



Rep. Jay C. Hoffman

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1 AMENDMENT TO SENATE BILL 943

2 AMENDMENT NO. _____. Amend Senate Bill 943 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1
5 GENERAL PROVISIONS

6 Section 1-1. Short title. This Act may be cited as the
7 Design-Build Procurement Act.

8 Section 1-5. Legislative policy. It is the intent of the
9 General Assembly that the State construction agencies be
10 allowed to use the design-build delivery method for public
11 projects if it is shown to be in the State's best interest for
12 that particular project. It shall be the policy of the State
13 construction agencies in the procurement of design-build
14 services to publicly announce all requirements for
15 design-build services and to procure these services on the
16 basis of demonstrated competence and qualifications and with
17 due regard for the principles of competitive selection.

18 Each State construction agency shall, prior to issuing
19 requests for proposals, promulgate and publish procedures for
20 the solicitation and award of contracts pursuant to this Act.

21 Each State construction agency shall, for each public
22 project or projects permitted under this Act, make a written
23 determination, including a description as to the particular

1 advantages of the design-build procurement method, that it is
2 in the best interests of this State to enter into a
3 design-build contract for the project or projects. In making
4 that determination, the following factors shall be considered:

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

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

11 (3) The ability of the State construction agency to
12 define and provide comprehensive scope and performance
13 criteria for the project.

14 The State construction agency shall within 15 days after
15 the initial determination provide an advisory copy to the
16 Procurement Policy Board and maintain the full record of
17 determination for 5 years.

18 ARTICLE 5

19 CAPITAL DEVELOPMENT BOARD

20 Section 5-10. Definitions. As used in this Article:

21 "State construction agency" means the Capital Development
22 Board.

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

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

31 "Design-build" means a delivery system that provides
32 responsibility within a single contract for the furnishing of

1 architecture, engineering, land surveying and related services
2 as required, and the labor, materials, equipment, and other
3 construction services for the project.

4 "Design-build contract" means a contract for a public
5 project under this Act between the State construction agency
6 and a design-build entity to furnish architecture,
7 engineering, land surveying, and related services as required,
8 and to furnish the labor, materials, equipment, and other
9 construction services for the project. The design-build
10 contract may be conditioned upon subsequent refinements in
11 scope and price and may allow the State construction agency to
12 make modifications in the project scope without invalidating
13 the design-build contract.

14 "Design-build entity" means any 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 Act. A
18 design-build entity and associated design-build professionals
19 shall conduct themselves in accordance with the laws of this
20 State and the related provisions of the Illinois Administrative
21 Code, as referenced by the licensed design professionals Acts
22 of this State.

23 "Design professional" means any individual, sole
24 proprietorship, firm, partnership, joint venture, corporation,
25 professional corporation, or other entity that offers services
26 under the Illinois Architecture Practice Act of 1989 (225 ILCS
27 305/), the Professional Engineering Practice Act of 1989 (225
28 ILCS 325/), the Structural Engineering Licensing Act of 1989
29 (225 ILCS 340/), or the Illinois Professional Land Surveyor Act
30 of 1989 (225 ILCS 330/).

31 "Evaluation criteria" means the requirements for the
32 separate phases of the selection process as defined in this Act
33 and may include the specialized experience, technical
34 qualifications and competence, capacity to perform, past

1 performance, experience with similar projects, assignment of
2 personnel to the project, and other appropriate factors. Price
3 may not be used as a factor in the evaluation of Phase I
4 proposals.

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 Article.

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

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

19 Section 5-15. Solicitation of proposals.

20 (a) When the State construction agency elects to use the
21 design-build delivery method, it must issue a notice of intent
22 to receive requests for proposals for the project at least 14
23 days before issuing the request for the proposal. The State
24 construction agency must publish the advance notice in the
25 official procurement bulletin of the State or the professional
26 services bulletin of the State construction agency, if any. The
27 agency is encouraged to use publication of the notice in
28 related construction industry service publications. A brief
29 description of the proposed procurement must be included in the
30 notice. The State construction agency must provide a copy of
31 the request for proposal to any party requesting a copy.

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

1 information:

2 (1) The name of the State construction agency.

3 (2) A preliminary schedule for the completion of the
4 contract.

