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173 [6.1060](#) [Project Implementation](#)
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 175 [6.1080](#) [Diversity](#)

176

177 AUTHORITY: Implementing the Illinois Procurement Code [30 ILCS 500], Governmental Joint
 178 Purchasing Act [30 ILCS 525], Innovation for Transportation Infrastructure Act [630 ILCS 10],
 179 Section 2705-600 of the Department of Transportation Law [20 ILCS 2705], and the Public
 180 Private Agreements for the Illiana Expressway Act [605 ILCS 130] and authorized by Section 5-
 181 25 of the Illinois Procurement Code [30 ILCS 500], Section 2 of the Governmental Joint
 182 Purchasing Act [30 ILCS 525], Section 2705-600(7) of the Department of Transportation Law
 183 [20 ILCS 2705], Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175], Section
 184 15(a) of the Public Private Agreements for the Illiana Expressway Act [605 ILCS 130] and
 185 Section 75(b) of the Innovation for Transportation Infrastructure Act [630 ILCS 10].

186

187 SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 11602, effective July 1, 1998, for a
 188 maximum of 150 days; adopted at 22 Ill. Reg. 21060, effective November 25, 1998; emergency
 189 amendment at 29 Ill. Reg. 7832, effective May 12, 2005, for a maximum of 150 days; emergency
 190 expired October 8, 2005; amended at 29 Ill. Reg. 18147, effective October 19, 2005; recodified,
 191 pursuant to PA 96-795, from Department of Transportation, 44 Ill. Adm. Code 660, to Chief
 192 Procurement Officer for Department of Transportation, 44 Ill. Adm. Code 6, at 35 Ill. Reg.
 193 10158; amended at 35 Ill. Reg. 16518, effective September 30, 2011; amended at 36 Ill. Reg.
 194 230, effective December 21, 2011; expedited correction at 36 Ill. Reg. 14883, effective
 195 December 21, 2011; amended at 37 Ill. Reg. 5764, effective April 19, 2013; amended at 37 Ill.
 196 Reg. 15878, effective September 27, 2013; amended at 37 Ill. Reg. 19098, effective November
 197 15, 2013; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 40 Ill. Reg. 6693, effective
 198 April 7, 2016; amended at 44 Ill. Reg. 6222, effective April 8, 2020; Subparts C and K recodified
 199 at 44 Ill. Reg. 8590; amended at 48 Ill. Reg. _____, effective _____.

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201 SUBPART A: GENERAL

202

203 **Section 6.40 Definitions**

204

205 As used throughout this Part, terms defined in the Illinois Procurement Code have the same
 206 meaning as in the Code and as further defined in this Section. Each term listed in this Section
 207 has the meaning set forth as follows unless its use clearly requires a different meaning. Terms
 208 may be defined in particular Sections for use in that Section.

209

210 "Act" – ~~The~~ Illinois Governmental Joint Purchasing Act [30 ILCS 525].

211

212 "Addenda" – A formal change to a Request for Qualification (RFQ) or Request
 213 for Proposal (RFP) during the advertisement period in response to prospective
 214 proposer questions or as needed to clarify the requirements of the RFQ or RFP.

215

216 "Alternative Technical Concepts" or "ATC" – A proposed deviation from the
217 contract requirements set forth in the procurement documents for a
218 Transportation Facility that offers a solution that is equal to or better than the
219 requirements in the procurement documents. (Section 10 of the ITI Act)
220

221 "Amendment" – A written agreement signed by all~~both~~ parties, including a
222 change order, that alters the terms of an existing contract.
223

224 "Best Value" – Any selection process in which Proposals contain both price and
225 qualitative components and award is based upon a combination of price,
226 qualitative concepts, and other factors. (Section 10 of the ITI Act)
227

228 "Bid" – An offer made by a bidder in response to a contract item advertised in an
229 Invitation for Bids.
230

231 "Bidder" – Any person or entity that in fact submits a bid.
232

233 "Bureau of Innovative Project Delivery" or "IPD Bureau" – The business unit of
234 the Department established to identify, evaluate, and develop projects that may
235 benefit from innovative approaches, including the use of various forms of project
236 delivery allowable under law including CMGC, DB, PDB, and Public-Private
237 Partnerships.
238

239 "Candidate Project" – A project selected from the Multi-Year Highway
240 Improvement Program (MYP) that is under consideration for delivery through
241 CMGC, DB, or PDB.
242

243 "Candidate Projects List" – Projects deemed suitable for CMGC, DB, or PDB
244 delivery through the IPD Program.
245

246 "Capital Cost" – the cost to construct a Transportation Facility, including land
247 acquisition, roadways, structures, drainage, signing, signals and any other
248 elements to complete and open the Transportation Facility to traffic, and
249 excluding pre-construction service costs associated with a Progressive Design-
250 Build or Construction Manager/General Contractor project and the costs of
251 contracts for professional services hired by the Department, including, but not
252 limited to, the services provided by an EOR, an independent cost estimator, a PCE
253 and a COT.
254

255 "Change Order" – A change in a contract term, other than as specifically
256 provided for in the contract, which authorizes or necessitates any increase or
257 decrease in the cost of the contract or the time for completion for procurements
258 subject to the jurisdiction of the Chief Procurement Officers appointed pursuant

259 *to Section 10-20. (Section 1-15.12 of the Code)*

260

261 "Chief Procurement Officer" or "CPO" – The person appointed under Section 1-
262 15.15(2) of the Code.

263

264 "Code" – ~~The~~ Illinois Procurement Code [30 ILCS 500].

265

266 "Consensus Score" – A numerical score used to rank Proposer's submissions, such
267 as SOQs and proposals, that is determined collectively by the IPD Evaluation

268

Committee.

