

1 AN ACT concerning construction management.

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

4 Section 5. The Illinois Procurement Code is amended by
5 adding Article 33 as follows:

6 (30 ILCS 500/Art. 33 heading new)

7 ARTICLE 33. CONSTRUCTION MANAGEMENT SERVICES

8 (30 ILCS 500/33-5 new)

9 Sec. 33-5. Definitions. In this Article:

10 "Construction management services" includes:

11 (1) services provided in the planning and
12 pre-construction phases of a construction project
13 including, but not limited to, consulting with, advising,
14 assisting, and making recommendations to the State agency
15 and architect, engineer, or licensed land surveyor on all
16 aspects of planning for project construction; reviewing
17 all plans and specifications as they are being developed
18 and making recommendations with respect to construction
19 feasibility, availability of material and labor, time
20 requirements for procurement and construction, and
21 projected costs; making, reviewing, and refining budget
22 estimates based on the State agency's program and other
23 available information; making recommendations to the
24 State agency and the architect or engineer regarding the
25 division of work in the plans and specifications to
26 facilitate the bidding and awarding of contracts;
27 soliciting the interest of capable contractors and taking
28 bids on the project; analyzing the bids received; and
29 preparing and maintaining a progress schedule during the
30 design phase of the project and preparation of a proposed

1 construction schedule; and

2 (2) services provided in the construction phase of
3 the project including, but not limited to, maintaining
4 competent supervisory staff to coordinate and provide
5 general direction of the work and progress of the
6 contractors on the project; directing the work as it is
7 being performed for general conformance with working
8 drawings and specifications; establishing procedures for
9 coordinating among the State agency, architect or
10 engineer, contractors, and construction manager with
11 respect to all aspects of the project and implementing
12 those procedures; maintaining job site records and making
13 appropriate progress reports; implementing labor policy
14 in conformance with the requirements of the public owner;
15 reviewing the safety and equal opportunity programs of
16 each contractor for conformance with the public owner's
17 policy and making recommendations; reviewing and
18 processing all applications for payment by involved
19 contractors and material suppliers in accordance with the
20 terms of the contract; making recommendations and
21 processing requests for changes in the work and
22 maintaining records of change orders; scheduling and
23 conducting job meetings to ensure orderly progress of the
24 work; developing and monitoring a project progress
25 schedule, coordinating and expediting the work of all
26 contractors and providing periodic status reports to the
27 owner and the architect or engineer; and establishing and
28 maintaining a cost control system and conducting meetings
29 to review costs.

30 "Construction manager" means any individual, sole
31 proprietorship, firm, partnership, corporation, or other
32 legal entity providing construction management services for a
33 State agency and prequalified by the State of Illinois in
34 accordance with 30 ILCS 500/33-10.

1 (30 ILCS 500/33-10 new)

2 Sec. 33-10. Prequalification. A State agency shall
3 establish procedures to prequalify firms seeking to provide
4 construction management services or may use prequalification
5 lists from other State agencies to meet the requirements of
6 this Section.

7 (30 ILCS 500/33-15 new)

8 Sec. 33-15. Public notice. Whenever a project requiring
9 construction management services is proposed for a State
10 agency, the State agency shall provide no less than a 14-day
11 advance notice published in a request for proposals setting
12 forth the projects and services to be procured. The request
13 for proposals shall be mailed to each firm that is
14 prequalified under Section 33-10. The request for proposals
15 shall include a description of each project and shall state
16 the time and place for interested firms to submit a letter of
17 interest and, if required by the request for proposals, a
18 statement of qualifications.

19 (30 ILCS 500/33-20 new)

20 Sec. 33-20. Evaluation procedure. A State agency shall
21 evaluate the construction managers submitting letters of
22 interest and other prequalified construction managers, taking
23 into account qualifications; and the State agency may
24 consider, but shall not be limited to considering, ability of
25 personnel, past record and experience, performance data on
26 file, willingness to meet time requirements, location,
27 workload of the construction manager, and any other
28 qualifications-based factors as the State agency may
29 determine in writing are applicable. The State agency may
30 conduct discussions with and require public presentations by
31 construction managers deemed to be the most qualified
32 regarding their qualifications, approach to the project, and

1 ability to furnish the required services.

2 A State agency shall establish a committee to select
3 construction managers to provide construction management
4 services. A selection committee may include at least one
5 public member. The public member may not be employed or
6 associated with any firm holding a contract with the State
7 agency nor may the public member's firm be considered for a
8 contract with that State agency while he or she is serving as
9 a public member of the committee.

10 In no case shall a State agency, prior to selecting a
11 construction manager for negotiation under Section 33-30,
12 seek formal or informal submission of verbal or written
13 estimates of costs or proposals in terms of dollars, hours
14 required, percentage of construction cost, or any other
15 measure of compensation.