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

8 (4) Prequalification criteria for design-build
9 entities wishing to submit proposals. The State
10 construction agency shall include, at a minimum, its normal
11 prequalification, licensing, registration, and other
12 requirements, but nothing contained herein precludes the
13 use of additional prequalification criteria by the State
14 construction agency.

15 (5) Material requirements of the contract, including
16 but not limited to, the proposed terms and conditions,
17 required performance and payment bonds, insurance,
18 affirmative action, and workforce requirements, if any.

19 (6) The performance criteria.

20 (7) The evaluation criteria for each phase of the
21 solicitation.

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

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

28 (d) The date that proposals are due must be at least 21
29 calendar days after the date of the issuance of the request for
30 proposal. In the event the cost of the project is estimated to
31 exceed \$10 million, then the proposal due date must be at least
32 28 calendar days after the date of the issuance of the request
33 for proposal. The State construction agency shall include in
34 the request for proposal a minimum of 30 days to develop the

1 Phase II submissions after the selection of entities from the
2 Phase I evaluation is completed.

3 Section 5-20. Development of scope and performance
4 criteria.

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

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

20 (c) The scope and performance criteria shall be prepared by
21 a design professional who is an employee of the State
22 construction agency, or the State construction agency may
23 contract with an independent design professional selected
24 under the Architectural, Engineering and Land Surveying
25 Qualification Based Selection Act (30 ILCS 535/) to provide
26 these services.

27 (d) The design professional that prepares the scope and
28 performance criteria is prohibited from participating in any
29 design-build entity proposal for the project.

30 Section 5-25. Selection Committee.

31 (a) When the State construction agency elects to use the
32 design-build delivery method, it shall establish a committee to

1 evaluate and select the design-build entity. The committee,
2 under the discretion of the State construction agency, shall
3 consist of 3, 5, or 7 members and shall include at least one
4 licensed design professional and one member of the public. The
5 public member may not be employed or associated with any firm
6 holding a contract with the State construction agency and shall
7 be nominated by design or construction industry associations.
8 The selection committee may be designated for a set term or for
9 the particular project subject to the request for proposal.

10 (b) The members of the selection committee must certify for
11 each request for proposal that no conflict of interest exists
12 between the members and the design-build entities submitting
13 proposals. If a conflict exists, the member must be replaced
14 before any review of proposals.

15 Section 5-30. Procedures for Selection.

16 (a) The State construction agency must use a two-phase
17 procedure for the selection of the successful design-build
18 entity. Phase I of the procedure will evaluate and shortlist
19 the design-build entities based on qualifications, and Phase II
20 will evaluate the technical and cost proposals.

21 (b) The State construction agency shall include in the
22 request for proposal the evaluating factors to be used in Phase
23 I. These factors are in addition to any prequalification
24 requirements of design-build entities that the agency has set
25 forth. Each request for proposal shall establish the relative
26 importance assigned to each evaluation factor and subfactor,
27 including any weighting of criteria to be employed by the State
28 construction agency. The State construction agency must
29 maintain a record of the evaluation scoring to be disclosed in
30 event of a protest regarding the solicitation.

31 The State construction agency shall include the following
32 criteria in every Phase I evaluation of design-build entities:

33 (1) experience of personnel; (2) successful experience with

1 similar project types; (3) financial capability; (4)
2 timeliness of past performance; (5) experience with similarly
3 sized projects; (6) successful reference checks of the firm;
4 and (7) commitment to assign personnel for the duration of the
5 project and qualifications of the entity's consultants. The
6 State construction agency may include any additional relevant
7 criteria in Phase I that it deems necessary for a proper
8 qualification review.

9 The State construction agency may not consider any
10 design-build entity for evaluation or award if the entity has
11 any pecuniary interest in the project or has other
12 relationships or circumstances, including but not limited to,
13 long-term leasehold, mutual performance, or development
14 contracts with the State construction agency, that may give the
15 design-build entity a financial or tangible advantage over
16 other design-build entities in the preparation, evaluation, or
17 performance of the design-build contract or that create the
18 appearance of impropriety.

19 Upon completion of the qualifications evaluation, the
20 State construction agency shall create a shortlist of the most
21 highly qualified design-build entities. The State construction
22 agency, in its discretion, is not required to shortlist the
23 maximum number of entities as identified for Phase II
24 evaluation, provided however, no less than 2 design-build
25 entities nor more than 6 are selected to submit Phase II
26 proposals.

