized by the Illinois Pension Code, including, without limitation, the Illinois Municipal Retirement Fund, by commissions created under this Division which have been included under the retirement fund or other pension alternative shall be considered a cost of operation and maintenance for the purposes of this Section.

(e) Enforcement of obligations. An owner ~~A holder~~ of a bond ~~or of any of its coupons~~ issued under this Division, a trustee under a master trust indenture or supplemental trust indenture or both with respect to the bonds issued under this Division, or both the owner and trustee may, in a civil action, mandamus action, or other proceeding, ~~may~~ enforce and compel performance of all duties required by this Division to be performed by such a commission or by any of the municipalities, including the making of rates and charges, the collecting of sufficient revenue, and the application thereof, as provided in this Division.

(f) Construction contracts. All or any portion of a waterworks system or other public improvement of such a commission, when the expense thereof will exceed the greater of (i) \$25,000 or (ii) the amount of expense above which a work or public improvement by a municipality must be let to the lowest responsible bidder after advertising for bids under Section 8-9-1 of this Code, shall be constructed, maintained, or repaired either: (1) by a contract let to the lowest responsible bidder after advertising for bids, in the manner prescribed by the commission's bylaws, rules, and regulations and by the vote required as established in the intergovernmental agreement pursuant to Section 11-135.5-25; or (2) without advertising for bids, if authorized by a vote of greater than a majority of all the commissioners as established in the intergovernmental agreement pursuant to

Section 11-135.5-25. The commission's bylaws, rules, and regulations shall provide for an alternative procedure for emergency procurement if an emergency makes it impracticable to follow the procedures in this subsection.

(g) Alternative project delivery. A commission may use alternative project delivery methods if the commission determines it to be in the commission's best interest for a particular project. An alternative project delivery method may include, without limitation, design-build or construction-manager-at-risk. All notices for the procurement of goods, services, or work to be provided pursuant to an alternate delivery method shall include all requirements for the goods, services, or work to be procured. All awards of contracts or agreements for the procurement of goods, services, or work to be provided pursuant to an alternate delivery method shall be made on the basis of demonstrated competence and qualifications and with due regard for the principles of competitive selection. As part of an alternate project delivery procurement process, prior to submission of proposals, the commission may conduct meetings and exchange confidential information with proposers to promote understanding of the request for proposals, review alternative design concepts, or discuss other issues related to the procurement.

As used in this subsection:

"Construction-manager-at-risk" means a delivery method in

which the party proposing to be the construction manager commits to be responsible for performance of certain preconstruction services and, if the parties reach agreement on key terms, becomes responsible for construction of the project.

"Design-build" means a delivery method that provides responsibility within a single contract for furnishing the architectural, engineering, land-surveying, and related services for the project, as well as the labor, materials, equipment, and other construction services for the project.

(h) Procurement goals and requirements. A commission may establish goals or requirements for the procurement of goods and services and for construction contracts to promote and encourage the continuing economic development of (i) businesses that are owned and operated by minorities, women, persons with disabilities, or veterans; (ii) businesses that are located within the territory of one or more of the municipalities that are members of the commission; (iii) businesses that employ persons who reside in the territory of one or more of the municipalities that are members of the commission; (iv) businesses that are located within the territory of a municipality having more than 2,000,000 inhabitants in which a portion of the commission's waterworks system or other commission improvement is located; or (v) businesses that employ persons who reside in the territory of a municipality having more than 2,000,000 inhabitants in which

a portion of the commission's waterworks system or other commission improvement is located.

A commission may also establish other goals or requirements that result in the award to a responsible bidder other than the lowest responsible bidder if the commission determines that the award is in the commission's best interests, notwithstanding the requirements of subsection (f). Goals or requirements that are set by a commission that result in a preference being applied to a bidder or proposer, who has met those goals or requirements, in a commission's process for awarding construction contracts and for the procurement of goods and services must comply with the constitutional standards applicable to the preferences.

(i) Contract assignment. A member municipality may enter into a contract for any portion of a waterworks system or other public improvement of a commission pursuant to a contracting method that is consistent with the requirements applicable to the municipality and generally consistent with the principles in subsection (f) or (g). The commission may accept assignment of such a contract and of payment obligations under that contract.