269

270 "Construction Agency" – The Illinois Department of Transportation for
271 construction or maintenance of roads, highways, bridges and airports as an agency
272 that enters into construction contracts as authorized by law or by delegation from
273 the CPO. (See Section 1-15.25 of the Code.)

274

275 "Construction Manager/General Contractor" or "CMGC Contractor" – A
276 proposer that has entered into a Construction Manager/General Contractor
277 contract with the Department under the ITI Act. (Section 10 of the ITI Act)

278

279 "Construction Manager/General Contractor Contract" or "CMGC Contract" – A
280 two-phase contract between the Department and a Construction
281 Manager/General Contractor that includes a first phase addressing
282 preconstruction services and a second phase addressing the construction of the
283 Transportation Facility. (Section 10 of the ITI Act)

284

285 "Construction Manager/General Contractor Project Delivery Method" or
286 "CMGC" – A method of procurement and contracting that makes a Construction
287 Manager/General Contractor who enters into a contract with the Department
288 responsible for certain preconstruction services and then, if the parties reach
289 agreement on key terms, responsible for construction of the Transportation
290 Facility. (Section 10 of the ITI Act)

291

292 "Construction Oversight Team" or "COT" – The person, firm, corporation,
293 organization, partnership or association, however organized, responsible for
294 providing design reviews, construction acceptance, oversight of utility
295 relocations, independent quality assurance surveys, independent material testing,
296 documentation of construction, risk management, and oversight of construction
297 activities, including construction management, maintenance of traffic, permit
298 compliance, and other services which may include: value engineering, stakeholder
299 coordination, or public involvement management, who is either part of the
300 internal Department staff or procured as a consultant by the Department.

301

302 "Construction-related Professional Services" – Those services within the scope of
303 the practice of architecture, professional engineering, structural engineering, or
304 land surveying, as defined in the Illinois Architecture Practice Act of 1989 [225
305 ILCS 305], the Professional Engineering Practice Act of 1989 [225 ILCS 325],
306 the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330], or the
307 Illinois Structural Engineering Practice Act of 1989 [225 ILCS 340]. (Section 57
308 of the ITI Act)

309
310 *"Construction-related Services" – Those services including design, layout,*
311 *inspection, support, feasibility or location study, research, development, planning,*
312 *or other investigative study undertaken by a construction agency concerning*
313 *construction or potential construction. (Section 1-15.20 of the Code)*

314
315 *"Construction Support" – All equipment, supplies, and services that are necessary*
316 *to the operation of a construction agency's construction program. Construction*
317 *Support does not include construction-related services. (Section 1-15.20 of the*
318 *Code)*

319
320 "Contract" – In addition to the definition of contract set forth in Section 1-15.30
321 of the Code, a contract is the written agreement entered into at the discretion of
322 the SPO between the Department and the contractor comprising such documents
323 as set forth in each individual agreement, including change orders, contract
324 adjustments, and renewals, and setting forth the obligations of the parties for the
325 performance of the contract.

326
327 "Contract Adjustment" – A written price adjustment that adds to or deducts from
328 a contract in accordance with provisions included in the original contract,
329 including but not limited to increases or decreases in quantities, incentives,
330 changed conditions and the addition of missing pay items called for in the
331 specifications.

332
333 "Contract Documents" – The comprehensive set of documents that contain the
334 commercial and technical requirements the project delivery partner must comply
335 with. This includes the CMGC Contract, DB Contract, or PDB Contract and
336 related exhibits, which may include the Technical Provisions, Developer
337 Proposal, and other pertinent documents.

338
339 "Contractor" – Any person, firm, corporation, organization, partnership or
340 association, however organized, and its affiliates, including its owners, directors,
341 officers, partners, managers, key employees and others engaged in primary
342 managerial or supervisory positions.

343
344 "Day" – A calendar day.

345
346 "Department" – The Illinois Department of Transportation.
347
348 "Design-build Contract" or "DB Contract" – A contract between the Department
349 and a Design-Builder under which the Design-Builder agrees to furnish
350 architectural, surveying, engineering, construction, and related services for a
351 Transportation Facility. (Section 10 of the ITI Act)
352
353 "Design-build Project Delivery Method" or "DB" – A method of procurement and
354 contracting that provides responsibility within a single contract between the
355 Department and a Design-Builder for the furnishing of architectural, surveying,
356 engineering, construction, and related services for a Transportation Facility.
357 (Section 10 of the ITI Act)
358
359 "Design-bid-build Project Delivery Method" or "DBB" – The traditional method
360 of procuring and contracting for design services and construction services used
361 separately in this State that incorporates the QBS and the principles of
362 competitive bidding under the Code. (Section 10 of the ITI Act)
363
364 "Design-Builder" – A Proposer that has entered into a DB Contract with the
365 Department under the ITI Act. (Section 10 of the ITI Act)
366
367 "Electronic Procurement" – Conducting all or some of the procurement function
368 over the internet. (Section 1-15.40 of the Code)
369
370 "Emergency Contract" – The initial written agreement for an emergency
371 procurement.
372
373 "Emergency Statement" – The statement filed by the CPO with the Procurement
374 Policy Board and the Auditor General setting forth the actual or estimated amount
375 expended, the name of the contractor involved, and the conditions and
376 circumstances requiring the emergency procurement. (See Section 20-30(c) of
377 the Code.)
378
379 ~~"Emergency Contract" – The initial written agreement for an emergency~~
380 ~~procurement.~~
381
382 "Engineer of Record" or "EOR" – The person, firm, corporation, organization,
383 partnership or association, however organized, responsible for signing and sealing
384 the plans and specifications and provides design services throughout the project
385 including Phase I design, Phase II design, and design support during construction,
386 who is either part of the internal Department staff or procured as a consultant by
387 the Department.