27 The State construction agency shall notify the entities
28 selected for the shortlist in writing. This notification shall
29 commence the period for the preparation of the Phase II
30 technical and cost evaluations. The State construction agency
31 must allow sufficient time for the shortlist entities to
32 prepare their Phase II submittals considering the scope and
33 detail requested by the State agency.

34 (c) The State construction agency shall include in the

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

10 The State construction agency shall include the following
11 criteria in every Phase II technical evaluation of design-build
12 entities: (1) compliance with objectives of the project; (2)
13 compliance of proposed services to the request for proposal
14 requirements; (3) quality of products or materials proposed;
15 (4) quality of design parameters; (5) design concepts; (6)
16 innovation in meeting the scope and performance criteria; and
17 (7) constructability of the proposed project. The State
18 construction agency may include any additional relevant
19 technical evaluation factors it deems necessary for proper
20 selection.

21 The State construction agency shall include the following
22 criteria in every Phase II cost evaluation: the total project
23 cost, the construction costs, and the time of completion. The
24 State construction agency may include any additional relevant
25 technical evaluation factors it deems necessary for proper
26 selection. The total project cost criteria weighing factor
27 shall be 25%.

28 The State construction agency shall directly employ or
29 retain a licensed design professional to evaluate the technical
30 and cost submissions to determine if the technical submissions
31 are in accordance with generally accepted industry standards.

32 Upon completion of the technical submissions and cost
33 submissions evaluation, the State construction agency may
34 award the design-build contract to the highest overall ranked

1 entity.

2 Section 5-35. Small projects. In any case where the total
3 overall cost of the project is estimated to be less than \$10
4 million, the State construction agency may combine the
5 two-phase procedure for selection described in Section 30 into
6 one combined step, provided that all the requirements of
7 evaluation are performed in accordance with Section 30.

8 Section 5-40. 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 forth
11 in the request for proposals. All design-build entities
12 submitting proposals shall be disclosed after the deadline for
13 submission, and all design-build entities who are selected for
14 Phase II evaluation shall also be disclosed at the time of that
15 determination.

16 Proposals shall include a bid bond in the form and security
17 as designated in the request for proposals. Proposals shall
18 also contain a separate sealed envelope with the cost
19 information within the overall proposal submission. Proposals
20 shall include a list of all design professionals and other
21 entities as defined in Section 30-30 of the Illinois
22 Procurement Code to which any work may be subcontracted during
23 the performance of the contract. Any entity that will perform
24 any of the 5 subdivisions of work defined in Section 30-30 of
25 the Illinois Procurement Code must meet prequalification
26 standards of the State construction agency.

27 Proposals must meet all material requirements of the
28 request for proposal or they may be rejected as non-responsive.
29 The State construction agency shall have the right to reject
30 any and all proposals.

31 The drawings and specifications of the proposal shall
32 remain the property of the design-build entity.

1 The State construction agency shall review the proposals
2 for compliance with the performance criteria and evaluation
3 factors.

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

8 Section 5-45. Award. The State construction agency may
9 award the contract to the highest overall ranked entity. Notice
10 of award shall be made in writing. Unsuccessful entities shall
11 also be notified in writing. The State construction agency may
12 not request a best and final offer after the receipt of
13 proposals. The State construction agency may negotiate with the
14 selected design-build entity after award but prior to contract
15 execution for the purpose of securing better terms than
16 originally proposed, provided that the salient features of the
17 request for proposal are not diminished.

18 Section 5-50. Administrative Procedure Act. The Illinois
19 Administrative Procedure Act (5 ILCS 100/) applies to all
20 administrative rules and procedures of the State construction
21 agency under this Article except that nothing herein shall be
22 construed to render any prequalification or other
23 responsibility criteria as a "license" or "licensing" under
24 that Act.

25 Section 5-53. Federal requirements. In the procurement of
26 design-build contracts, the State construction agency shall
27 comply with federal law and regulations and take all necessary
28 steps to adapt their rules, policies, and procedures to remain
29 eligible for federal aid.

