



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3986

Introduced 2/26/2009, by Rep. Kevin Joyce

SYNOPSIS AS INTRODUCED:

70 ILCS 1505/26.10-4 new
70 ILCS 1505/26.10-5 new
70 ILCS 1505/26.10-6 new
70 ILCS 1505/26.10-7 new
70 ILCS 1505/26.10-8 new
70 ILCS 1505/26.10-9 new
70 ILCS 1505/26.10-10 new
70 ILCS 1505/26.10-11 new

Amends the Chicago Park District Act. Authorizes the Chicago Park District to enter into "design-build" contracts. Defines "design-build". Specifies the solicitation process for design-build proposals. Sets forth the requirements for the award of design-build contracts.

LRB096 09396 RLJ 19553 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Chicago Park District Act is amended by
5 adding Sections 26.10-4, 26.10-5, 26.10-6, 26.10-7, 26.10-8,
6 26.10-9, 26.10-10, and 26.10-11 as follows:

7 (70 ILCS 1505/26.10-4 new)

8 Sec. 26.10-4. Definitions. The following terms, whenever
9 used or referred to in this Act, have the following meaning
10 unless the context requires a different meaning:

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

13 "Design-bid-build" means the traditional delivery system
14 used on public projects that incorporates the Local Government
15 Professional Services Selection Act (50 ILCS 510/) and the
16 principles of competitive selection.

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

22 "Design-build contract" means a contract for a public
23 project under this Act between the Chicago Park District and a

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

1 proposals as defined in this Act and may include the
2 specialized experience, technical qualifications and
3 competence, capacity to perform, past performance, experience
4 with similar projects, assignment of personnel to the project,
5 and other appropriate factors. Price may not be used as a
6 factor in the evaluation of Phase I 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
11 Chicago Park District 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 "Guaranteed maximum price" means a form of contract in
22 which compensation may vary according to the scope of work
23 involved but in any case may not exceed an agreed total amount.

24 (70 ILCS 1505/26.10-5 new)

25 Sec. 26.10-5. Authorization for design-build;

1 advertisement.

2 (a) The Chicago Park District shall have the power to enter
3 into design-build contracts. In addition to the requirements
4 set forth in its ordinances, the Chicago Park District shall
5 advertise a design-build solicitation at least once in a daily
6 newspaper of general circulation in Cook County. The date that
7 Phase I submissions by design-build entities are due must be at
8 least 14 calendar days after the date the newspaper
9 advertisement for design-build proposals is first published.
10 The advertisement shall identify the design-build project, the
11 due date, the place and time for Phase I submissions, and the
12 place where proposers can obtain a complete copy of the request
13 for design-build proposals, including the criteria for
14 evaluation and the scope and performance criteria. The Chicago
15 Park District is not precluded from using other media or from
16 placing advertisements in addition to the one required under
17 this subsection.

18 (b) The Chicago Park District may reject any and all bids
19 and proposals received and may readvertise for bids or issue a
20 new request for design-build proposals.

21 (70 ILCS 1505/26.10-6 new)

22 Sec. 26.10-6. Solicitation of design-build proposals.

23 (a) When the Chicago Park District elects to use the
24 design-build delivery method, it must issue a notice of intent
25 to receive proposals for the project at least 14 days before

1 issuing the request for the proposal. The Chicago Park District
2 must publish the advance notice in a daily newspaper of general
3 circulation in Cook County. The Chicago Park District is
4 encouraged to use publication of the notice in related
5 construction industry service publications. A brief
6 description of the proposed procurement must be included in the
7 notice. The Chicago Park District must provide a copy of the
8 request for proposal to any party requesting a copy.

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

12 (1) A preliminary schedule for the completion of the
13 contract.

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

17 (3) Prequalification criteria for design-build
18 entities wishing to submit proposals. The Chicago Park
19 District shall include, at a minimum, its normal
20 prequalification, licensing, registration, and other
21 requirements, but nothing contained herein precludes the
22 use of additional prequalification criteria by the Chicago
23 Park District.