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"Evaluation Criteria" – The standards and requirements established by the Department against which the qualifications and Proposals of a Proposer will be assessed during the procurement of a CMGC, DB, or PDB Contract, as applicable. (Section 10 of the ITI Act)

"FHWA" – The Federal Highway Administration.

"General Contractor" or "GC" – Lead contractor under a CMGC Contract responsible for self-performing construction phase services and supervising subcontractors during the construction services phase.

"Germane" – In relationship to the modification, alteration or amendment of the terms of a contract by change order, the term "germane" means a change that is related to the original terms of the contract but that is not so substantial a departure from the original as to constitute a new contract.

"Governmental Unit" – The State of Illinois, any State agency as defined in Section 1-15.100 of the Illinois Procurement Code, officers of the State of Illinois, any public authority that has the power to tax, or any other public entity created by statute. (Section 1-15.47 of the Act)

"Guaranteed Maximum Price" or "GMP" – A not-to-exceed price for construction of a project under a CMGC Contract or PDB Contract.

"Independent Cost Estimator" or "ICE" – The person, firm, corporation, organization, partnership or association, however organized, who provides independent cost estimates based on any given submittal received from the CMGC, DB, or PDB Contractor, and is either part of the internal Department staff or procured as a consultant by the Department.

"Instructions to Proposers" or "ITP" – Procurement document issued with the RFP providing project specific instructions and requirements for Proposers to submit a compliant Proposal.

"IPD Bureau Chief" – Leads the day-to-day activities of the IPD Bureau and reports directly to the IDOT Director of the Office of Planning and Programming, which coordinates with and advances the goals and objectives of the Secretary for program development.

"IPD Evaluation Committee" – The committee assembled to evaluate and score statements of qualifications and Proposals for projects under the IPD Program. (Section 10 of the ITI Act)

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"IPD Program" – The collective activities and functions undertaken by the Department in the administration of CMGC, DB, and PDB projects under the ITI Act.

"ITI Act" – The Innovations for Transportation Infrastructure Act [630 ILCS 10].

"Lump Sum" – A fixed price for construction of a project based on plans and specifications under a CMGC Contract or PDB Contract.

"Master Contract" – A definite or indefinite quantity or requirements contract awarded in accordance with the ~~Procurement~~ Code, against which subsequent orders may be placed to meet the needs of the Department. A master contract may be for use by the Department or for multiple State purchasing entities and other entities as authorized under the Governmental Joint Purchasing Act. (Section 1-15.47 of the Code)

"Multiple Award" – An award that is made to 2 or more proposers, bidders or offerors for similar supplies, services, or construction-related services. (Section 1-15.48 of the Code)

"Multi-year Contract" – A multi-year contract is a contract with a time of performance of more than 12 months.

"Multi-year Highway – Multimodal Improvement Program" or "MYP" – The Department's improvement plan for Illinois' transportation system within a proposed six-year period.

"No-cost Contract" – A contract in which the State of Illinois does not make a payment to, or receive a payment from, the vendor, but the vendor has the contractual authority to charge an entity other than the State of Illinois for supplies or services at the State's contracted rate to fulfill the State's mandated requirements. (Section 1-15.49 of the Code)

"Notice of Intent" or "NOI" – A written advertisement issued by the Department to inform industry of an upcoming procurement for a CMGC, DB or PDB project. The NOI will include a description of the proposed procurement and project to be procured.

"Offerors" – For purposes of this Part, includes only persons or entities submitting proposals that are acceptable or potentially acceptable. The term does not include persons or entities who submitted unacceptable proposals.

474 "Participant Procuring Entity" – Any entity, including any state, that actively
475 contributes to the procurement, such as assisting in the development of
476 specifications, being a member of the evaluation committee, being a required
477 approver of the proposed award, or engaging in other similar activities that assist
478 with a procurement.

479
480 "Phase I" – Preliminary engineering and environmental studies.

481
482 "Phase II" – Final design, preparation of construction contract and related
483 documents, and right-of-way acquisition (if required).

484
485 "Phase III" – Construction and project commissioning.

486
487 "Piggyback Contract" – A form of cooperative purchasing through which the
488 Department is extended the pricing and terms of a contract entered into by another
489 state, another state agency or public department of this or any other state, the
490 federal government, or a group purchasing organization.

491
492 "PPB" – The Procurement Policy Board created by Section 5-5 of the Code.

493
494 "Preconstruction Phase Services" – All non-construction-related services that a
495 CMGC Contractor or PDB Contractor is required to perform during the first
496 phase of a CMGC Contract or a PDB Contract, and may include, but is not
497 limited to, giving advice to the Department regarding scheduling, work
498 sequencing, cost engineering, constructability, cost estimating, and risk
499 identification. (Section 10 of the ITI Act)

500
501 "Procurement Compliance Monitor" or "PCM" – The person appointed under
502 Section 10-15 of the Code.

503
504 "Procurement Documents" – Encompasses the comprehensive set of documents
505 that contain the commercial and technical requirements the project delivery
506 partner must comply with. This includes but may not be limited to the Requests
507 for Qualifications (RFQ), Instructions to Proposers (ITP), Request for Proposals
508 (RFP), Technical Provisions (TP), and the Contract.

509
510 "Procurement Engineer" or "PCE" – The person, firm, corporation, organization,
511 partnership or association, however organized, responsible for providing
512 preliminary engineering and procurement support services to the Department in
513 the planning and execution of projects within the IPD Program, who is either part
514 of the internal Department staff or procured as a consultant by the Department.

