

**SB2233**



**98TH GENERAL ASSEMBLY**

**State of Illinois**

**2013 and 2014**

**SB2233**

Introduced 2/15/2013, by Sen. Kwame Raoul

**SYNOPSIS AS INTRODUCED:**

50 ILCS 20/20 from Ch. 85, par. 1050  
50 ILCS 20/20.3  
50 ILCS 20/20.4  
50 ILCS 20/20.5  
50 ILCS 20/20.10  
50 ILCS 20/20.15  
50 ILCS 20/20.20  
50 ILCS 20/20.25

Amends the Public Building Commission Act. Removes the June 1, 2013 date of repeal for provisions regarding design-build contracts in Cook County. Effective immediately.

LRB098 05502 OMW 35537 b

**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 Public Building Commission Act is amended by  
5 changing Sections 20, 20.3, 20.4, 20.5, 20.10, 20.15, 20.20,  
6 and 20.25 as follows:

7 (50 ILCS 20/20) (from Ch. 85, par. 1050)

8 Sec. 20. Contracts let to lowest responsible bidder;  
9 competitive bidding; advertisement for bids; design-build  
10 contracts.

11 (a) All contracts to be let for the construction,  
12 alteration, improvement, repair, enlargement, demolition or  
13 removal of any buildings or other facilities, or for materials  
14 or supplies to be furnished, where the amount thereof is in  
15 excess of \$20,000, shall be awarded as a design-build contract  
16 in accordance with Sections 20.3 through 20.20 or shall be let  
17 to the lowest responsible bidder, or bidders, on open  
18 competitive bidding.

19 (b) A contract awarded on the basis of competitive bidding  
20 shall be awarded after public advertisement published at least  
21 once in each week for three consecutive weeks prior to the  
22 opening of bids, in a daily newspaper of general circulation in  
23 the county where the commission is located, except in the case

1 of an emergency situation, as determined by the chief executive  
2 officer. If a contract is awarded in an emergency situation,  
3 (i) the contract accepted must be based on the lowest  
4 responsible proposal after the commission has made a diligent  
5 effort to solicit multiple proposals by telephone, facsimile,  
6 or other efficient means and (ii) the chief executive officer  
7 must submit a report at the next regular meeting of the Board,  
8 to be ratified by the Board and entered into the official  
9 record, that states the chief executive officer's reason for  
10 declaring an emergency situation, the names of all parties  
11 solicited for proposals, and their proposals and that includes  
12 a copy of the contract awarded. Nothing contained in this  
13 Section shall be construed to prohibit the Board of  
14 Commissioners from placing additional advertisements in  
15 recognized trade journals. Advertisements for bids shall  
16 describe the character of the proposed contract in sufficient  
17 detail to enable the bidders thereon to know what their  
18 obligation will be, either in the advertisement itself, or by  
19 reference to detailed plans and specifications on file in the  
20 office of the Public Building Commission at the time of the  
21 publication of the first announcement. Such advertisement  
22 shall also state the date, time, and place assigned for the  
23 opening of bids. No bids shall be received at any time  
24 subsequent to the time indicated in said advertisement.

25 (c) In addition to the requirements of Section 20.3, the  
26 Commission shall advertise a design-build solicitation at

1 least once in a daily newspaper of general circulation in the  
2 county where the Commission is located. The date that Phase I  
3 submissions by design-build entities are due must be at least  
4 14 calendar days after the date the newspaper advertisement for  
5 design-build proposals is first published. The advertisement  
6 shall identify the design-build project, the due date, the  
7 place and time for Phase I submissions, and the place where  
8 proposers can obtain a complete copy of the request for  
9 design-build proposals, including the criteria for evaluation  
10 and the scope and performance criteria. The Commission is not  
11 precluded from using other media or from placing advertisements  
12 in addition to the one required under this subsection.

13 (d) The Board of Commissioners may reject any and all bids  
14 and proposals received and may readvertise for bids or issue a  
15 new request for design-build proposals.

