



Rep. Mike Fortner

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1 AMENDMENT TO HOUSE BILL 3458

2 AMENDMENT NO. _____. Amend House Bill 3458, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Park District Code is amended by adding
6 Sections 8-50, 8-51, 8-52, 8-53, 8-54, 8-55, 8-56, and 8-57 as
7 follows:

8 (70 ILCS 1205/8-50 new)

9 Sec. 8-50. Definitions. For the purposes of Sections 8-50
10 through 8-57, the following terms shall have the following
11 meanings, unless the context requires a different meaning:

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

14 "Design-bid-build" means the traditional delivery system
15 used on public projects that incorporates the Local Government
16 Professional Services Selection Act and the principles of

1 competitive selection.

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

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

17 "Design-build entity" means any individual, sole
18 proprietorship, firm, partnership, joint venture, corporation,
19 professional corporation, or other entity that proposes to
20 design and construct any public project under this Act. A
21 design-build entity and associated design-build professionals
22 shall conduct themselves in accordance with the laws of this
23 State and the related provisions of the Illinois Administrative
24 Code, as referenced by the licensed design professionals Acts
25 of this State.

26 "Design professional" means any individual, sole

1 proprietorship, firm, partnership, joint venture, corporation,
2 professional corporation, or other entity that offers services
3 under the Illinois Architecture Practice Act of 1989, the
4 Professional Engineering Practice Act of 1989, the Structural
5 Engineering Practice Act of 1989, or the Illinois Professional
6 Land Surveyor Act of 1989.

7 "Evaluation criteria" means the requirements for the
8 separate phases of the selection process for design-build
9 proposals as defined in this Act and may include the
10 specialized experience, technical qualifications and
11 competence, capacity to perform, past performance, experience
12 with similar projects, assignment of personnel to the project,
13 and other appropriate factors. Price may not be used as a
14 factor in the evaluation of Phase I proposals.

15 "Landscape architect design professional" means any
16 person, sole proprietorship, or entity including, but not
17 limited to, a partnership, professional service corporation,
18 or corporation that offers services under the Illinois
19 Landscape Architecture Act of 1989.

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

23 "Request for proposal" means the document used by the park
24 district to solicit proposals for a design-build contract.

25 "Scope and performance criteria" means the requirements
26 for the public project, including, but not limited to: the

1 intended usage, capacity, size, scope, quality, and
2 performance standards; life-cycle costs; and other
3 programmatic criteria that are expressed in performance
4 oriented and quantifiable specifications and drawings that can
5 be reasonably inferred and are suited to allow a design-build
6 entity to develop a proposal.

7 (70 ILCS 1205/8-51 new)

8 Sec. 8-51. Authorization for design-build; advertisement.

9 (a) A park district shall have the power to enter into
10 design-build contracts. In addition to the requirements set
11 forth in its ordinances, the park district shall advertise a
12 design-build solicitation at least once in a daily newspaper of
13 general circulation within the county in which the park
14 district is located. The date that Phase I submissions by
15 design-build entities are due must be at least 14 calendar days
16 after the date the newspaper advertisement for design-build
17 proposals is first published. The advertisement shall identify
18 the design-build project, the due date, the place and time for
19 Phase I submissions, and the place where proposers may obtain a
20 complete copy of the request for design-build proposals,
21 including the criteria for evaluation and the scope and
22 performance criteria. The park district is not precluded from
23 using other media or from placing advertisements in addition to
24 the one required under this subsection.

25 (b) A park district may reject any and all bids and

1 proposals received and may readvertise for bids or issue a new
2 request for design-build proposals.

3 (70 ILCS 1205/8-52 new)

4 Sec. 8-52. Solicitation of design-build proposals.

5 (a) When a park district elects to use the design-build
6 delivery method, it must issue a notice of intent to receive
7 proposals for the project at least 14 days before issuing the
8 request for proposal. The park district shall publish notice of
9 the request for the design-build proposal in a newspaper of
10 general circulation within the county in which the park
11 district is located. The park district shall, if possible, post
12 plans and specifications in a related construction industry
13 service publication. A brief description of the proposed
14 procurement must be included in the notice. The park district
15 must provide a copy of the request for proposal to any party
16 requesting a copy.