515
516 "Progressive Design-Build Project Delivery Method" or "PDB" – A type of

517 Design-Build project delivery method that consists of 2 phases, with the first
518 phase including budget-level design development, preconstruction services, and
519 negotiation of a contract price (either Lump Sum or GMP). The second phase
520 consists of final design, construction, and commissioning of the project by the
521 PDB Contractor under the PDB Contract. (Section 10 of the ITI Act)
522

523 "Progressive Design-Build Contract" or "PDB Contract" – A contract between the
524 Department and a Progressive Design-Build Contractor under which the
525 Progressive Design-Build Contractor agrees to design, construct, and commission
526 the project.
527

528 "Progressive Design-Build Contractor" or "PDB Contractor" – A Proposer that
529 has entered into a PDB Contract with the Department under the ITI Act.
530

531 "Progressive Design-Build Project" or "PDB Project" – A project procured by the
532 Department using the Progressive-Design project delivery method.
533

534 "Project Delivery Selection Report" – A report that documents the results of the
535 screening process and readiness assessment to support the decision to include a
536 Candidate Project in the Candidate Projects List.
537

538 "Proposal" – A response to a Request for Proposals.
539

540 "Proposer" – Any individual, sole proprietorship, firm, partnership, joint venture,
541 corporation, professional corporation, or other entity legally established to
542 conduct business in this State that proposes to be the CMGC, DB, or PDB
543 Contractor for any Transportation Facility under the ITI Act. (Section 10 of the
544 ITI Act)
545

546 "Purchasing Agency" – A State agency that enters into a contract at the direction
547 of a State purchasing officer or a chief procurement officer. (See Section 1-15.70
548 of the Code.)
549

550 "QBS Act" – Architectural, Engineering, and Land Surveying Qualifications
551 Based Selection Act [30 ILCS 535].
552

553 "Qualifications Based Selection" or "QBS" – The evaluation and selection of a
554 Proposer based solely on qualifications without consideration for price.
555

556 "Renewal" – An agreement between the parties to a contract to authorize an
557 additional contract period under the terms and conditions of the renewal provision
558 in the original contract.
559

560 "Request for Information" or "RFI" – The process of requesting information from
561 interested parties to aid the State in decision making. An RFI is not a
562 procurement method and does not result directly in the award of a contract.

563
564 "Request for Proposals" or "RFP" – The document issued by the Department to
565 solicit proposals and describe the procurement process for a DB Contract, PDB
566 Contract or CMGC Contract in accordance with the Design-Build project delivery
567 method, Progressive Design-Build project delivery method or the Construction
568 Manager/General Contractor project delivery method, as applicable. (Section 10
569 of the ITI Act)

570
571 "Request for Qualifications" or "RFQ" – The document issued by the Department
572 in the first phase of a two-phase procurement to solicit qualifications from
573 Proposers in accordance with the Design-Build project delivery method,
574 Progressive Design-Build project delivery method or the Construction
575 Manager/General Contractor project delivery method, as applicable. (Section 10
576 of the ITI Act)

577
578 "Responsible" – The capability, integrity and reliability of a bidder, offeror or
579 contractor that, in all respects, will assure good faith performance to undertake
580 and complete fully the requirements of a contract.

581
582 "Responsive" – In the context of bidding procedures, the compliance in all
583 meaningful, material respects with the Invitation for Bids.

584
585 ~~"Request for Information" or "RFI" – The process of requesting information from~~
586 ~~interested parties to aid the State in decision making. An RFI is not a~~
587 ~~procurement method and does not result directly in the award of a contract.~~

588
589 "Satisfactory Evidence of Compliance" – A bidder's or proposer's certification or
590 other assurance of compliance in the contract bid proposal will constitute
591 satisfactory evidence of compliance and will allow a bidder to be considered a
592 responsible bidder or proposer on a construction contract under Section 30-22 of
593 the Code.

594
595 "Scope and Performance Requirements" – The activities, constructed elements,
596 and standards of performance the Department requires the design-builder or the
597 Construction Manager/General Contractor to comply with in the development of
598 the Transportation Facility, and may include, but is not limited to, the intended
599 usage, capacity, size, scope, quality and performance standards, life-cycle costs,
600 preliminary engineering, design, and other requirements as developed and
601 determined by the Department. (Section 10 of the ITI Act)

602

603 "Secretary" – The Secretary of the Illinois Department of Transportation.
604 (Section 10 of the ITI Act)

605
606 "Solicitation" – The document (e.g., ~~RFQIFB~~ or RFP) posted to the Bulletin
607 requesting interested contractors or vendors to submit a statement of
608 qualifications~~bid, offer~~, or proposal for evaluation by the State. An RFI is not
609 considered a solicitation.

610
611 "Special Provisions" – Additions and revisions to the Standard Specifications for
612 Road and Bridge Construction and the Supplemental Specifications and Recurring
613 Special Provisions (see the Department's website at
614 <http://www.idot.illinois.gov/home/resources/Manuals/Manuals-and-Guides>)
615 applicable to an individual contract.

616
617 "Specifications" – The body of directions, provisions, and requirements for
618 performance of prescribed work. Specifications include and may be referred to as
619 the Standard Specifications, which is a Department publication of specifications
620 approved for general application and repetitive use.

621
622 "State Purchasing Officer" or "SPO" – The person appointed under Section 10-10
623 of the Code.

624
625 "Statement of Qualifications" or "SOQ" – A formal response to an RFQ submitted
626 by interested parties seeking to compete for the right to receive an RFP and
627 submission of a Proposal.

628
629 "Stipend" – A payment made by the Department to unsuccessful Proposers who
630 submitted a compliant Proposal in exchange for authorization for the Department
631 to utilize the content of their Proposal in further development of projects.

