**Section 8.15 Definition of Terms Used in This Part**

Terms used in this Part shall have the meanings given to them in the Code and this Section unless a term's use in a particular context clearly requires a different meaning. A term may be defined in a particular Section for use in that Section.

"A/E" – An architectural or engineering firm that is in the business of offering the practice of furnishing architectural, engineering or land surveying services for building projects, that is registered with the Department of Financial and Professional Regulation (DFPR) and licensed to practice architecture, structural engineering or professional engineering in the State of Illinois, or that is properly authorized under the Professional Service Corporation Act and by DFPR to practice architecture, structural engineering or professional engineering in the State of Illinois. For purposes of this Part, this includes licensed individuals transacting business as sole proprietorships, which are not required to be registered with DFPR. Solicitation for procurement of services of architects/engineers (A/Es), or related professionals, shall be in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and CDB's rules at 44 Ill. Adm. Code 1000.

"Amendment" − A change in the terms or conditions of a contract, including, but not limited to, alterations to the scope of work, price, schedule, terms or conditions covered by the contract or the manner of performance or completion of the contract terms. An amendment may memorialize an action authorized by specific language in the contract (e.g., exercise of an option or showing price decrease or increase based on CPI), or may memorialize non-material changes (e.g., change in the names of notice contacts or number of periodic status meetings). An amendment to a written contract must be in writing to be effective. An amendment to a construction contract is known as a "change order" and an amendment to a design or construction-related professional service contract is known as a "modification". A change order or a modification is an amendment, but an amendment is not always a change order or a modification.

"Award" − The identification of a vendor with whom CDB intends to enter into a contract as evidenced by posting a Notice to Award or a Notice of Intent to Award to the Illinois Procurement Bulletin after all CDB-required and SPO approvals have been obtained.

"Bid" – The response to an Invitation for Bids.

"Bid Documents" − Documents that include, but are not limited to, the Standard Documents for Construction, advertisement for bids, bid forms including PC-2, MBE/FBE Business Enterprise Participation Form, drawings, and product and performance specifications following a format standard in the construction industry.

"Bidder" – Any person who submits a bid.

"Bid Officer" − A person designated to receive and open bids or offers.

"Board" – The seven member Capital Development Board appointed by the Governor.

"Brand Name Specification" – A specification limited to one or more items specified by manufacturers' names or catalogue numbers. A bidder may request product substitutions as specified in the Project Manual or SDC.

"Bulletin" or "Procurement Bulletin" − The volume of the Illinois Procurement Bulletin published by the CPO-CDB.

"CDB Act" –The Capital Development Board Act [20 ILCS 3105], CDB's enabling Act.

"Capital Development Board" or "CDB" – The State agency established by the CDB Act.

"Change Order" – *A change in a contract term other than as specifically provided for in the contract* that is determined necessary to address needs that are best performed by the contract holder, and *that authorizes or necessitates any increase or decrease in the cost of the contract or the time of completion.* [720 ILCS 5/33E-2(c)] Change orders that increase or decrease the cost by a total of $10,000 or more or the time of completion by a total of 30 days or more must be accompanied by a written determination that includes a statement that *the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, the change is germane to the original contract as signed, or the change order is in the best interest* of the State. [720 ILCS 5/33E-9] Renewals, change of a vendor's name, and modifications to design or construction-related professional service contracts are not change orders.

"Chief Procurement Officer" or "CPO" or "CPO-CDB" – The chief procurement officer appointed by the Executive Ethics Commission for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board pursuant to Section 10-20(a)(2) of the Code.

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

"Construction Management Services" – *Includes, but is not limited to:*

*services provided in the planning and pre-construction phases of a construction project, including, but not limited to, consulting with, advising, assisting, and making recommendations to the Capital Development Board and architect, engineer, or licensed land surveyor on all aspects of planning for project construction; reviewing all plans and specifications as they are being developed and making recommendations with respect to construction feasibility, availability of material and labor, time requirements for procurement and construction, and projected costs; making, reviewing, and refining budget estimates based on the Board's program and other available information; making recommendations to the Board and the architect or engineer regarding the division of work in the plans and specifications to facilitate the bidding and awarding of contracts; soliciting the interest of capable contractors and taking bids on the project; analyzing the bids received; and preparing and maintaining a progress schedule during the design phase of the project and preparation of a proposed construction schedule; and*

*services provided in the construction phase of the project, including, but not limited to, maintaining competent supervisory staff to coordinate and provide general direction of the work and progress of the contractors on the project; directing the work as it is being performed for general conformance with working drawings and specifications; establishing procedures for coordinating among the Board, architect or engineer, contractors, and construction manager with respect to all aspects of the project and implementing those procedures; maintaining job site records and making appropriate progress reports; implementing labor policy in conformance with the requirements of the public owner; reviewing the safety and equal opportunity programs of each contractor for conformance with the public owner's policy and making recommendations; reviewing and processing all applications for payment by involved contractors and material suppliers in accordance with the terms of the contract; making recommendations and processing requests for changes in the work and maintaining records of change orders; scheduling and conducting job meetings to ensure orderly progress of the work; developing and monitoring a project progress schedule, coordinating and expediting the work of all contractors and providing periodic status reports to the owner and the architect or engineer; and establishing and maintaining a cost control system and conducting meetings to review costs.* [30 ILCS 500/33-5]