1 DEPARTMENT OF TRANSPORTATION AND TOLL HIGHWAY AUTHORITY

2 Section 10-10. Authority for use. The Illinois Department
3 of Transportation and the Illinois State Toll Highway
4 Authority, as the State highway construction agencies, may
5 provide for use of a design-build method of source selection
6 for highway construction projects, on highways subject to their
7 jurisdiction, in order to demonstrate and evaluate the use,
8 advantages, and disadvantages of that method of source
9 selection for highway construction projects. It shall be the
10 policy of the State for the use of such method to publicly
11 announce all requirements for design-build services, and to
12 procure such services on the basis of demonstrated competence
13 and qualifications with due regard for the principles of
14 competitive selection. The State highway construction agency
15 undertaking demonstration projects selected under the
16 authority of this Article shall evaluate and submit a report as
17 prescribed in Section 10-80 of this Article on the design-build
18 method compared to the traditional method by considering the
19 following factors:

20 (1) The relative advantages and disadvantages,
21 considering time, cost, and the resources of the agency to
22 achieving the final completion of the project.

23 (2) The type, size, and suitability of projects to the
24 design-build method of source selection.

25 (3) The ability of the agency to define and provide
26 comprehensive scope and performance criteria for the
27 construction project as required by this Article, as well
28 as what may be possible under a design-build contract
29 providing for greater conceptual responsibility for the
30 design-build entity.

31 Projects selected by the Illinois Department of
32 Transportation for demonstration under this Article shall be
33 identified in the annual highway construction program document

1 published by the Department pursuant to Section 2705-200 of the
2 Department of Transportation Law of the Civil Administrative
3 Code of Illinois.

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

5 "Agency", "State construction agency", "State highway
6 construction agency", and "State transportation construction
7 agency" mean the Illinois Department of Transportation or the
8 Illinois State Toll Highway Authority.

9 "Design-bid-build" means the traditional method of source
10 selection used on highway construction projects in this State
11 with authority provided by the Architectural, Engineering, and
12 Land Surveying Qualifications Based Selection Act and the
13 Illinois Procurement Code to select separate design and
14 construction contractors.

15 "Design-build" means a method of source selection that
16 allows the selection of a single contractor for the furnishing
17 of engineering, land surveying and related design services, and
18 the labor, materials, equipment, and other construction
19 services for the project.

20 "Design-build contract" means a contract for a highway
21 construction project procured under this Article between a
22 State highway construction agency and a design-build entity to
23 furnish engineering, land surveying, and related design
24 services, and the labor, materials, equipment, and other
25 construction services for the project. The design-build
26 contract may be conditioned upon subsequent germane
27 refinements in scope and price, and may allow the State highway
28 construction agency to make germane modifications in the
29 project scope and contract price without invalidating the
30 design-build contract.

31 "Design-build entity" means any entity organized in a
32 manner recognized in law that proposes to design and build a
33 highway construction project under this Article.

1 "Design professional" means the member of the design-build
2 entity that is licensed to offer services under the
3 Professional Engineering Practice Act of 1989, the Structural
4 Engineering Licensing Act of 1989, the Illinois Professional
5 Land Surveyor Act of 1989, or the Illinois Architecture
6 Practice Act of 1989.

7 "Evaluation criteria" means the requirements to be used for
8 the selection process as defined in this Article to judge the
9 responsiveness and quality of the technical design component of
10 a proposal prepared by the design professional member of the
11 design-build entity, including achievement of the scope and
12 performance criteria, and any specialized technical
13 requirements and design tasks contained in the request for
14 proposals. The manner of scoring the technical components shall
15 be set forth in the evaluation criteria. The manner of judging
16 proposed costs shall be as provided in this Article.

17 "Proposal" means the offer to enter into a design-build
18 contract as submitted by a design-build entity in response to a
19 request for proposals issued in accordance with this Article.

20 "Qualification criteria" means the procedures and criteria
21 used by the State highway construction agency to assess the
22 responsibility of a potential design-build entity contractor,
23 including but not limited to, competence, financial capacity to
24 perform, past performance, prior experience, and personnel
25 resources. The State highway construction agency is authorized
26 to use existing prequalification procedures for purposes of
27 this Article.

28 "Request for proposal" means the document used by a State
29 highway construction agency to solicit proposals for a
30 design-build contract.

31 "Scope and performance criteria" means the requirements
32 for the project, including but not limited to, the intended
33 usage, capacity, size, scope, quality and performance
34 standards, life-cycle costs, and other programmatic criteria

1 that are expressed in performance-oriented and quantifiable
2 specifications and drawings or that can be reasonably inferred
3 and that are suitable to allow a design-build entity to develop
4 a proposal and final plans for a project under this Article.