632
633 "Subcontract" – A contractual agreement between a person or entity and a person
634 or entity who has a contract subject to the Code and this Part, pursuant to which
635 the subcontractor assumes obligation for performing specified work. (See Section
636 1-15.107 of the Code.)

637
638 "Subcontractor" – A person or entity that enters into a contractual agreement with
639 a total value of \$50,000 or more with a contractor who has a contract subject to
640 the Code. (See Section 1-15.108 of the Code.)

641
642 "Supplemental Specifications" – Additions and revisions to the Department's
643 Standard Specifications.

644
645 "Transportation Facility" – Any new or existing facility or group of facilities that

646 are the subject of a design-build contract, Progressive Design-Build Contract or a
647 Construction Manager/General Contractor contract, and includes highways,
648 roads, bridges, tunnels, overpasses, bus ways, guideways, ferries, airports or
649 other aviation facilities, public transportation facilities, vehicle parking facilities,
650 port facilities, rail facilities, stations, hubs, terminals, intermodal facilities, transit
651 facilities, or similar facilities used for the transportation of persons or goods,
652 together with any buildings, structures, parking areas, appurtenances, intelligent
653 transportation systems, and other property or facilities related to the operation or
654 maintenance of these facilities. (Section 10 of the ITI Act). For clarity, the
655 Department may, in its discretion, determine that multiple facilities be bundled for
656 delivery as a single "Transportation Facility".

657
658 (Source: Amended at 48 Ill. Reg. _____, effective _____)

659
660 SUBPART M: PROCUREMENT OF SERVICES UNDER CONSTRUCTION
661 MANAGER/GENERAL CONTRACTOR PROJECT, PROGRESSIVE
662 DESIGN-BUILD, AND DESIGN-BUILD DELIVERY METHODS

663
664 **Section 6.1000 Purpose**

665
666 For DBB projects, the architectural, engineering and land surveying services shall be procured in
667 compliance with the QBS Act. Construction management services shall be procured in
668 compliance with Article 33 of the Code (Construction Management Services). CMGC, DB, and
669 PDB services shall be procured in compliance with the ITI Act.

670
671 (Source: Added at 48 Ill. Reg. _____, effective _____)

672
673 **Section 6.1010 Other Acts**

674
675 The CPO shall review procurements for compliance with that applicable Acts listed in Section
676 30-45 of the Code. This review is governed by other agencies' responsibility for administration
677 of those other Acts (e.g., for the Prevailing Wage Act [820 ILCS 130], the Department of Labor),
678 and can include, but is not limited to, debarment, ineligibility status, or other sanctions as
679 determined by a State agency under those Acts.

680
681 (Source: Added at 48 Ill. Reg. _____, effective _____)

682
683 **Section 6.1020 Department Representatives**

- 684
685 a) For projects with an estimated cost over \$30,000,000 at the time the Department
686 makes a written determination that it is in the best interests of the State to use the
687 selected delivery method for that transportation facility, the Department shall
688 independently procure an owner's representative to supplement staff directly

689 employed by the Department to provide oversight, contract compliance services,
690 and other services related to the project. The Department may secure an owner's
691 representative through an on-call services contract for a particular project (on a
692 project-by-project basis) or for multiple projects. Owner's representative may be
693 one or more of the following:

694
695 b) Procurement Engineer (PCE)

- 696
697 1) The Department may appoint from internal transportation staff or procure
698 an owner's representative to serve as the PCE.
699
700 2) The PCE will provide services throughout the pre-procurement and
701 procurement phases including items such as Phase I design, procurement
702 document development and general engineering services in support of a
703 CMGC, PDB, or DB project.

704
705 c) Engineer of Record (EOR)

- 706
707 1) The Department may appoint from internal transportation staff or procure
708 an owner's representative to serve as the EOR.
709
710 2) The EOR will provide design services throughout the project including
711 Phase I design, Phase II design, and design support during construction.
712
713 3) The EOR will be responsible for collaborating with the CMGC contractor
714 during the preconstruction phase of a CMGC project.
715
716 4) The EOR is responsible for signing and sealing the plans and
717 specifications.

718
719 d) Independent Cost Estimator (ICE)

- 720
721 1) The Department may appoint from internal transportation staff or procure
722 an independent cost estimator to serve as the ICE.
723
724 2) The ICE may be furnished by the owner's representative provided the ICE
725 services are provided by staff who are independent from all other services
726 provided by the owner's representative.
727
728 3) Participation on any project shall disqualify the ICE and their
729 subcontractors from bidding on the same project should the selected
730 CMGC, PDB, or DB proposer be unsuccessful in negotiating a CMGC,
731 DB, or PDB contract with the Department or the Department cancels the

procurement after selection of a proposer, and the project is then re-procured using the same or different contracting methodology.

e) Construction Oversight Team (COT)

1) The Department may appoint from internal transportation staff or procure a construction oversight team to serve as the COT.

2) The COT will provide services throughout the final design and construction phases of a CMGC, PDB, or DB project for which it has been appointed.

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 6.1030 CMGC Procurement Process

a) The construction manager/general contractor project delivery method utilizes a CMGC contractor under a CMGC contract to provide pricing, constructability reviews, and risk analysis during design development. The CMGC contractor negotiates a guaranteed maximum price for the construction, and upon the Department's acceptance of the GMP and agreement on contract terms for construction, the CMGC contractor is given notice to proceed with construction. During the implementation phase, the CMGC contractor manages the construction and hiring of subcontractors to perform the construction work.

b) CMGC projects are implemented in four phases:

1) Pre-procurement Phase (Preliminary Design/Project Readiness)

2) Procurement Phase (Advertisement/Evaluation/Selection)

3) Preconstruction Phase (Design Advancement/Contract Price)

4) Implementation Phase (Construction)

c) Pre-procurement Phase

During the pre-procurement phase for a CMGC project, the Department will perform the typical project development activities associated with Phase I of the Department's project development process before procuring a CMGC contractor. These activities include preliminary engineering, engineering studies, environmental and permitting activities, to prepare for beginning the CMGC procurement.