16 (e) All bids shall be open to public inspection in the  
17 office of the Public Building Commission after an award or  
18 final selection has been made. The successful bidder for such  
19 work shall enter into contracts furnished and prescribed by the  
20 Board of Commissioners and in addition to any other bonds  
21 required under this Act the successful bidder shall execute and  
22 give bond, payable to and to be approved by the Commission,  
23 with a corporate surety authorized to do business under the  
24 laws of the State of Illinois, in an amount to be determined by  
25 the Board of Commissioners, conditioned upon the payment of all  
26 labor furnished and materials supplied in the prosecution of

1 the contracted work. If the bidder whose bid has been accepted  
2 shall neglect or refuse to accept the contract within five (5)  
3 days after written notice that the same has been awarded to  
4 him, or if he accepts but does not execute the contract and  
5 give the proper security, the Commission may accept the next  
6 lowest bidder, or readvertise and relet in manner above  
7 provided.

8 (f) In case any work shall be abandoned by any contractor  
9 or design-build entity, the Commission may, if the best  
10 interests of the Commission be thereby served, adopt on behalf  
11 of the Commission all subcontracts made by such contractor or  
12 design-build entity for such work and all such sub-contractors  
13 shall be bound by such adoption if made; and the Commission  
14 shall, in the manner provided in this Act, readvertise and  
15 relet, or request proposals and award design-build contracts  
16 for, the work specified in the original contract exclusive of  
17 so much thereof as shall be accepted. Every contract when made  
18 and entered into, as provided in this Section or Section 20.20,  
19 shall be executed, held by the Commission, and filed in its  
20 records, and one copy of which shall be given to the contractor  
21 or design-build entity.

22 (g) (Blank) ~~The provisions of this Section with respect to~~  
23 ~~design-build shall have no effect beginning 5 years after June~~  
24 ~~1, 2008 (the effective date of Public Act 95-595).~~

25 (Source: P.A. 95-595, eff. 6-1-08; 95-614, eff. 9-11-07;  
26 95-876, eff. 8-21-08.)

1 (50 ILCS 20/20.3)

2 (Section scheduled to be repealed on June 1, 2013)

3 Sec. 20.3. Solicitation of design-build proposals.

4 (a) When the Commission elects to use the design-build  
5 delivery method, it must issue a notice of intent to receive  
6 proposals for the project at least 14 days before issuing the  
7 request for the proposal. The Commission must publish the  
8 advance notice in a daily newspaper of general circulation in  
9 the county where the Commission is located. The Commission is  
10 encouraged to use publication of the notice in related  
11 construction industry service publications. A brief  
12 description of the proposed procurement must be included in the  
13 notice. The Commission must provide a copy of the request for  
14 proposal to any party requesting a copy.

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

18 (1) The name of the Commission.

19 (2) A preliminary schedule for the completion of the  
20 contract.

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

24 (4) Prequalification criteria for design-build  
25 entities wishing to submit proposals. The Commission shall

1 include, at a minimum, its normal prequalification,  
2 licensing, registration, and other requirements, but  
3 nothing contained herein precludes the use of additional  
4 prequalification criteria by the Commission.

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

12 (6) The performance criteria.

13 (7) The evaluation criteria for each phase of the  
14 solicitation.

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

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

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

1 proposal a minimum of 30 days to develop the Phase II  
2 submissions after the selection of entities from the Phase I  
3 evaluation is completed.

4 (e) (Blank) ~~This Section is repealed 5 years after the~~  
5 ~~effective date of this amendatory Act of the 95th General~~  
6 ~~Assembly.~~

7 (Source: P.A. 95-595, eff. 6-1-08.)

8 (50 ILCS 20/20.4)

9 (Section scheduled to be repealed on June 1, 2013)

10 Sec. 20.4. Development of design-build scope and  
11 performance criteria.

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

21 (b) Each request for proposal shall also include a  
22 description of the level of design to be provided in the  
23 proposals. This description must include the scope and type of  
24 renderings, drawings, and specifications that, at a minimum,  
25 will be required by the Commission to be produced by the



1 design-build entities.

2 (c) The scope and performance criteria shall be prepared by  
3 a design professional who is an employee of the Commission, or  
4 the Commission may contract with an independent design  
5 professional selected under the Local Government Professional  
6 Services Selection Act (50 ILCS 510/) to provide these  
7 services.