5 Section 10-20. Scope and performance criteria. The State
6 highway construction agency shall develop the scope and
7 performance criteria. The scope and performance criteria shall
8 be in reasonably sufficient detail and contain reasonably
9 adequate information to inform the qualified design-build
10 entities of the State highway construction agency's overall
11 needs and goals, including, but not limited to, applicable
12 standards adopted by the agency governing the work of the
13 project, preliminary design plans, anticipated or acceptable
14 schedules, and any optional or mandatory delivery
15 requirements. The scope and performance criteria shall also
16 include a description of the level of design to be provided in
17 the proposals. This description must include the scope and type
18 of renderings, drawings, and specifications that, at a minimum,
19 will be required to be produced by the design-build entity for
20 the proposal and for the final plans. The scope and performance
21 criteria shall be prepared by an appropriately licensed design
22 professional who may be an employee of the agency, or the
23 agency may contract with an independent design professional
24 selected in accordance with the Architectural, Engineering and
25 Land Surveying Qualification Based Selection Act to provide
26 these services. The design professional that prepares the scope
27 and performance criteria is prohibited from participating in
28 any design-build entity proposal for the project.

29 Section 10-25. Solicitation of design-build proposals.
30 Design-build contracts shall be procured by a request for
31 proposals process conforming to this Article. A request for
32 proposals shall be prepared for each project containing the

1 following minimum information:

2 (1) The State transportation construction agency that
3 will award the design-build contract.

4 (2) The desired schedule for the completion of the
5 project or the manner in which proposed schedules be
6 accepted.

7 (3) The qualification criteria for design-build
8 entities desiring to submit proposals.

9 (4) The terms and conditions of the contract that will
10 govern performance.

11 (5) The scope and performance criteria governing the
12 contract.

13 (6) The evaluation criteria used to score the technical
14 component of proposals.

15 (7) The requirements for identification of the
16 design-build team members.

17 (8) The date, time, and place that proposals are due
18 that in no case shall be less than 30 calendar days after
19 the date of the issuance of the request for proposals.

20 (9) The date, time, and place that the cost component
21 of accepted proposals will be publicly opened and read.

22 Section 10-30. Publication of requests for proposals. All
23 requests for design-build proposals shall be published in the
24 volume of the Illinois Procurement Bulletin used by the State
25 highway construction agency for its regular construction
26 contract lettings pursuant to the Illinois Procurement Code.

27 Section 10-35. Submission of proposals. Proposals shall be
28 accepted from design-build entities meeting the qualification
29 criteria of the request for proposals. Proposals shall consist
30 of a technical component and a cost component. The cost
31 component shall be contained in a separate sealed envelope
32 within the overall proposal submission. Proposals shall

1 include a bid bond in the form and security as designated in
2 the request for proposals. Proposals must be properly
3 identified and sealed. Proposals shall conform in all material
4 respects to the request for proposal or they may be rejected as
5 non-responsive. The State transportation construction agency
6 shall have the right to reject any and all proposals and to
7 waive technicalities. Any drawings and specifications
8 contained in proposals not selected shall remain the property
9 of the design-build entity. Proposals may be withdrawn prior to
10 evaluation for any reason.

11 Section 10-40. Selection committee. The State highway
12 construction agency shall establish a selection committee to
13 evaluate the technical components of the proposals. The
14 selection committee shall consist of 5 members, 3 of whom shall
15 be professionally licensed officers or employees of the agency
16 and 2 of whom shall be public members. The public members may
17 not be employed or associated with any firm holding a contract
18 with the State highway construction agency and shall be
19 nominated one each by the American Council of Engineering
20 Companies of Illinois and, in the following order on a rotating
21 basis, the Associated General Contractors of Illinois, the
22 Illinois Road and Transportation Builders Association, the
23 Illinois Asphalt Pavement Association, and the Illinois
24 chapter of the American Concrete Pavement Association. The
25 selection committee and individual members may be designated
26 for a set term or for a particular project as determined by the
27 agency. Each member of the selection committee shall certify
28 for each request for proposal that no conflict of interest
29 exists between the individual and each of the design-build
30 entities submitting proposals. If a conflict exists, the member
31 must be replaced before any review of proposals. The chief
32 contracting official responsible for the conduct of lettings in
33 accordance with the regular procedures of the State highway

1 construction agency shall serve as recording secretary to the
2 Selection Committee, and shall organize and schedule the
3 meetings of the committee.

