



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1848

Introduced 2/15/2019, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-15.93  
30 ILCS 500/30-30  
330 ILCS 21/40

Amends the Illinois Procurement Code. Modifies the term "single prime" to mean the design-bid-build procurement delivery method for a building construction project in which the Capital Development Board or a public institution of higher education (currently, only the Capital Development Board) is the construction agency procuring 2 or more specified subdivisions of work. Provides that for building construction contracts in excess of \$250,000, separate specifications must (rather than may) be prepared for all equipment, labor, and materials in connection with the 7 (currently, 5) subdivisions of the work to be performed. Provides 2 additional subdivisions of work. Modifies requirements concerning specifications to be drawn so as to permit separate and independent bidding. Provides requirements for single prime projects in which the Capital Development Board or an institution of higher education is the construction agency procuring for building construction contracts in excess of \$250,000. Extends repeal and inoperative dates. Makes conforming changes. Effective December 15, 2019.

LRB101 10539 RJF 55645 b

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by  
5 changing Sections 1-15.93 and 30-30 as follows:

6 (30 ILCS 500/1-15.93)

7 (Section scheduled to be repealed on January 1, 2020)

8 Sec. 1-15.93. Single prime. "Single prime" means the  
9 design-bid-build procurement delivery method for a building  
10 construction project in which the Capital Development Board or  
11 a public institution of higher education is the construction  
12 agency procuring 2 or more subdivisions of work enumerated in  
13 paragraphs (1) through (7) ~~(5)~~ of subsection (a) of Section  
14 30-30 of this Code under a single contract. This Section is  
15 repealed on January 1, 2026 ~~2020~~.

16 (Source: P.A. 99-257, eff. 8-4-15.)

17 (30 ILCS 500/30-30)

18 Sec. 30-30. Design-bid-build construction.

19 (a) The provisions of this subsection are operative through  
20 December 31, 2025 ~~2019~~.

21 Except as provided in subsections (a-5) or (a-10), for For  
22 building construction contracts in excess of \$250,000,

1 separate specifications must ~~may~~ be prepared for all equipment,  
2 labor, and materials in connection with the following 7 5  
3 subdivisions of the work to be performed:

4 (1) plumbing;

5 (2) heating, piping, refrigeration, and automatic  
6 temperature control systems, including the testing and  
7 balancing of those systems;

8 (3) ventilating and distribution systems for  
9 conditioned air, including the testing and balancing of  
10 those systems;

11 (4) electric wiring; ~~and~~

12 (5) general contract work; ~~and~~

13 (6) fire protection; and

14 (7) asbestos abatement.

15 Only when a trade is estimated to have a construction  
16 contract in excess of \$100,000, the ~~The~~ specifications must ~~may~~  
17 be so drawn as to permit separate and independent bidding upon  
18 each of the 7 5 subdivisions of work. Except as provided in  
19 subsections (a-5) and (a-10), all ~~All~~ contracts awarded for any  
20 part thereof must ~~may~~ award the 7 5 subdivisions of work  
21 separately to responsible and reliable persons, firms, or  
22 corporations engaged in these classes of work. The contracts,  
23 at the discretion of the construction agency, may be assigned  
24 to the successful bidder on the general contract work or to the  
25 successful bidder on the subdivision of work designated by the  
26 construction agency before the bidding as the prime subdivision

1 of work, provided that all payments will be made directly to  
2 the contractors for the 7 ~~5~~ subdivisions of work upon  
3 compliance with the conditions of the contract.

4 (a-5) Beginning on the effective date of this amendatory  
5 Act of the 101st General Assembly and through December 31,  
6 2025, for single prime projects in which the Capital  
7 Development Board is the construction agency procuring for  
8 building construction contracts in excess of \$250,000,  
9 separate specifications may be prepared for all equipment,  
10 labor, and materials in connection with the 7 subdivisions of  
11 work enumerated in subsection (a). Any Capital Development  
12 Board construction contracts awarded for any part thereof may  
13 award 2 or more of the 7 subdivisions of work together or  
14 separately to responsible and reliable persons, firms, or  
15 corporations engaged in these classes of work.