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

20 (1) A preliminary schedule for the completion of the
21 contract.

22 (2) The proposed budget for the project, the source of
23 funds, and the funds available at the time the request for
24 proposal is submitted.

25 (3) Prequalification criteria for design-build

1 entities wishing to submit proposals. The park district
2 shall include, at a minimum, its normal prequalification,
3 licensing, registration, and other requirements, but
4 nothing contained in this Section precludes the use of
5 additional prequalification criteria by the park district.

6 (4) Material requirements of the contract, including,
7 but not limited to, the proposed terms and conditions,
8 required performance and payment bonds, insurance, and the
9 entity's plan to comply with the utilization goals
10 established by the corporate authorities of the park
11 district for minority and women business enterprises and to
12 comply with Section 2-105 of the Illinois Human Rights Act.

13 (5) The performance criteria.

14 (6) The evaluation criteria for each phase of the
15 solicitation.

16 (7) The number of entities to be considered for the
17 technical and cost evaluation phase.

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

22 (d) The date that proposals are due must be at least 21
23 calendar days after the date of the issuance of the request for
24 proposal. In the event the construction portion of the cost of
25 the project is estimated to exceed \$12,000,000, then the
26 proposal due date must be at least 28 calendar days after the

1 date of the issuance of the request for proposal. The park
2 district shall include in the request for proposal a minimum of
3 30 days to develop the Phase II submissions after the selection
4 of entities from the Phase I evaluation is completed.

5 (70 ILCS 1205/8-53 new)

6 Sec. 8-53. Development of design-build scope and
7 performance criteria.

8 (a) The park district shall develop, with the assistance of
9 a licensed design professional or a landscape architect design
10 professional, as appropriate, a request for proposal, which
11 shall include scope and performance criteria. The scope and
12 performance criteria must be in sufficient detail and contain
13 adequate information to reasonably apprise the qualified
14 design-build entities of the park district's overall
15 programmatic needs and goals, including criteria and
16 preliminary design plans, general budget parameters, schedule,
17 and delivery requirements.

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

24 (c) The scope and performance criteria shall be prepared by
25 a design professional or a landscape architect design

1 professional, as appropriate, who is an employee of the park
2 district, or the park district may contract with an independent
3 design professional selected under the Local Government
4 Professional Services Selection Act to provide these services.

5 (d) The design professional or landscape architect design
6 professional that prepares the scope and performance criteria
7 is prohibited from participating in any design-build entity
8 proposal for the project.

9 (70 ILCS 1205/8-54 new)

10 Sec. 8-54. Procedures for design-build selection.

11 (a) The park district must use a two-phase procedure for
12 the selection of the successful design-build entity. Phase I of
13 the procedure shall evaluate and shortlist the design-build
14 entities based on qualifications, and Phase II will evaluate
15 the technical and cost proposals.

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

1 following criteria in every Phase I evaluation of design-build
2 entities:

3 (1) experience of personnel;

4 (2) successful experience with similar project types;

5 (3) financial capability;

6 (4) timeliness of past performance;

7 (5) experience with similarly sized projects;

8 (6) successful reference checks of the firm;

9 (7) commitment to assign personnel for the duration of
10 the project;

11 (8) qualifications of the entity's consultants; and

12 (9) ability or past performance in meeting or
13 exhausting good faith efforts to meet the utilization goals
14 for minority and women business enterprises established by
15 the corporate authorities of the park district and in
16 complying with Section 2-105 of the Illinois Human Rights
17 Act.

18 The park district may include any additional relevant
19 criteria in Phase I that it deems necessary for a proper
20 qualification review.

21 The park district may not consider any design-build entity
22 for evaluation or award if the entity has any pecuniary
23 interest in the project or has other relationships or
24 circumstances, including, but not limited to, long-term
25 leasehold, mutual performance, or development contracts with
26 the park district, that may give the design-build entity a

1 financial or tangible advantage over other design-build
2 entities in the preparation, evaluation, or performance of the
3 design-build contract or that create the appearance of
4 impropriety. No design-build proposal shall be considered that
5 does not include an entity's plan to comply with the
6 requirements concerning minority and women business
7 enterprises and economically disadvantaged firms established
8 by the corporate authorities of the park district and with
9 Section 2-105 of the Illinois Human Rights Act.