4 Section 10-45. Procedures for selection and award. All
5 design-build entities submitting accepted proposals shall be
6 publicly disclosed after the deadline for submission.
7 Proposals shall not be opened, reviewed, or evaluated until
8 after the deadline for submission has passed. All proposals
9 received by the date and time due shall be opened and recorded.
10 The cost components shall remain sealed and securely retained
11 by the chief contracting official in accordance with the
12 regular procedures of the agency. The chief contracting
13 official shall transmit to the selection committee all
14 technical components for evaluation. The selection committee
15 shall evaluate and score the technical components in accordance
16 with the evaluation criteria set forth in the request. The
17 selection committee may require clarification of any element
18 contained in the technical component in order to determine
19 whether the proposal conforms to the request. The time for
20 evaluation shall be no less than 24 hours unless a longer
21 period is specified in the request. Scoring shall be based on
22 factors set forth in the evaluation criteria. The scoring shall
23 be from one through 100 points. Any technical component scoring
24 less than 77 points shall be marked unacceptable. After
25 evaluation, the chief contracting official shall reseal and
26 retain all technical components. The cost component of each
27 proposal containing an accepted technical component shall be
28 opened and publicly read at the date, time, and place specified
29 in the request. The right shall be reserved to reject any and
30 all proposals, to waive technicalities, and to solicit new
31 proposals. A design-build contract shall be awarded to the best
32 value proposal, provided the cost component is responsive to
33 the request, determined by calculation of the lowest adjusted

1 cost as follows:

2 (1) The cost component for a technical component scored
3 97-100 shall be divided by one.

4 (2) The cost component for a technical component scored
5 93-96 shall be divided by .99.

6 (3) The cost component for a technical component scored
7 89-92 shall be divided by .98.

8 (4) The cost component for a technical component scored
9 85-88 shall be divided by .97.

10 (5) The cost component for a technical component scored
11 81-84 shall be divided by .96.

12 (6) The cost component for a technical component scored
13 77-80 shall be divided by .95.

14 Section 10-50. Confidentiality. The status of a proposal as
15 accepted or not accepted and proposal scores shall not be
16 disclosed for any reason before the cost element is publicly
17 opened and read. After award, all proposals except the awarded
18 proposal shall be returned.

19 Section 10-55. Conditions. Projects selected for
20 procurement under the terms of this Article shall be subject to
21 the following conditions:

22 (1) Illinois Department of Transportation projects
23 shall be selected that have been designed through at least
24 the completion of Phase I preliminary engineering as
25 defined by the design policies and procedures of the
26 Department, provided that all necessary approvals have
27 been obtained from the Department and, as applicable, the
28 Federal Highway Administration, for an engineering study
29 and report that establish the location and scope of the
30 project, for the type, size, and location drawings for
31 bridge projects, and for environmental documentation that
32 analyzes the environmental impacts of the project

1 alternatives considered.

2 (2) All necessary rights-of-way, permanent and
3 temporary, shall be acquired prior to the commencement of
4 construction by the design-build entity. Nothing herein
5 shall prohibit the design-build entity from securing any
6 additional temporary interests or rights of access deemed
7 necessary to accomplish the project.

8 (3) The State highway construction agency shall secure
9 all necessary permits identified in the Phase I engineering
10 report.

11 (4) The State highway construction agency shall secure
12 any necessary relocation of utilities located on existing
13 or acquired right-of-way unless the request for proposals
14 provides that existing utilities will be planned for and
15 adjusted during construction. Notwithstanding any
16 provision contained in Section 9-113 of the Illinois
17 Highway Code respecting the provision of final engineering
18 plans prior to notice given to permitted utilities to
19 relocate, a permitted utility shall proceed to relocate and
20 adjust permitted facilities upon notice given pursuant to
21 Section 9-113 except that preliminary plans showing
22 acceptable final locations or adjusted positions of those
23 said utilities shall satisfy the notice requirements in
24 lieu of final plans; provided, however, that any utility
25 required to make subsequent adjustments on account of final
26 plans for the same project shall be compensated for the
27 cost of subsequent adjustments.