"Construction Manager" or "CM" – *Any individual, sole proprietorship, firm, partnership, corporation, or other legal entity providing construction management services for the Board and prequalified by the State in accordance with* Section 33-10 of the Code. [30 ILCS 500/33-5]

"Construction-related Professional Services" – Services performed that are governed by the Architectural, Engineering, and Land Surveying Qualifications-Based Selection Act. “Professional services” means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

"Contract" *– All types of State agreements, including change orders and renewals, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property, whether the State is lessor or lessee, or capital improvements, and including master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.* [30 ILCS 500/1-15.30]

"Contractor" or "Vendor" – An individual, firm, partnership, corporation, joint venture or other legal entity who seeks, or has entered into, a construction or construction-related professional services contract with CDB. The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Construction" – means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property.

"Day" – A calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday or a State holiday, as applicable, in which event the period shall run to the end of the next business day.

"DB Act" – The Design-Build Procurement Act [30 ILCS 537].

"Design and Construction Manual" or "DCM" – A contractual document that details the role of the A/E on a CDB construction project and contains standard forms and procedures.

"Design-Bid-Build" – The traditional delivery system used on public projects in this State that incorporates the Architectural, Engineering, and Land Surveying Qualification Based Selection Act and the principles of competitive selection in the Code.

"Design-Build" or "DB" – *A delivery system that provides responsibility within a single contract for the furnishing of architecture, engineering, land surveying and related services as required, and the labor, materials, equipment, and other construction services for the project.* [30 ILCS 537/10]

*"Design-Build Contract" – A contract for a public project under* the DB *Act between the State construction agency and a design-build entity to furnish architecture, engineering, land surveying, and related services as required, and to furnish the labor, materials, equipment, and other construction services for the project. The design-build contract may be conditioned upon subsequent refinements in scope and price and may allow the State construction agency to make modifications in the project scope without invalidating the design-build contract.* [30 ILCS 537/10]

*"Design-Build Entity" – Any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under* the DB *Act. A design-build entity and associated design-build professionals shall conduct themselves in accordance with the laws of this State and the related provisions of the Illinois Administrative Code, as referenced by the licensed design professionals Acts of this State.* [30 ILCS 537/10]

"Design Professional" – An individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation or other entity that offers services under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Licensing Act of 1989, or the Illinois Professional Land Surveyor Act of 1989.

"Designee" − A CDB employee or category of employees designated to exercise procurement authority on behalf of the CPO. A designee acts under procurement authority of the CPO or SPO and has the responsibility for taking procurement actions in accordance with applicable laws, rules and CDB's Standard Documents for Construction and Design and Construction Manual, as limited by the terms of the designation.

"Domestic Product" – A product that meets the requirements of the Procurement of Domestic Products Act.

"Drawings" – A technical drawing or set of drawings showing some or all requirements and elements of a construction project. Drawings fall within the definition of architecture or engineering, and follow a set of conventions that include particular views (floor plans, section, details, etc.), sheet sizes, units of measurement, assembly of components, annotations and cross references. Drawings are complemented by a project manual containing detailed construction specifications that are based on industry standards and which include general requirements, product and sourcing information, and instructions on performing the work. Individually or collectively these documents constitute "technical submissions".

"Evaluation Criteria" – The requirements for the separate phases of the selection process as defined in the QBS Act, the Design Build Procurement Act, or Article 33 of the Illinois Procurement Code for the selection of construction managers, and which may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.

"Germane" – For purposes of the limitations on the expenditure of funds in excess of a contract price under Section 30-35 of the Code, additional work to be performed or materials to be furnished is "germane" to the original contract only if, in the services or materials are closely or significantly related to, arise out of, or are directly incident to the original contract. An initial determination of germaneness shall be made by CDB in writing subject to approval of the CPO or SPO. Additional work that is such a substantial departure from the nature, scope or scale of the original contract that it amounts to a new contract or could not fairly been said to have been bid shall not be considered germane.

"Invitation for Bids" or "IFB" – *The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.* [30 ILCS 500/1-15.45]

"Modification" – *A* modification *in a contract term other than as specifically provided for in the contract* that is determined necessary to address needs that are best performed by the contract holder, and that *authorizes or necessitates any increase or decrease in the cost of the contract or the time of completion.* [720 ILCS 5/33E-2(c)] Modifications that increase or decrease the cost by a total of $10,000 or more or the time of completion by a total of 30 days or more must be accompanied by a written determination that includes a statement that *the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, the change is germane to the original contract as signed, or the change order is in the best interest* of the State. [720 ILCS 5/33E-9] Renewals, change of a vendor's name, and change orders to construction contracts are not modifications.

"Offer" or "Proposal" − The response to a Request for Proposal in the form of a letter of interest or statement of qualifications.

"Offeror" – A person who responds to a Request for Proposal.