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

23 (c) The park district shall include in the request for
24 proposal the evaluating factors to be used in the technical and
25 cost submission components of Phase II. Each request for
26 proposal shall establish, for both the technical and cost

1 submission components of Phase II, the relative importance
2 assigned to each evaluation factor and subfactor, including any
3 weighting of criteria to be employed by the park district. The
4 park district must maintain a record of the evaluation scoring
5 to be disclosed in the event of a protest regarding the
6 solicitation.

7 The park district shall include the following criteria in
8 every Phase II technical evaluation of design-build entities:

9 (1) compliance with objectives of the project;

10 (2) compliance of proposed services to the request for
11 proposal requirements;

12 (3) quality of products or materials proposed;

13 (4) quality of design parameters;

14 (5) design concepts;

15 (6) innovation in meeting the scope and performance
16 criteria; and

17 (7) constructability of the proposed project.

18 The park district may include any additional relevant
19 technical evaluation factors it deems necessary for proper
20 selection.

21 The park district shall include the following criteria in
22 every Phase II cost evaluation: the total project cost and the
23 time of completion. The park district may include any
24 additional relevant technical evaluation factors it deems
25 necessary for proper selection. The total project cost criteria
26 weighing factor shall not exceed 30%.

1 The park district shall directly employ or retain a
2 licensed design professional or landscape architect design
3 professional, as appropriate, to evaluate the technical and
4 cost submissions to determine if the technical submissions are
5 in accordance with generally accepted industry standards.

6 Upon completion of the technical submissions and cost
7 submissions evaluation, the park district may award the
8 design-build contract to the highest overall ranked entity.

9 (70 ILCS 1205/8-55 new)

10 Sec. 8-55. Small design-build projects. In any case where
11 the total overall cost of the project is estimated to be less
12 than \$12,000,000, the park district may combine the two-phase
13 procedure for design-build selection described in Section 8-50
14 into one combined step, provided that all the requirements of
15 evaluation are performed in accordance with Section 8-50.

16 (70 ILCS 1205/8-56 new)

17 Sec. 8-56. Submission of design-build proposals.
18 Design-build proposals must be properly identified and sealed.
19 Proposals may not be reviewed until after the deadline for
20 submission has passed as set forth in the request for
21 proposals. All design-build entities submitting proposals
22 shall be disclosed after the deadline for submission, and all
23 design-build entities who are selected for Phase II evaluation
24 shall also be disclosed at the time of that determination.

1 Phase II design-build proposals shall include a bid bond in
2 the form and security as designated in the request for
3 proposals. Proposals shall also contain a separate sealed
4 envelope with the cost information within the overall proposal
5 submission. Proposals shall include a list of all design
6 professionals, landscape architect design professionals, and
7 other entities to which any work may be subcontracted during
8 the performance of the contract.

9 Proposals must meet all material requirements of the
10 request for proposal or they may be rejected as non-responsive.
11 The park district shall have the right to reject any and all
12 proposals.

13 The drawings and specifications of any unsuccessful
14 design-build proposal shall remain the property of the
15 design-build entity.

16 The park district shall review the proposals for compliance
17 with the performance criteria and evaluation factors set forth
18 in this Act.

19 Proposals may be withdrawn before the due date and time for
20 submissions for any cause. After evaluation begins by the park
21 district, clear and convincing evidence of error is required
22 for withdrawal.

23 (70 ILCS 1205/8-57 new)

24 Sec. 8-57. Design-build award. The park district may award
25 a design-build contract to the highest overall ranked entity.

1 Notice of award shall be made in writing. Unsuccessful entities
2 shall also be notified in writing. The park district may not
3 request a best and final offer after the receipt of proposals.
4 The park district may negotiate with the selected design-build
5 entity after award but prior to contract execution for the
6 purpose of securing better terms than originally proposed,
7 provided that the salient features of the request for proposal
8 are not diminished.

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