(j) ~~(g)~~ Project labor agreement. In connection with a contract by a commission for the construction of all or any portion of a waterworks system or other public improvement of the commission, the commission must enter into a project labor agreement with the applicable local building trades council

prior to the commencement of any and all construction, building, renovation, demolition, or any material change to the structure or land.

(Source: P.A. 102-684, eff. 12-16-21.)

(65 ILCS 5/11-135.5-50 new)

Sec. 11-135.5-50. Solicitation of proposals.

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

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

(1) The name of the commission.

(2) A preliminary schedule for the completion of the

contract.

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

(4) Prequalification criteria for design-build entities wishing to submit proposals. The Commission shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements; however, nothing precludes the use of additional prequalification criteria by the commission.

(5) Material requirements of the contract, including, but not limited to, the proposed terms and conditions, required performance and payment bonds, and insurance.

(6) The performance criteria.

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

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

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

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for proposal. If the cost of the project is estimated to exceed

\$12,000,000, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The commission shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(65 ILCS 5/11-135.5-55 new)

Sec. 11-135.5-55. Development of scope and performance criteria.

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

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

(c) The scope and performance criteria shall be prepared

by a design professional or public art designer who is an employee of the commission, or the commission may contract with an independent design professional or public art designer selected under the Local Government Professional Services Selection Act to provide these services.

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

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

(65 ILCS 5/11-135.5-60 new)

Sec. 11-135.5-60. Procedures for selection.

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

(b) The commission shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the commission has set forth. Each request for proposal shall establish the relative

importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the commission. The commission must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The commission shall include the following criteria in every Phase I evaluation of design-build entities: (i) experience of personnel; (ii) successful experience with similar project types; (iii) financial capability; (iv) timeliness of past performance; (v) experience with similarly sized projects; (vi) successful reference checks of the firm; and (vii) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants.

The commission may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review. The commission may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the commission, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the design-build contract or that create the appearance of impropriety.

Upon completion of the qualifications evaluation, the

commission shall create a shortlist of the most highly qualified design-build entities. The commission, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided that no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals. The commission shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The commission must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the commission.

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

The commission shall include the following criteria in every Phase II technical evaluation of design-build entities:
(i) compliance with objectives of the project; (ii) compliance of proposed services to the request for proposal requirements;

(iii) quality of products or materials proposed; (iv) quality of design parameters; (v) design concepts; (vi) innovation in meeting the scope and performance criteria; and (vii) constructability of the proposed project. The commission may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The commission shall include the following criteria in every Phase II cost evaluation: the total project cost; the construction costs; and the time of completion. The commission may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighting factor shall not exceed 30%.

The commission shall directly employ or retain a licensed design professional or a public art designer to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

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

(65 ILCS 5/11-135.5-65 new)

Sec. 11-135.5-65. Small projects. In any case where the total overall cost of the project is estimated to be less than \$12,000,000, the commission may combine the two-phase procedure for selection described in Section 11-135.5-60 into

one combined step, provided that all the requirements of evaluation are performed in accordance with Section 11-135.5-60.

(65 ILCS 5/11-135.5-70 new)

Sec. 11-135.5-70. Submission of proposals. Proposals must be properly identified and sealed. Proposals may not be reviewed until after the deadline for submission has passed as set forth in the request for proposals. All design-build entities submitting proposals shall be disclosed after the deadline for submission, and all design-build entities who are selected for Phase II evaluation shall also be disclosed at the time of that determination.

Proposals shall include a bid bond in the form and security as designated in the request for proposals. Proposals shall also contain a separate sealed envelope with the cost information within the overall proposal submission. Proposals shall include a list of all design professionals, public art designers, and other entities to which any work may be subcontracted during the performance of the contract.

Proposals must meet all material requirements of the request for proposal or they may be rejected as non-responsive. The commission has the right to reject any and all proposals.

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

The commission shall review the proposals for compliance with the performance criteria and evaluation factors.

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

(65 ILCS 5/11-135.5-75 new)

Sec. 11-135.5-75. Award; performance. The commission may award the contract to the highest overall ranked entity. Notice of award shall be made in writing. Unsuccessful entities shall also be notified in writing. The commission may not request a best and final offer after the receipt of proposals. The commission may negotiate with the selected design-build entity after award but prior to contract execution for the purpose of securing better terms than originally proposed, provided that the salient features of the request for proposal are not diminished.

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

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