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

11 (e) (Blank) ~~This Section is repealed 5 years after the~~  
12 ~~effective date of this amendatory Act of the 95th General~~  
13 ~~Assembly.~~

14 (Source: P.A. 95-595, eff. 6-1-08.)

15 (50 ILCS 20/20.5)

16 (Section scheduled to be repealed on June 1, 2013)

17 Sec. 20.5. Procedures for design-build selection.

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

23 (b) The Commission shall include in the request for  
24 proposal the evaluating factors to be used in Phase I. These  
25 factors are in addition to any prequalification requirements of

1 design-build entities that the Commission has set forth. Each  
2 request for proposal shall establish the relative importance  
3 assigned to each evaluation factor and subfactor, including any  
4 weighting of criteria to be employed by the Commission. The  
5 Commission must maintain a record of the evaluation scoring to  
6 be disclosed in event of a protest regarding the solicitation.

7 The Commission shall include the following criteria in  
8 every Phase I evaluation of design-build entities: (1)  
9 experience of personnel; (2) successful experience with  
10 similar project types; (3) financial capability; (4)  
11 timeliness of past performance; (5) experience with similarly  
12 sized projects; (6) successful reference checks of the firm;  
13 (7) commitment to assign personnel for the duration of the  
14 project and qualifications of the entity's consultants; and (8)  
15 ability or past performance in meeting or exhausting good faith  
16 efforts to meet the utilization goals for minority and women  
17 business enterprises established by the corporate authorities  
18 of the Commission and in complying with Section 2-105 of the  
19 Illinois Human Rights Act. The Commission may include any  
20 additional relevant criteria in Phase I that it deems necessary  
21 for a proper qualification review. The Commission may include  
22 any additional relevant criteria in Phase I that it deems  
23 necessary for a proper qualification review.

24 The Commission may not consider any design-build entity for  
25 evaluation or award if the entity has any pecuniary interest in  
26 the project or has other relationships or circumstances,

1 including but not limited to, long-term leasehold, mutual  
2 performance, or development contracts with the Commission,  
3 that may give the design-build entity a financial or tangible  
4 advantage over other design-build entities in the preparation,  
5 evaluation, or performance of the design-build contract or that  
6 create the appearance of impropriety. No design-build proposal  
7 shall be considered that does not include an entity's plan to  
8 comply with the requirements established in the minority and  
9 women business enterprises and economically disadvantaged  
10 firms established by the corporate authorities of the  
11 Commission and with Section 2-105 of the Illinois Human Rights  
12 Act.

13 Upon completion of the qualifications evaluation, the  
14 Commission shall create a shortlist of the most highly  
15 qualified design-build entities. The Commission, in its  
16 discretion, is not required to shortlist the maximum number of  
17 entities as identified for Phase II evaluation, provided  
18 however, no less than 2 design-build entities nor more than 6  
19 are selected to submit Phase II proposals.

20 The Commission shall notify the entities selected for the  
21 shortlist in writing. This notification shall commence the  
22 period for the preparation of the Phase II technical and cost  
23 evaluations. The Commission must allow sufficient time for the  
24 shortlist entities to prepare their Phase II submittals  
25 considering the scope and detail requested by the Commission.

26 (c) The Commission shall include in the request for

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

9 The Commission shall include the following criteria in  
10 every Phase II technical evaluation of design-build entities:

11 (1) compliance with objectives of the project; (2) compliance  
12 of proposed services to the request for proposal requirements;  
13 (3) quality of products or materials proposed; (4) quality of  
14 design parameters; (5) design concepts; (6) innovation in  
15 meeting the scope and performance criteria; and (7)  
16 constructability of the proposed project. The Commission may  
17 include any additional relevant technical evaluation factors  
18 it deems necessary for proper selection.

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

25 The Commission shall directly employ or retain a licensed  
26 design professional to evaluate the technical and cost

1 submissions to determine if the technical submissions are in  
2 accordance with generally accepted industry standards.

3 Upon completion of the technical submissions and cost  
4 submissions evaluation, the Commission may award the  
5 design-build contract to the highest overall ranked entity.

6 (d) (Blank) ~~This Section is repealed 5 years after the~~  
7 ~~effective date of this amendatory Act of the 95th General~~  
8 ~~Assembly.~~

9 (Source: P.A. 95-595, eff. 6-1-08.)