16 For Capital Development Board single prime projects: (i)  
17 the bid of the successful low bidder shall identify the name of  
18 the subcontractor, if any, and the bid proposal costs for each  
19 of the 7 subdivisions of work set forth in subsection (a); (ii)  
20 the contract entered into with the successful bidder shall  
21 provide that no identified subcontractor may be terminated  
22 without the written consent of the Capital Development Board;  
23 and (iii) the contract shall comply with the disadvantaged  
24 business practices of the Business Enterprise for Minorities,  
25 Women, and Persons with Disabilities Act and the equal  
26 employment practices of Section 2-105 of the Illinois Human

1 Rights Act.

2 (a-10) Beginning on the effective date of this amendatory  
3 Act of the 101st General Assembly and through December 31,  
4 2025, for single prime projects in which an institution of  
5 higher education is a construction agency procuring for  
6 building construction contracts in excess of \$250,000,  
7 separate specifications may be prepared for all equipment,  
8 labor, and materials in connection with the 7 subdivisions of  
9 work enumerated in subsection (a). Any institution of higher  
10 education construction contract awarded for any part thereof  
11 may award 2 or more of the 7 subdivisions of work together or  
12 separately to responsible and reliable persons, firms, or  
13 corporations engaged in these classes of work if: (i) the  
14 project budget is at least \$20,000,000; (ii) the institution of  
15 higher education has submitted to the Procurement Policy Board  
16 a written request for a public hearing on waiver of the  
17 application of the requirement of subsection (a) to that  
18 project, including its reasons for seeking the waiver and why  
19 the waiver is in the best interest of the State; (iii) the  
20 institution of higher education has posted notice of the waiver  
21 hearing on its procurement web page and on the online  
22 Procurement Bulletin at least 15 working days before the  
23 hearing; (iv) the Procurement Policy Board, after conducting a  
24 public hearing on the waiver request, reviews and approves the  
25 request in writing before the award of the contract; (v) the  
26 successful low bidder has prequalified with the institution of

1 higher education, or in the event the institution of higher  
2 education does not have a prequalification process, the low  
3 bidder has prequalified with Capital Development Board; (vi)  
4 the bid of the successful low bidder identifies the name of the  
5 subcontractor, if any, and the bid proposal costs for each of  
6 the 7 subdivisions of work set forth in subsection (a); and  
7 (vii) the contract entered into with the successful bidder  
8 provides that no identified subcontractor may be terminated  
9 without the written consent of the institution of higher  
10 education.

11 With respect to any construction project described in this  
12 subsection (a-10), the institution of higher education shall:  
13 (i) provide to the Auditor General an affidavit that the waiver  
14 of the application of the requirements to subsection (a) is in  
15 the best interest of the State; (ii) specify in writing as a  
16 public record that the project shall comply with the Business  
17 Enterprise for Minorities, Women, and Persons with  
18 Disabilities Act and the equal employment practices of Section  
19 2-105 of the Illinois Human Rights Act; and (iii) report  
20 annually to the Governor, General Assembly, Procurement Policy  
21 Board, and Capital Development Board on the bidding, award, and  
22 performance of all single prime projects. On or after the  
23 effective date of this amendatory Act of the 101st General  
24 Assembly, each institution of higher education may award in  
25 each year single prime contracts with an aggregate total value  
26 of no more than \$100,000,000.

1 ~~Beginning on the effective date of this amendatory Act of~~  
2 ~~the 99th General Assembly and through December 31, 2019, for~~  
3 ~~single prime projects: (i) the bid of the successful low bidder~~  
4 ~~shall identify the name of the subcontractor, if any, and the~~  
5 ~~bid proposal costs for each of the 5 subdivisions of work set~~  
6 ~~forth in this Section; (ii) the contract entered into with the~~  
7 ~~successful bidder shall provide that no identified~~  
8 ~~subcontractor may be terminated without the written consent of~~  
9 ~~the Capital Development Board; (iii) the contract shall comply~~  
10 ~~with the disadvantaged business practices of the Business~~  
11 ~~Enterprise for Minorities, Women, and Persons with~~  
12 ~~Disabilities Act and the equal employment practices of Section~~  
13 ~~2-105 of the Illinois Human Rights Act; (iv) the Capital~~  
14 ~~Development Board shall submit a quarterly report to the~~  
15 ~~Procurement Policy Board with information on the general scope,~~  
16 ~~project budget, and established Business Enterprise Program~~  
17 ~~goals for any single prime procurement bid in the previous 3~~  
18 ~~months with a total construction cost valued at \$10,000,000 or~~  
19 ~~less; and (v) the Capital Development Board shall submit an~~  
20 ~~annual report to the General Assembly and Governor on the~~  
21 ~~bidding, award, and performance of all single prime projects.~~

22 ~~For building construction projects with a total~~  
23 ~~construction cost valued at \$5,000,000 or less, the Capital~~  
24 ~~Development Board shall not use the single prime procurement~~  
25 ~~delivery method for more than 50% of the total number of~~  
26 ~~projects bid for each fiscal year. Any project with a total~~

1 ~~construction cost valued greater than \$5,000,000 may be bid~~  
2 ~~using single prime at the discretion of the Executive Director~~  
3 ~~of the Capital Development Board.~~