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d) CMGC Procurement Phase

1) Overview

- A) The CMGC contractor is procured utilizing a single-phase or two-phase procurement process to inform a best-value selection of the successful CMGC contractor pursuant to a request for proposals. The decision to utilize a single phase or two phase procurement will be done in consultation with the Chief Procurement Office.
- B) Under a two-phase procurement, the Department will first issue a request for qualifications and then an RFP.

2) Selection and Award

- A) Each proposer submission, such as an SOQ and proposal, will be evaluated by the IPD evaluation committee. Each individual IPD evaluation committee member will review each submission independently, observing its strengths and weaknesses, based on project specific evaluation criteria provided in the procurement documents. After all IPD evaluation committee members have conducted an independent review, the IPD evaluation committee will meet to review each submission collectively and generate a consensus score for such submission. The consensus scores will be used to rank the proposers unless otherwise directed by the IPD bureau chief after consultation with the SPO/CPO.
- B) All IPD evaluation committee members will participate in interviews, if anticipated in the RFP and conducted. Each individual IPD evaluation committee member will review each interview independently, observing its strengths and weaknesses based on project specific evaluation criteria provided in the procurement documents. Once all interviews have been evaluated individually, the IPD evaluation committee will meet to confirm or update the consensus score for each proposer.
- C) The highest ranked proposer (inclusive of the interview score, if interviews were conducted) will be selected to serve as the CMGC contractor.
- D) The award will occur upon notification to the selected proposer and completion of any conditions to award specified in the RFP.

- 818 E) Once the Department has approved the selection, and after
819 consultation with the SPO/CPO, the proposers will be notified of
820 the selection results.
821
822 F) Once a CMGC contract is executed with the successful proposer,
823 the Department may offer a debrief meeting with unsuccessful
824 proposers.
825
826 3) Final Preconstruction Phase Services Cost Proposal
827
828 A) The selected CMGC contractor will prepare a preconstruction
829 phase services cost proposal inclusive of a detailed project scope
830 and price for providing the necessary preconstruction services to
831 reach an agreed price which is in line with any cost information
832 included in the selected proposal. The price will then be reviewed
833 and negotiated, to the extent necessary, with the Department.
834
835 B) The CMGC contract, inclusive of agreed preconstruction phase
836 services costs, will be executed and the Department will issue
837 notice to proceed with the preconstruction phase services.
838
839 C) If the CMGC is unable or unwilling to execute the CMGC
840 contract, the Department may award the project to the proposer
841 with the next best score or reprocur the project under any other
842 delivery method.
843
844 4) CMGC Preconstruction Phase
845
846 A) The Department and the CMGC contractor will work
847 collaboratively to advance the project design to a level of
848 completion necessary for the Department and the CMGC
849 contractor to reach a mutually agreed GMP for the construction of
850 the project.
851
852 B) The CMGC contractor shall submit a GMP for the construction of
853 the project unless otherwise directed by the IPD bureau chief to
854 submit a lump sum price.
855
856 C) If the Department and the CMGC contractor mutually agree on the
857 project scope, risk allocations, cost assumptions and the
858 commercial terms of the CMGC contract, the CMGC contractor
859 submits a GMP proposal for the construction work.
860

861 D) Upon agreement, the CMGC contract will be amended to reflect
862 the negotiated construction terms. If the Department and the
863 CMGC contractor are unable reach an agreed GMP, after
864 consultation with the SPO/CPO, the CMGC contract will be
865 terminated and the Department may award to the next highest
866 ranked proposer, if such proposer's proposal remains valid, or
867 reprocure the project under any other delivery method.

868
869 E) All work product produced by the CMCG contractor becomes the
870 property of the Department pursuant to the terms of an executed
871 CMGC contract.

872
873 (Source: Added at 48 Ill. Reg. _____, effective _____)

874
875 **Section 6.1040 PDB Procurement Process**

876
877 a) The progressive design-build project delivery method is a form of the design-
878 build project delivery method that employs a progressive approach in which the
879 Department and the selected progressive design-build contractor collaborate to
880 progress the design and refine the project scope to meet project objectives with
881 the goal of negotiating a mutually agreeable lump sum or guaranteed maximum
882 price for the design and construction work.

883
884 b) PDB Projects are implemented in four phases:

885
886 1) Pre-Procurement Phase (Preliminary Design/Project Readiness)

887
888 2) Procurement Phase (Advertisement/Evaluation/Selection)

889
890 3) Preconstruction Phase (Design Advancement/GMP)

891
892 4) Implementation Phase (Final Design/Construction)

893
894 c) PDB Pre-Procurement Phase

895 During the pre-procurement phase for a PDB project, the Department will
896 perform the typical project development activities associated with Phase I of the
897 Department's project development process before procuring a PDB contractor.
898 These activities include preliminary engineering, engineering studies,
899 environmental and permitting activities, to prepare for beginning the PDB
900 procurement.

