



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1949

Introduced 2/15/2019, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

30 ILCS 537/5
30 ILCS 537/10
30 ILCS 537/25
30 ILCS 537/46
30 ILCS 537/90 rep.

Amends the Design-Build Procurement Act. Provides that for purposes of the Act, "State construction agency" means a construction agency as defined under the Illinois Procurement Code (currently, "State construction agency" means the Capital Development Board). Changes references concerning the Capital Development Board to State construction agency for purposes of requirements under the Act. Modifies provisions concerning the selection committee to remove specified requirements for the committee. Provides for an annual report (currently, at the end of each 6-month period) following the awarding of a contract to selected design-build entities with specified contents. Repeals a Section concerning the repeal date of the Act. Makes conforming changes. Effective immediately.

LRB101 10751 RJF 55870 b

1 AN ACT concerning finance.

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

4 Section 5. The Design-Build Procurement Act is amended by
5 changing Sections 5, 10, 25, and 46 as follows:

6 (30 ILCS 537/5)

7 (Section scheduled to be repealed on July 1, 2019)

8 Sec. 5. Legislative policy. It is the intent of the
9 General Assembly that the design-build delivery method ~~Capital~~
10 ~~Development Board~~ be allowed for ~~to~~ use ~~the design-build~~
11 ~~delivery method~~ for public projects if it is shown to be in the
12 State's best interest for that particular project. In the ~~It~~
13 ~~shall be the policy of the Capital Development Board in the~~
14 procurement of design-build services, ~~to publicly announce~~ all
15 requirements for design-build services shall be publicly
16 announced, and procurement of ~~to procure~~ these services shall
17 be on the basis of demonstrated competence and qualifications
18 and with due regard for the principles of competitive
19 selection.

20 The State Construction agency ~~Capital Development Board~~
21 shall, prior to issuing requests for proposals, promulgate and
22 publish procedures for the solicitation and award of contracts
23 pursuant to this Act.

1 The State Construction agency ~~Capital Development Board~~
2 shall, for each public project or projects permitted under this
3 Act, make a written determination, including a description as
4 to the particular advantages of the design-build procurement
5 method, that it is in the best interests of this State to enter
6 into a design-build contract for the project or projects. In
7 making that determination, the following factors shall be
8 considered:

9 (1) The probability that the design-build procurement
10 method will be in the best interests of the State by
11 providing a material savings of time or cost over the
12 design-bid-build or other delivery system.

13 (2) The type and size of the project and its
14 suitability to the design-build procurement method.

15 (3) The ability of the State construction agency to
16 define and provide comprehensive scope and performance
17 criteria for the project.

18 No State construction agency may use a design-build
19 procurement method unless the agency determines in writing that
20 the project will comply with the disadvantaged business and
21 equal employment practices of the State as established in the
22 Business Enterprise for Minorities, Women, and Persons with
23 Disabilities Act and Section 2-105 of the Illinois Human Rights
24 Act.

25 The State Construction agency ~~Capital Development Board~~
26 shall within 15 days after the initial determination provide an

1 advisory copy to the Procurement Policy Board and maintain the
2 full record of determination for 5 years.

3 (Source: P.A. 100-391, eff. 8-25-17.)

4 (30 ILCS 537/10)

5 (Section scheduled to be repealed on July 1, 2019)

6 Sec. 10. Definitions. As used in this Act:

7 "State construction agency" means the construction agency
8 as defined in Section 1-15.25 of the Illinois Procurement Code
9 Capital Development Board.

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

12 "Design-bid-build" means the traditional delivery system
13 used on public projects in this State that incorporates the
14 Architectural, Engineering, and Land Surveying Qualification
15 Based Selection Act (30 ILCS 535/) and the principles of
16 competitive selection in the Illinois Procurement Code (30 ILCS
17 500/).