4 ~~Beginning on the effective date of this amendatory Act of~~  
5 ~~the 99th General Assembly and through December 31, 2017, the~~  
6 ~~Capital Development Board shall, on a weekly basis: review the~~  
7 ~~projects that have been designed, and approved to bid; and, for~~  
8 ~~every fifth determination to use the single prime procurement~~  
9 ~~delivery method for a project under \$10,000,000, submit to the~~  
10 ~~Procurement Policy Board a written notice of its intent to use~~  
11 ~~the single prime method on the project. The notice shall~~  
12 ~~include the reasons for using the single prime method and an~~  
13 ~~explanation of why the use of that method is in the best~~  
14 ~~interest of the State. The Capital Development Board shall post~~  
15 ~~the notice on its online procurement webpage and on the online~~  
16 ~~Procurement Bulletin at least 3 business days following~~  
17 ~~submission. The Procurement Policy Board shall review and~~  
18 ~~provide its decision on the use of the single prime method for~~  
19 ~~every fifth use of the single prime procurement delivery method~~  
20 ~~for a project under \$10,000,000 within 7 business days of~~  
21 ~~receipt of the notice from the Capital Development Board.~~  
22 ~~Approval by the Procurement Policy Board shall not be~~  
23 ~~unreasonably withheld and shall be provided unless the~~  
24 ~~Procurement Policy Board finds that the use of the single prime~~  
25 ~~method is not in the best interest of the State. Any decision~~  
26 ~~by the Procurement Policy Board to disapprove the use of the~~



1 ~~single prime method shall be made in writing to the Capital~~  
2 ~~Development Board, posted on the online Procurement Bulletin,~~  
3 ~~and shall state the reasons why the single prime method was~~  
4 ~~disapproved and why it is not in the best interest of the~~  
5 ~~State.~~

6 (b) The provisions of this subsection are operative on and  
7 after January 1, 2026 ~~2020~~. For building construction contracts  
8 in excess of \$250,000, separate specifications shall be  
9 prepared for all equipment, labor, and materials in connection  
10 with the following 7 ~~5~~ subdivisions of the work to be  
11 performed:

12 (1) plumbing;

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

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

19 (4) electric wiring; ~~and~~

20 (5) general contract work; ~~and~~

21 (6) fire protection; and

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23 Only when a trade is estimated to have a construction  
24 contract in excess of \$100,000, the ~~The~~ specifications must be  
25 so drawn as to permit separate and independent bidding upon  
26 each of the 7 ~~5~~ subdivisions of work. All contracts awarded for

1 any part thereof shall award the 7 ~~5~~ subdivisions of work  
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3 corporations engaged in these classes of work. The contracts,  
4 at the discretion of the construction agency, may be assigned  
5 to the successful bidder on the general contract work or to the  
6 successful bidder on the subdivision of work designated by the  
7 construction agency before the bidding as the prime subdivision  
8 of work, provided that all payments will be made directly to  
9 the contractors for the 7 ~~5~~ subdivisions of work upon  
10 compliance with the conditions of the contract.

11 (Source: P.A. 99-257, eff. 8-4-15; 100-391, eff. 8-25-17.)

12 Section 10. The Quincy Veterans' Home Rehabilitation and  
13 Rebuilding Act is amended by changing Section 40 as follows:

14 (330 ILCS 21/40)

15 (Section scheduled to be repealed on July 17, 2023)

16 Sec. 40. Submission of proposals. Proposals must be  
17 properly identified and sealed. Proposals may not be reviewed  
18 until after the deadline for submission has passed as set forth  
19 in the request for proposal. All design-build entities  
20 submitting proposals shall be disclosed after the deadline for  
21 submission, and all design-build entities who are selected for  
22 Phase II evaluation shall also be disclosed at the time of that  
23 determination.

24 Proposals shall include a bid bond in the form and security

1 as designated in the request for proposal. Proposals shall also  
2 contain a separate sealed envelope with the cost information  
3 within the overall proposal submission. Proposals shall  
4 include a list of all design professionals and other entities  
5 as defined in Section 30-30 of the Illinois Procurement Code to  
6 which any work may be subcontracted during the performance of  
7 the contract. Any entity that will perform any of the 7 ~~5~~  
8 subdivisions of work defined in Section 30-30 of the Illinois  
9 Procurement Code must meet prequalification standards of the  
10 State construction agency.

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

15 The drawings and specifications of the proposal shall  
16 remain the property of the design-build entity.

17 The State construction agency shall review the proposals  
18 for compliance with the performance criteria and evaluation  
19 factors.

20 Proposals may be withdrawn prior to evaluation for any  
21 cause. After evaluation begins by the State construction  
22 agency, clear and convincing evidence of error is required for  
23 withdrawal.

24 (Source: P.A. 100-610, eff. 7-17-18.)

25 Section 99. Effective date. This Act takes effect December  
26 15, 2019.