"Person" − *Any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity.* [30 ILCS 500/1-15.55]

"Proceed Order" – A written directive or agreement amending a contract to allow germane and necessary work to proceed in a manner otherwise not provided for in the contract and subject to a fixed maximum price prior to the finalizing of a change order. The change order establishes the actual price, which may not exceed the maximum established by the proceed order.

"Procurement Compliance Monitor" or "PCM" − Person appointed by the Executive Ethics Commission (EEC) under Section 10-15 of the Code to oversee and review procurement processes, including services procured in accordance with the QBS Act [30 ILCS 535] and the DB Act [30 ILCS 537].

"Procurement Officer" – The CPO, SPO or CPO designee who is responsible for a particular procurement.

"Procurement Policy Board" or "PPB" − The body created by Section 5-5 of the Code.

"Project Manual" – Contractual documents that provide directions to the contractor that follow a format standard to the construction industry.

"Purchasing Agency" − *A State agency that enters into a contract at the direction of* the CPO or an SPO *authorized by the CPO*.[30 ILCS 500/1‑15.70]

"Qualifications Based Selection" or "QBS" –The selection of construction-related professional services in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

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

"Renewal" – Except for Real Property and Capital Improvement Leases, an agreement between the parties to a contract to authorize an additional contract period under the terms and conditions of the renewal provision in the contract.

"Request for Information" or "RFI" − The process of requesting information from potential vendors or other interested persons for the purpose of educating the State as to the range of available technical solutions and procurement options. This type of RFI is not a procurement method and does not result directly in the award of a contract.

"Request for Proposals" or "RFP" – A notice of projects and services to be procured that is published for purposes of the solicitation of letters of interest or statements of qualifications from construction managers under Article 33 of the Code or from architects, engineers or land surveyors under QBS or of proposals from design-build entities or commissioning agents.

"Respondent" – A person who responds to an RFI.

"Responsible Bidder" or"Offeror" – Includes a *person who has the capability in all respects to perform fully the contract requirements and* who has *the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or proposal is submitted for a State contract.* [30 ILCS 500/1-15.80] Additional responsibility requirements related to construction contractors are enumerated in Section 30-22 of the Code.

"Responsive Bidder" – *A person who has submitted a bid that conforms in all material respects to the* Invitation for Bids*.* [30 ILCS 500/1-15.85]

"Responsive Offeror" – a person who has submitted an offer that conforms in all material respects to the request for proposals.

"Scope and Performance Criteria" – The requirements for the public project, including, but not limited to, the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and quantifiable specifications and drawings that can be reasonably inferred and are suited to allow a DB entity to develop a proposal.

"Scoring Tool" – The document used by the individuals evaluating the responses to a solicitation to judge qualifications or otherwise show whether or how well the responses met requirements set forth in the solicitation.

"Single Prime" – A contracting method whereby one contractor provides all subdivisions of the work necessary to complete the construction project. These subdivisions include, but are not limited to, plumbing, heating, ventilating, electrical, fire protection, temperature control, and general work.

"Solicitation" – The document (e.g., IFB or RFP) posted to the Bulletin requesting interested contractors or vendors to submit a bid, offer or proposal for evaluation by the State. An RFI is not considered a solicitation.

"Specifications" *– Any description, provision or requirement pertaining to the physical or functional characteristics, or of the nature of, a supply, service, or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, professional or artistic service, construction, or other item for delivery.* [30 ILCS 500/1-15.95] Specifications include the Standard Documents for Construction, Design and Construction Projects, and Standard Documents for Design-Build Projects Manual for general application and repetitive use, as well as specifications applicable to a specific project which are contained in the Project Manual and drawings.

"Standard Documents for Construction" or "SDC" – The document incorporated and made a part of CDB construction contracts that contains the requirements and obligations of contractors and design professionals and that applies to all CDB projects.

"Standard Documents for Design-Build Projects" − A contractual document that details the role of the A/E on a CDB design-build project and contains standard forms and procedures.

"State" − The State of Illinois, a State agency as defined in the Code, and all officers and employees of the foregoing, as appropriate, collectively or individually.

"Statement of Qualifications" − The information supplied by a vendor in response to an RFP that describes the specific experience and expertise that may qualify the vendor to provide the services requested.

"State Purchasing Officer" or "SPO" – A person appointed by the CPO pursuant to Section 10-10 of the Code and assigned to exercise procurement authority with respect to CDB, at the direction of the CPO.

"State Witness" – An employee of the State who, as part of his or her official duties, is assigned to observe the opening of bids or sealed proposals.

*"Subcontract"* – *A contract between a person and a person who has a contract subject to the Code, pursuant to which the subcontractor provides to the contractor, or, if the contract price exceeds $50,000, another subcontractor, some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary contract, including, among other things, subleases from a lessee of a State contract.* [30 ILCS 500/1-15.107]

*"Subcontractor" – A person or entity that enters into a contractual agreement with a total value of $50,000 or more with a person or entity who has a contract subject to the Code pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract.* [30 ILCS 500/1-15.108]

"User Agency" − The agency or unit of government for which CDB carries out a construction project.