10 (50 ILCS 20/20.10)

11 (Section scheduled to be repealed on June 1, 2013)

12 Sec. 20.10. Small design-build projects. In any case where  
13 the total overall cost of the project is estimated to be less  
14 than \$12,000,000, the Commission may combine the two-phase  
15 procedure for design-build selection described in Section 20.5  
16 into one combined step, provided that all the requirements of  
17 evaluation are performed in accordance with Section 20.5.

18 ~~This Section is repealed 5 years after the effective date~~  
19 ~~of this amendatory Act of the 95th General Assembly.~~

20 (Source: P.A. 95-595, eff. 6-1-08.)

21 (50 ILCS 20/20.15)

22 (Section scheduled to be repealed on June 1, 2013)

23 Sec. 20.15. Submission of design-build proposals.  
24 Design-build proposals must be properly identified and sealed.

1 Proposals may not be reviewed until after the deadline for  
2 submission has passed as set forth in the request for  
3 proposals. All design-build entities submitting proposals  
4 shall be disclosed after the deadline for submission, and all  
5 design-build entities who are selected for Phase II evaluation  
6 shall also be disclosed at the time of that determination.

7 Phase II design-build proposals shall include a bid bond in  
8 the form and security as designated in the request for  
9 proposals. Proposals shall also contain a separate sealed  
10 envelope with the cost information within the overall proposal  
11 submission. Proposals shall include a list of all design  
12 professionals and other entities to which any work identified  
13 in Section 30-30 of the Illinois Procurement Code as a  
14 subdivision of construction work may be subcontracted during  
15 the performance of the contract.

16 Proposals must meet all material requirements of the  
17 request for proposal or they may be rejected as non-responsive.  
18 The Commission shall have the right to reject any and all  
19 proposals.

20 The drawings and specifications of any unsuccessful  
21 design-build proposal shall remain the property of the  
22 design-build entity.

23 The Commission shall review the proposals for compliance  
24 with the performance criteria and evaluation factors.

25 Proposals may be withdrawn prior to the due date and time  
26 for submissions for any cause. After evaluation begins by the

1 Commission, clear and convincing evidence of error is required  
2 for withdrawal.

3 ~~This Section is repealed 5 years after the effective date~~  
4 ~~of this amendatory Act of the 95th General Assembly.~~

5 (Source: P.A. 95-595, eff. 6-1-08.)

6 (50 ILCS 20/20.20)

7 (Section scheduled to be repealed on June 1, 2013)

8 Sec. 20.20. Design-build award. The Commission may award a  
9 design-build contract to the highest overall ranked entity.  
10 Notice of award shall be made in writing. Unsuccessful entities  
11 shall also be notified in writing. The Commission may not  
12 request a best and final offer after the receipt of proposals.  
13 The Commission may negotiate with the selected design-build  
14 entity after award but prior to contract execution for the  
15 purpose of securing better terms than originally proposed,  
16 provided that the salient features of the request for proposal  
17 are not diminished.

18 ~~This Section is repealed 5 years after the effective date~~  
19 ~~of this amendatory Act of the 95th General Assembly.~~

20 (Source: P.A. 95-595, eff. 6-1-08.)

21 (50 ILCS 20/20.25)

22 (Section scheduled to be repealed on June 1, 2013)

23 Sec. 20.25. Minority and female owned enterprises; total  
24 construction budget.

1           (a) Each year, within 60 days following the end of a  
2 commission's fiscal year, the commission shall provide a report  
3 to the General Assembly addressing the utilization of minority  
4 and female owned business enterprises on design-build  
5 projects.

6           (b) The payments for design-build projects by any  
7 commission in one fiscal year shall not exceed 25% of the  
8 moneys spent on construction projects during the same fiscal  
9 year.

10          (c) (Blank) ~~This Section is repealed 5 years after the~~  
11 ~~effective date of this amendatory Act of the 95th General~~  
12 ~~Assembly.~~

13          (Source: P.A. 95-595, eff. 6-1-08.)

14           Section 99. Effective date. This Act takes effect upon  
15 becoming law.