24 (4) Material requirements of the contract, including
25 but not limited to, the proposed terms and conditions,
26 required performance and payment bonds, insurance, and the

1 entity's plan to comply with the utilization goals
2 established by the corporate authorities of the Chicago
3 Park District for minority and women business enterprises
4 and to comply with Section 2-105 of the Illinois Human
5 Rights Act.

6 (5) The performance criteria.

7 (6) The evaluation criteria for each phase of the
8 solicitation.

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

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

15 (d) The date that proposals are due must be at least 21
16 calendar days after the date of the issuance of the request for
17 proposal. In the event the cost of the project is estimated to
18 exceed \$12,000,000, then the proposal due date must be at least
19 28 calendar days after the date of the issuance of the request
20 for proposal. The Chicago Park District shall include in the
21 request for proposal a minimum of 30 days to develop the Phase
22 II submissions after the selection of entities from the Phase I
23 evaluation is completed.

24 (70 ILCS 1505/26.10-7 new)

25 Sec. 26.10-7. Development of design-build scope and

1 performance criteria.

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

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

17 (c) The scope and performance criteria shall be prepared by
18 a design professional who is an employee of the Chicago Park
19 District, or the Chicago Park District may contract with an
20 independent design professional selected under the Local
21 Government Professional Services Selection Act (50 ILCS 510/)
22 to provide these services.

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

1 (70 ILCS 1505/26.10-8 new)

2 Sec. 26.10-8. Procedures for design-build selection.

3 (a) The Chicago Park District must use a two-phase
4 procedure for the selection of the successful design-build
5 entity. Phase I of the procedure will evaluate and shortlist
6 the design-build entities based on qualifications, and Phase II
7 will evaluate the technical and cost proposals.

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

18 The Chicago Park District shall include the following
19 criteria in every Phase I evaluation of design-build entities:
20 (1) experience of personnel; (2) successful experience with
21 similar project types; (3) financial capability; (4)
22 timeliness of past performance; (5) experience with similarly
23 sized projects; (6) successful reference checks of the firm;
24 (7) commitment to assign personnel for the duration of the
25 project and qualifications of the entity's consultants; and (8)
26 ability or past performance in meeting or exhausting good faith

1 efforts to meet the utilization goals for minority and women
2 business enterprises established by the corporate authorities
3 of the Chicago Park District and in complying with Section
4 2-105 of the Illinois Human Rights Act. The Chicago Park
5 District may include any additional relevant criteria in Phase
6 I that it deems necessary for a proper qualification review.
7 The Chicago Park District may include any additional relevant
8 criteria in Phase I that it deems necessary for a proper
9 qualification review.

10 The Chicago Park District may not consider any design-build
11 entity for evaluation or award if the entity has any pecuniary
12 interest in the project or has other relationships or
13 circumstances, including but not limited to, long-term
14 leasehold, mutual performance, or development contracts with
15 the Chicago Park District, that may give the design-build
16 entity a financial or tangible advantage over other
17 design-build entities in the preparation, evaluation, or
18 performance of the design-build contract or that create the
19 appearance of impropriety. No design-build proposal shall be
20 considered that does not include an entity's plan to comply
21 with the requirements established in the minority and women
22 business enterprises and economically disadvantaged firms
23 established by the corporate authorities of the Chicago Park
24 District and with Section 2-105 of the Illinois Human Rights
25 Act.

26 Upon completion of the qualifications evaluation, the

1 Chicago Park District shall create a shortlist of the most
2 highly qualified design-build entities. The Chicago Park
3 District, in its discretion, is not required to shortlist the
4 maximum number of entities as identified for Phase II
5 evaluation, provided however, no less than 2 design-build
6 entities nor more than 6 are selected to submit Phase II
7 proposals.