28 Section 10-60. Procurement and contract mandates.
29 Design-build contracts procured under this Article shall be
30 subject to all applicable federal and State laws governing the
31 performance of public contracts and all applicable ethical and
32 conflict of interest disclosures and contracting prohibitions
33 mandated by law.

1 Section 10-65. Design professional seal. Nothing in this
2 Article shall be deemed to eliminate, reduce, or affect the
3 requirements of the Structural Engineering Practice Act of
4 1989, the Professional Engineering Practice Act of 1989, the
5 Illinois Professional Land Surveyor Act of 1989, and the
6 Illinois Architecture Practice Act of 1989, including but not
7 limited to the preparation and sealing of plans and documents.

8 Section 10-70. Performance evaluation. The performance of
9 the design-build entity shall be evaluated on completion of a
10 contract. The evaluation shall be made available to the
11 design-build entity, which may submit a written response, and
12 the evaluation and response shall be retained by the agency.
13 The evaluation and response shall not be made available to any
14 other person or firm and are exempt from disclosure under the
15 Freedom of Information Act.

16 Section 10-75. Rules and regulations. The State highway
17 construction agencies shall not be required to adopt rules and
18 regulations pursuant to the Illinois Administrative Procedures
19 Act in order to implement this Act. All policies and procedures
20 adopted to implement this Act shall be identified and published
21 on the web site maintained by the Department of Transportation.

22 Section 10-80. Report. The State highway construction
23 agencies shall, jointly or severally, submit an evaluation
24 report as required by Section 10-10 of this Act. The agencies
25 shall solicit, accept, and respond to comments provided by the
26 industry groups or associations providing appointed public
27 members to the selection committee and shall incorporate the
28 comments and responses into the report. The report shall be due
29 and filed with the Procurement Policy Board and the leadership
30 of the General Assembly no later than December 31, 2007.

1 ARTICLE 90

2 AMENDATORY PROVISIONS

3 Section 90-5. The Illinois Procurement Code is amended by
4 changing Section 30-30 as follows:

5 (30 ILCS 500/30-30)

6 Sec. 30-30. Contracts in excess of \$250,000. For building
7 construction contracts in excess of \$250,000, separate
8 specifications shall be prepared for all equipment, labor, and
9 materials in connection with the following 5 subdivisions of
10 the work to be performed:

11 (1) plumbing;

12 (2) heating, piping, refrigeration, and automatic
13 temperature control systems, including the testing and
14 balancing of those systems;

15 (3) ventilating and distribution systems for
16 conditioned air, including the testing and balancing of
17 those systems;

18 (4) electric wiring; and

19 (5) general contract work.

20 The specifications must be so drawn as to permit separate
21 and independent bidding upon each of the 5 subdivisions of
22 work. All contracts awarded for any part thereof shall award
23 the 5 subdivisions of work separately to responsible and
24 reliable persons, firms, or corporations engaged in these
25 classes of work. The contracts, at the discretion of the
26 construction agency, may be assigned to the successful bidder
27 on the general contract work or to the successful bidder on the
28 subdivision of work designated by the construction agency
29 before the bidding as the prime subdivision of work, provided
30 that all payments will be made directly to the contractors for
31 the 5 subdivisions of work upon compliance with the conditions

1 of the contract. A contract may be let for one or more
2 buildings in any project to the same contractor. The
3 specifications shall require, however, that unless the
4 buildings are identical, a separate price shall be submitted
5 for each building. The contract may be awarded to the lowest
6 responsible bidder for each or all of the buildings included in
7 the specifications.

8 Until a date 2 years after the effective date of this
9 amendatory Act of the 93rd General Assembly, the requirements
10 of this Section do not apply to the construction of an
11 Emergency Operations Center for the Illinois Emergency
12 Management Agency if (i) the majority of the funding for the
13 project is from federal funds, (ii) the bid of the successful
14 bidder identifies the name of the subcontractor, if any, and
15 the bid proposal costs for each of the 5 subdivisions of work
16 set forth in this Section, and (iii) the contract entered into
17 with the successful bidder provides that no identified
18 subcontractor may be terminated without the written consent of
19 the Capital Development Board.

20 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

21 ARTICLE 95

22 SEVERABILITY

23 Section 95-5. Severability. The provisions of this Act are
24 severable under Section 1.31 of the Statute on Statutes.

25 ARTICLE 99

26 EFFECTIVE DATE

27 Section 99-5. Effective date. This Act takes effect upon
28 becoming law."