901
902 d) PDB Procurement Phase

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1) Overview

- A) The PDB contractor is procured utilizing a single-phase or two-phase procurement process to inform a best-value selection of the successful PDB contractor pursuant to a request for proposals. A two-phase procurement shall be utilized unless the project is estimated to cost \$5,000,000 or less at the time the Department makes a written determination that it is in the best interests of the State to use the PDB delivery method for the project (in which case the Department may use either a single-phase or two-phase procurement), or the secretary, with consultation with the SPO/CPO, provides written approval that the Department may use a single-phase procurement for the specific project being procured.
- B) Under a single-phase procurement, the Department will issue only a request for proposals to procure the PDB contractor.
- C) Under a two-phase procurement, the Department will first issue a request for qualifications and then an RFP

2) Selection and Award

- A) Each proposer submission, such as an SOQ and proposal, will be evaluated by the IPD evaluation committee. Each individual IPD evaluation committee member will review each submission independently, observing its strengths and weaknesses based on project specific evaluation criteria provided in the procurement documents. After all IPD evaluation committee members have conducted an independent review, the IPD evaluation committee will meet to review each submission collectively and generate a consensus score for such submission. The consensus scores will be used to rank the proposers unless otherwise directed by the IPD bureau chief, after consultation with the SPO/CPO.
- B) All IPD evaluation committee members will participate in interviews, if anticipated in the RFP and conducted. Each individual IPD evaluation committee member will review each interview independently, observing its strengths and weaknesses based on project specific evaluation criteria provided in the procurement documents. Once all interviews have been evaluated individually, the IPD evaluation committee will meet to confirm or update the consensus score for each proposer.

- 947 C) The highest ranked proposer (inclusive of the interview score, if
948 interviews were conducted) will be selected to serve as the PDB
949 contractor.
- 950
- 951 D) The award will occur upon notification to the selected proposer
952 and completion of any conditions to award specified in the RFP.
- 953
- 954 E) Once the Department has approved the selection, and after
955 consultation with the SPO/CPO, the proposers will be notified of
956 the selection results.
- 957
- 958 F) Once a PDB contract is executed with the successful proposer, the
959 Department may offer a debrief meeting with unsuccessful
960 proposers.

961

962 3) Preconstruction Phase Services Cost Proposal

963

- 964 A) The selected PDB contractor will prepare preconstruction phase
965 services cost proposal inclusive of a detailed project scope and
966 price for providing the necessary preconstruction services to reach
967 an agreed lump sum or GMP which is in line with any cost
968 information provided in the selected proposal, which will then be
969 reviewed and negotiated, to the extent necessary, with the
970 Department.
- 971
- 972 B) The PDB contract, inclusive of the agreed preconstruction phase
973 services costs, will be executed and the Department will issue
974 notice to proceed with the preconstruction phase services.
- 975
- 976 C) If the PDB is unable or unwilling to execute the PDB contract, the
977 Department may award the project to the proposer with the next
978 best score or reprocure the project under any other delivery
979 method.

980

981 e) PDB Preconstruction Phase

982

- 983 1) The Department and the PDB contractor will work collaboratively to
984 advance the project design to a level of completion necessary for the
985 Department and the PDB contractor to reach a mutually agreed lump sum
986 or GMP.
- 987
- 988 2) Once the Department and the PDB contractor mutually agree on the
989 project scope, risk allocations, cost assumptions and the commercial terms

990 of the PDB contract, the PDB contractor submits a lump sum or GMP
991 proposal for the construction work.

992
993 3) Upon agreement, the PDB contract will be amended to reflect the
994 negotiated construction terms. If the Department and the PDB contractor
995 is unable to reach an agreed lump sum or GMP, after consultation with the
996 SPO/CPO, the PDB contract will be terminated and the Department may
997 either award to the next highest ranked proposer, if such proposer's
998 proposal remains valid, or reprocure the project under any other delivery
999 method.

1000
1001 4) All work product produced by the PDB contractor becomes the property
1002 of the Department pursuant to the terms of an executed PDB contract.
1003

1004 (Source: Added at 48 Ill. Reg. _____, effective _____)
1005

1006 **Section 6.1050 DB Procurement Process**
1007

1008 a) Design-build is an alternative project delivery method that allows a design-build
1009 contractor to perform design and construction concurrently, rather than
1010 sequentially as on DBB projects

1011
1012 b) DB projects are developed in the following three phases:
1013

1014 1) Pre-Procurement Phase (Preliminary Design/Project Readiness)

1015
1016 2) Procurement Phase (Advertisement/Evaluation/Selection)
1017

1018 3) Implementation Phase (Design/Construction)
1019

1020 c) DB Pre-Procurement Phase
1021 During the pre-procurement phase for a DB project, the Department will perform
1022 the typical project development activities associated with Phase I of the
1023 Department's project development process before procuring a DB contractor.
1024 These activities include preliminary engineering, engineering studies,
1025 environmental and permitting activities, to prepare for beginning the DB
1026 procurement.

1027
1028 d) DB Procurement Phase
1029

1030 1) Overview
1031

- 1032 A) The DB contractor is procured utilizing a single-phase or two-
1033 phase procurement process to inform a best-value selection of the
1034 successful DB contractor pursuant to a request for proposals. A
1035 two-phase procurement shall be utilized unless the project is
1036 estimated to cost \$5,000,000 or less at the time the Department
1037 makes a written determination that it is in the best interests of the
1038 State to use the DB delivery method for the project (in which case
1039 the Department may use either a single-phase or two-phase
1040 procurement), or the secretary, after consultation with the
1041 SPO/CPO, provides written approval that the Department may use
1042 a single-phase procurement for the specific project being procured.
1043
1044 B) Under a single-phase procurement, the Department will issue only
1045 a RFP to procure the DB contractor.
1046
1047 C) Under a two-phase procurement, the Department first issue a
1048 request for qualifications and then an RFP.
1049
1050 2) Alternative Technical Concepts
1051
1052 A) A proposer may submit one or more ATCs for the Department's
1053 review and approval to allow inclusion of the ATC in its proposal.
1054
1055 B) For the successful proposer, the ATC becomes the property of the
1056 Department after execution of the DB contract or payment of the
1057 stipend in accordance with subsection (d)(3) should the DB
1058 contract not be entered into by the parties.
1059
1060 C) For unsuccessful proposers, the ATC becomes the property of the
1061 Department after payment of the stipend in accordance with
1062 subsection (d)(3).
1063
1064 D) The Department may provide ATC review and one-on-one
1065 meetings with feedback to allow the proposer an opportunity to
1066 submit ATCs with all information needed for review and
1067 assessment.
1068
1069 E) The instruction to proposer will clarify any non-negotiable
1070 elements of a project and limitations on ATCs including possible
1071 FHWA concurrence requirements.
1072
1073 F) Information included in an ATC is kept confidential and is only
1074 disclosed by the Department to the selected proposer after the