8 The Chicago Park District shall notify the entities
9 selected for the shortlist in writing. This notification shall
10 commence the period for the preparation of the Phase II
11 technical and cost evaluations. The Chicago Park District must
12 allow sufficient time for the shortlist entities to prepare
13 their Phase II submittals considering the scope and detail
14 requested by the Chicago Park District.

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

25 The Chicago Park District shall include the following
26 criteria in every Phase II technical evaluation of design-build

1 entities: (1) compliance with objectives of the project; (2)
2 compliance of proposed services to the request for proposal
3 requirements; (3) quality of products or materials proposed;
4 (4) quality of design parameters; (5) design concepts; (6)
5 innovation in meeting the scope and performance criteria; and
6 (7) constructability of the proposed project. The Chicago Park
7 District may include any additional relevant technical
8 evaluation factors it deems necessary for proper selection.

9 The Chicago Park District shall include the following
10 criteria in every Phase II cost evaluation: the guaranteed
11 maximum project cost and the time of completion. The Chicago
12 Park District may include any additional relevant technical
13 evaluation factors it deems necessary for proper selection. The
14 guaranteed maximum project cost criteria weighing factor shall
15 not exceed 30%.

16 The Chicago Park District shall directly employ or retain a
17 licensed design professional to evaluate the technical and cost
18 submissions to determine if the technical submissions are in
19 accordance with generally accepted industry standards.

20 Upon completion of the technical submissions and cost
21 submissions evaluation, the Chicago Park District may award the
22 design-build contract to the highest overall ranked entity.

23 (70 ILCS 1505/26.10-9 new)

24 Sec. 26.10-9. Small design-build projects. In any case
25 where the total overall cost of the project is estimated to be

1 less than \$12,000,000, the Chicago Park District may combine
2 the two-phase procedure for design-build selection described
3 in Section 26.10-8 into one combined step, provided that all
4 the requirements of evaluation are performed in accordance with
5 Section 26.10-8.

6 (70 ILCS 1505/26.10-10 new)

7 Sec. 26.10-10. Submission of design-build proposals.
8 Design-build proposals must be properly identified and sealed.
9 Proposals may not be reviewed until after the deadline for
10 submission has passed as set forth in the request for
11 proposals. All design-build entities submitting proposals
12 shall be disclosed after the deadline for submission, and all
13 design-build entities who are selected for Phase II evaluation
14 shall also be disclosed at the time of that determination.

15 Phase II design-build proposals shall include a bid bond in
16 the form and security as designated in the request for
17 proposals. Proposals shall also contain a separate sealed
18 envelope with the cost information within the overall proposal
19 submission. Proposals shall include a list of all design
20 professionals and other entities to which any work may be
21 subcontracted during the performance of the contract.

22 Proposals must meet all material requirements of the
23 request for proposal or they may be rejected as non-responsive.
24 The Chicago Park District shall have the right to reject any
25 and all proposals.

1 The drawings and specifications of any unsuccessful
2 design-build proposal shall remain the property of the
3 design-build entity.

4 The Chicago Park District shall review the proposals for
5 compliance with the performance criteria and evaluation
6 factors.

7 Proposals may be withdrawn prior to the due date and time
8 for submissions for any cause. After evaluation begins by the
9 Chicago Park District, clear and convincing evidence of error
10 is required for withdrawal.

11 (70 ILCS 1505/26.10-11 new)

12 Sec. 26.10-11. Design-build award. The Chicago Park
13 District may award a design-build contract to the highest
14 overall ranked entity. Notice of award shall be made in
15 writing. Unsuccessful entities shall also be notified in
16 writing. The Chicago Park District may not request a best and
17 final offer after the receipt of proposals. The Chicago Park
18 District may negotiate with the selected design-build entity
19 after award but prior to contract execution for the purpose of
20 securing better terms than originally proposed, provided that
21 the salient features of the request for proposal are not
22 diminished.