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

23 "Design-build contract" means a contract for a public
24 project under this Act between the State construction agency
25 and a design-build entity to furnish architecture,

1 engineering, land surveying, and related services as required,
2 and to furnish the labor, materials, equipment, and other
3 construction services for the project. The design-build
4 contract may be conditioned upon subsequent refinements in
5 scope and price and may allow the State construction agency to
6 make modifications in the project scope without invalidating
7 the design-build contract.

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

17 "Design professional" means any 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 (225 ILCS
21 305/), the Professional Engineering Practice Act of 1989 (225
22 ILCS 325/), the Structural Engineering Licensing Act of 1989
23 (225 ILCS 340/), or the Illinois Professional Land Surveyor Act
24 of 1989 (225 ILCS 330/).

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

1 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. Price
5 may not be used as a factor in the evaluation of Phase I
6 proposals.

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

10 "Request for proposal" means the document used by the State
11 construction agency to solicit proposals for a design-build
12 contract.

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

21 (Source: P.A. 94-716, eff. 12-13-05.)

22 (30 ILCS 537/25)

23 (Section scheduled to be repealed on July 1, 2019)

24 Sec. 25. Selection committee. ~~(a)~~ When the State
25 construction agency elects to use the design-build delivery

1 method, it shall establish a committee to evaluate and select
2 the design-build entity. ~~The committee, under the discretion of~~
3 ~~the State construction agency, shall consist of at least 5 but~~
4 ~~no more than 7 members and shall include at least one licensed~~
5 ~~design professional and 2 members of the public. Public members~~
6 ~~may not be employed or associated with any firm holding a~~
7 ~~contract with the State construction agency. Within 30 days of~~
8 ~~receiving notice, one public member shall be nominated by~~
9 ~~associations representing the general design or construction~~
10 ~~industry and one member shall be nominated by associations that~~
11 ~~represent minority or female-owned design or construction~~
12 ~~industry businesses. If either group fails to nominate a~~
13 ~~suitable candidate within the 30-day period, the State~~
14 ~~construction agency shall nominate an appropriate public~~
15 ~~member.~~

16 ~~(b) The members of the selection committee must certify for~~
17 ~~each request for proposal that no conflict of interest exists~~
18 ~~between the members and the design build entities submitting~~
19 ~~proposals. If a conflict is discovered before proposals are~~
20 ~~reviewed, the member must be replaced before any review of~~
21 ~~proposals.~~

22 ~~If a conflict is discovered after proposals are reviewed,~~
23 ~~the member with the conflict shall be removed and the committee~~
24 ~~may continue with only one public member.~~

25 ~~If at least 5 members remain, the remaining committee~~
26 ~~members may complete the selection process.~~

1 (Source: P.A. 98-572, eff. 1-1-14.)

2 (30 ILCS 537/46)

3 (Section scheduled to be repealed on July 1, 2019)

4 Sec. 46. Reports and evaluation. Annually ~~At the end of~~
5 ~~every 6 month period~~ following the contract award, and again
6 prior to final contract payout and closure, a selected
7 design-build entity shall detail, in a written report submitted
8 to the State agency, its efforts and success in implementing
9 the entity's plan to comply with the utilization goals for
10 business enterprises established in the Business Enterprise
11 for Minorities, Women, and Persons with Disabilities Act and
12 the provisions of Section 2-105 of the Illinois Human Rights
13 Act. If the entity's performance in implementing the plan falls
14 short of the performance measures and outcomes set forth in the
15 plans submitted by the entity during the proposal process, the
16 entity shall, in a detailed written report, inform the General
17 Assembly and the Governor whether and to what degree each
18 design-build contract authorized under this Act promoted the
19 utilization goals for business enterprises established in the
20 Business Enterprise for Minorities, Women, and Persons with
21 Disabilities Act and the provisions of Section 2-105 of the
22 Illinois Human Rights Act.

23 (Source: P.A. 100-391, eff. 8-25-17.)

24 (30 ILCS 537/90 rep.)

1 Section 10. The Design-Build Procurement Act is amended by
2 repealing Section 90.

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