



Sen. Eric Mattson

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10200HB5061sam003

LRB102 21435 AWJ 42473 a

1 AMENDMENT TO HOUSE BILL 5061

2 AMENDMENT NO. _____. Amend House Bill 5061, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment
4 No. 2, by replacing line 6 on page 1 as follows:

5 "11-135.5-40 and by adding Sections 11-135.5-7, 11-135.5-50,
6 11-135.5-55, 11-135.5-60, 11-135.5-65, 11-135.5-70, and
7 11-135.5-75 as follows:

8 (65 ILCS 5/11-135.5-7 new)

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

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

15 "Design-build contract" means a contract for a public
16 project under this Division between a commission and a

1 design-build entity to furnish: architecture, engineering,
2 land surveying, public art or interpretive exhibits, and
3 related services, as required; and the labor, materials,
4 equipment, and other construction services for the project.

5 "Design-build entity" means any individual, sole
6 proprietorship, firm, partnership, joint venture, corporation,
7 professional corporation, or other entity that proposes to
8 design and construct any public project under this Division.

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

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

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

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

1 "Scope and performance criteria" means the requirements
2 for the commission project, including, but not limited to, the
3 intended usage, capacity, size, scope, quality and performance
4 standards, life-cycle costs, and other programmatic criteria
5 that are expressed in performance-oriented and quantifiable
6 specifications and drawings that can be reasonably inferred
7 and are suited to allow a design-build entity to develop a
8 proposal."; and

9 on page 27, immediately below line 13, by inserting the
10 following:

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

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

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

1 must provide a copy of the request for proposal to any party
2 requesting a copy.

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

6 (1) The name of the commission.

7 (2) A preliminary schedule for the completion of the
8 contract.

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

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

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

21 (6) The performance criteria.

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

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

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

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

14 (65 ILCS 5/11-135.5-55 new)

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

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

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

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

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

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

21 (65 ILCS 5/11-135.5-60 new)

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

23 (a) The commission must use a two-phase procedure for the
24 selection of the successful design-build entity. Phase I of
25 the procedure will evaluate and shortlist the design-build

1 entities based on qualifications, and Phase II will evaluate
2 the technical and cost proposals.

3 (b) The commission shall include in the request for
4 proposal the evaluating factors to be used in Phase I. These
5 factors are in addition to any prequalification requirements
6 of design-build entities that the commission has set forth.
7 Each request for proposal shall establish the relative
8 importance assigned to each evaluation factor and subfactor,
9 including any weighting of criteria to be employed by the
10 commission. The commission must maintain a record of the
11 evaluation scoring to be disclosed in event of a protest
12 regarding the solicitation.

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

21 The commission may include any additional relevant
22 criteria in Phase I that it deems necessary for a proper
23 qualification review. The commission may not consider any
24 design-build entity for evaluation or award if the entity has
25 any pecuniary interest in the project or has other
26 relationships or circumstances, including, but not limited to,

1 long-term leasehold, mutual performance, or development
2 contracts with the commission, that may give the design-build
3 entity a financial or tangible advantage over other
4 design-build entities in the preparation, evaluation, or
5 performance of the design-build contract or that create the
6 appearance of impropriety.

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

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

1 The commission must maintain a record of the evaluation
2 scoring to be disclosed in event of a protest regarding the
3 solicitation.

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

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

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

25 Upon completion of the technical submissions and cost
26 submissions evaluation, the commission may award the

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

2 (65 ILCS 5/11-135.5-65 new)

3 Sec. 11-135.5-65. Small projects. In any case where the
4 total overall cost of the project is estimated to be less than
5 \$12,000,000, the commission may combine the two-phase
6 procedure for selection described in Section 11-135.5-60 into
7 one combined step, provided that all the requirements of
8 evaluation are performed in accordance with Section
9 11-135.5-60.

10 (65 ILCS 5/11-135.5-70 new)

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

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

1 subcontracted during the performance of the contract.

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

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

8 The commission shall 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 commission, clear and
12 convincing evidence of error is required for withdrawal.

13 (65 ILCS 5/11-135.5-75 new)

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

24 A design-build entity and associated design professionals
25 shall conduct themselves in accordance with the relevant laws

1 of this State and the related provisions of the Illinois
2 Administrative Code.".