1075 selected proposer has executed a confidentiality agreement and
1076 conflict of interest disclosure and the Department has acquired
1077 ownership of the unsuccessful proposers' ATCs.
1078

1079 3) Selection and Award
1080

1081 A) Each proposer submission, such as an SOQ and proposal, will be
1082 evaluated by the IPD evaluation committee. Each individual IPD
1083 evaluation committee member will review each submission
1084 independently, observing its strengths and weaknesses based on
1085 project specific evaluation criteria provided in the procurement
1086 documents. After all IPD evaluation committee members have
1087 conducted an independent review, the IPD evaluation committee
1088 will meet to review each submission collectively and generate a
1089 consensus score for such submission. The consensus scores will
1090 be used to rank the proposers unless otherwise directed by the IPD
1091 bureau chief, after consultation with the SPO/CPO.
1092

1093 B) The highest ranked proposer will be selected, after consultation
1094 with the SPO/CPO, to serve as the DB contractor.
1095

1096 C) The Department will notify each proposer promptly after initial
1097 selection.
1098

1099 D) The award will occur upon notification to the selected proposer
1100 and completion of any conditions to award specified in the RFP.
1101

1102 E) Once a DB contract is executed with the successful proposer, the
1103 Department may offer a debrief meeting with unsuccessful
1104 proposers.
1105

1106 F) If the successful proposer is unable or unwilling to execute the DB
1107 contract, the Department, after consultation with the SPO/CPO,
1108 may either award the DB contract to the next best value proposer
1109 or reprocure the project under any other delivery method.
1110

1111 4) Stipends
1112

1113 A) After execution of the DB contract, each unsuccessful proposer
1114 that submitted a compliant proposal and granted the Department
1115 the right to use any or all of the complaint proposer's work product
1116 contained in the complaint proposal is entitled to receive a stipend

1117 payment from the Department according to the terms, amount, and
1118 conditions specified in the ITP.

1119
1120 B) The Department's rights to the unsuccessful proposer's work
1121 product are contingent upon making the stipend payment.

1122
1123 C) If a procurement is cancelled after selection, the Department may
1124 readvertise and use any work product developed by the proposer
1125 for which the Department has paid the complaint proposer a
1126 stipend.

1127
1128 D) If the procurement is canceled prior to submittal of proposals, no
1129 stipend will be paid to any proposer.

1130
1131 E) If the procurement is canceled after proposals are submitted
1132 pursuant to an RFP, a stipend will be paid according to the terms,
1133 amount, and conditions specified in the ITP to all proposers
1134 submitting a compliant proposal to the extent the complaint
1135 proposers have granted the Department the right to use the
1136 complaint proposer's work product.

1137
1138 (Source: Added at 48 Ill. Reg. _____, effective _____)
1139

1140 **Section 6.1060 Project Implementation**

1141
1142 Oversight and contract compliance. The Department shall provide design reviews,
1143 constructability reviews, construction acceptance, oversight of utility relocations, independent
1144 quality assurance surveys, independent material testing, documentation of construction, risk
1145 mitigation, and oversight of construction activities, including construction management,
1146 maintenance of traffic, permit compliance, and other services which may include: value
1147 engineering, stakeholder coordination, or public involvement management through and in
1148 addition to the use of owner's representatives according to Section 6.1003.

1149
1150 (Source: Added at 48 Ill. Reg. _____, effective _____)
1151

1152 **Section 6.1070 Project Labor Agreement**

1153
1154 A CMGC contract, DB contract, or PDB contract shall require the design-build contractor,
1155 progressive design-build contractor or CMGC contractor to enter into a project labor agreement
1156 used by the Department unless the transportation project is federally funded and the application
1157 of those requirements would jeopardize the receipt or use of federal funds in support of the
1158 transportation project as determined by the Department. This requirement does not apply to
1159 construction-related professional services.

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(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 6.1080 Diversity

- a) The Department's Office of Business and Workforce Diversity shall retain a staff member or consultant to act as a liaison for the Department on CMGC, PDB and DB project for outreach, monitoring, and compliance with the Disadvantaged Business Enterprise (DBE) program, consistent with all applicable state and federal laws and regulations that govern DBE requirements.
- b) The Department shall determine attainable DBE utilization goals for all CMGC, PDB, and DB contracts in accordance with established Department and federal goal setting procedures for both professional and construction services.
- c) The Department shall determine attainable DBE utilization goals for professional services contracts entered into under any owner's representative procurement in accordance with established Department policies and procedures.
- d) Evaluation criteria developed for RFQ and RFP procurement documents shall address a proposer's record of past DBE utilization as well as planned future utilization of DBE consultants and contractors.
- e) The Department shall publish an annual report regarding projects sourced under the CMGC, PDB, and DB project delivery methods shall include project DBE utilization goals and DBE utilization achieved.

(Source: Added at 48 Ill. Reg. _____, effective _____)