16 (30 ILCS 500/33-25 new)

17 Sec. 33-25. Selection Procedure. On the basis of
18 evaluations, discussions, and any presentations, the State
19 agency shall select no less than 3 firms it determines to be
20 qualified to provide services for the project and rank them
21 in order of qualifications to provide services regarding the
22 specific project. The State agency shall then contract at a
23 fair and reasonable compensation. If fewer than 3 firms
24 submit letters of interest and the State agency determines
25 that one or both of those firms are so qualified, the State
26 agency may proceed to negotiate a contract under Section
27 33-30. The decision of the State agency shall be final and
28 binding.

29 (30 ILCS 500/33-30 new)

30 Sec. 33-30. Contract Negotiation.

31 (a) The State agency shall prepare a written description
32 of the scope of the proposed services to be used as a basis

1 for negotiations and shall negotiate a contract with the
 2 highest ranked construction management firm at compensation
 3 that the State agency determines in writing to be fair and
 4 reasonable. In making this decision, the State agency shall
 5 take into account the estimated value, scope, complexity, and
 6 nature of the services to be rendered. In no case may a State
 7 agency establish a payment formula designed to eliminate
 8 firms from contention or restrict competition or negotiation
 9 of fees.

10 (b) If the State agency is unable to negotiate a
 11 satisfactory contract with the firm that is highest ranked,
 12 negotiations with that firm shall be terminated. The State
 13 agency shall then begin negotiations with the firm that is
 14 next highest ranked. If the State agency is unable to
 15 negotiate a satisfactory contract with that firm,
 16 negotiations with that firm shall be terminated. The State
 17 agency shall then begin negotiations with the firm that is
 18 next highest ranked.

19 (c) If the State agency is unable to negotiate a
 20 satisfactory contract with any of the selected firms, the
 21 State agency shall re-evaluate the construction management
 22 services requested, including the estimated value, scope,
 23 complexity, and fee requirements. The State agency shall then
 24 compile a list of not less than 3 prequalified firms and
 25 proceed in accordance with the provisions of this Act.

26 (30 ILCS 500/33-35 new)

27 Sec. 33-35. Small Contracts. The provisions of Sections
 28 33-20, 33-25, and 33-30 do not apply to construction
 29 management contracts of less than \$25,000.

30 (30 ILCS 500/33-40 new)

31 Sec. 33-40. Emergency services. Sections 33-20, 33-25,
 32 and 33-30 do not apply in the procurement of construction

1 management services by State agencies (i) when an agency
 2 determines in writing that it is in the best interest of the
 3 State to proceed with the immediate selection of a firm or
 4 (ii) in emergencies when immediate services are necessary to
 5 protect the public health and safety, including, but not
 6 limited to, earthquake, tornado, storm, or natural or
 7 man-made disaster.

8 (30 ILCS 500/33-45 new)

9 Sec. 33-45. Firm performance evaluation. Each State
 10 agency shall evaluate the performance of each firm upon
 11 completion of a contract. That evaluation shall be made
 12 available to the firm and the firm may submit a written
 13 response, with the evaluation and response retained solely by
 14 the agency. The evaluation and response shall not be made
 15 available to any other person or firm and is exempt from
 16 disclosure under the Freedom of Information Act. The
 17 evaluation shall be based on the terms identified in the
 18 construction manager's contract.

19 (30 ILCS 500/33-50 new)

20 Sec. 33-50. Duties of construction manager; additional
 21 requirements for persons performing construction work.

22 (a) Upon the award of a construction management services
 23 contract, a construction manager must contract with the State
 24 agency to furnish his or her skill and judgment in
 25 cooperation with, and reliance upon, the services of the
 26 project architect or engineer. The construction manager must
 27 furnish business administration, management of the
 28 construction process, and other specified services to the
 29 State agency and must perform his or her obligations in an
 30 expeditious and economical manner consistent with the
 31 interest of the State agency. If it is in the State's best
 32 interest, the construction manager may provide or perform

1 basic services for which reimbursement is provided in the
2 general conditions to the construction management services
3 contract.

4 (b) The actual construction work on the project must be
5 awarded to contractors by an open competitive bidding
6 process. This subsection is subject to the applicable
7 provisions of the following Acts:

- 8 (1) the Prevailing Wage Act;
- 9 (2) the Public Construction Bond Act;
- 10 (3) the Public Works Employment Discrimination Act;
- 11 (4) the Public Works Preference Act;
- 12 (5) the Employment of Illinois Workers on Public
13 Works Act;
- 14 (6) the Public Contract Fraud Act;
- 15 (7) the Illinois Construction Evaluation Act; and
- 16 (8) the Illinois Architecture Practice Act of 1989,
17 the Professional Engineering Practice Act of 1989, the
18 Illinois Professional Land Surveyor Act of 1989, and the
19 Structural Engineering Practice Act of 1989.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.