

1 AN ACT concerning procurement.

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 Capital
15 Development Board and architect, engineer, or licensed
16 land surveyor on all aspects of planning for project
17 construction; reviewing all plans and specifications as
18 they are being developed and making recommendations with
19 respect to construction feasibility, availability of
20 material and labor, time requirements for procurement and
21 construction, and projected costs; making, reviewing, and
22 refining budget estimates based on the Board's program and
23 other available information; making recommendations to the
24 Board and the architect or engineer regarding the division
25 of work in the plans and specifications to facilitate the
26 bidding and awarding of contracts; soliciting the interest
27 of capable contractors and taking bids on the project;
28 analyzing the bids received; and preparing and maintaining
29 a progress schedule during the design phase of the project
30 and preparation of a proposed construction schedule; and

31 (2) services provided in the construction phase of the

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

27 "Construction manager" means any individual, sole
28 proprietorship, firm, partnership, corporation, or other legal
29 entity providing construction management services for the
30 Board and prequalified by the State in accordance with 30 ILCS
31 500/33-10.

32 "Board" means the Capital Development Board.

33 (30 ILCS 500/33-10 new)

34 Sec. 33-10. Prequalification. The Board shall establish
35 procedures to prequalify firms seeking to provide construction

1 management services or may use prequalification lists from
2 other State agencies to meet the requirements of this Section.

3 (30 ILCS 500/33-15 new)

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

14 (30 ILCS 500/33-20 new)

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

28 The Board shall establish a committee to select
29 construction managers to provide construction management
30 services. A selection committee may include at least one public
31 member. The public member may not be employed or associated
32 with any firm holding a contract with the Board nor may the
33 public member's firm be considered for a contract with that
34 Board while he or she is serving as a public member of the

1 committee.

2 In no case shall the Board, prior to selecting a
3 construction manager for negotiation under Section 33-30, seek
4 formal or informal submission of verbal or written estimates of
5 costs or proposals in terms of dollars, hours required,
6 percentage of construction cost, or any other measure of
7 compensation.

8 (30 ILCS 500/33-25 new)

9 Sec. 33-25. Selection Procedure. On the basis of
10 evaluations, discussions, and any presentations, the Board
11 shall select no less than 3 firms it determines to be qualified
12 to provide services for the project and rank them in order of
13 qualifications to provide services regarding the specific
14 project. The Board shall then contract at a fair and reasonable
15 compensation. If fewer than 3 firms submit letters of interest
16 and the Board determines that one or both of those firms are so
17 qualified, the Board may proceed to negotiate a contract under
18 Section 33-30. The decision of the Board shall be final and
19 binding.

20 (30 ILCS 500/33-30 new)

21 Sec. 33-30. Contract Negotiation.

22 (a) The Board shall prepare a written description of the
23 scope of the proposed services to be used as a basis for
24 negotiations and shall negotiate a contract with the highest
25 ranked construction management firm at compensation that the
26 Board determines in writing to be fair and reasonable. In
27 making this decision, the Board shall take into account the
28 estimated value, scope, complexity, and nature of the services
29 to be rendered. In no case may the Board establish a payment
30 formula designed to eliminate firms from contention or restrict
31 competition or negotiation of fees.

32 (b) If the Board is unable to negotiate a satisfactory
33 contract with the firm that is highest ranked, negotiations
34 with that firm shall be terminated. The Board shall then begin

1 negotiations with the firm that is next highest ranked. If the
2 Board is unable to negotiate a satisfactory contract with that
3 firm, negotiations with that firm shall be terminated. The
4 Board shall then begin negotiations with the firm that is next
5 highest ranked.

6 (c) If the Board is unable to negotiate a satisfactory
7 contract with any of the selected firms, the Board shall
8 re-evaluate the construction management services requested,
9 including the estimated value, scope, complexity, and fee
10 requirements. The Board shall then compile a list of not less
11 than 3 prequalified firms and proceed in accordance with the
12 provisions of this Act.

13 (30 ILCS 500/33-35 new)

14 Sec. 33-35. Small Contracts. The provisions of Sections
15 33-20, 33-25, and 33-30 do not apply to construction management
16 contracts of less than \$25,000.

17 (30 ILCS 500/33-40 new)

18 Sec. 33-40. Emergency services. Sections 33-20, 33-25, and
19 33-30 do not apply in the procurement of construction
20 management services by the Board (i) when the Board determines
21 in writing that it is in the best interest of the State to
22 proceed with the immediate selection of a firm or (ii) in
23 emergencies when immediate services are necessary to protect
24 the public health and safety, including, but not limited to,
25 earthquake, tornado, storm, or natural or man-made disaster.

26 (30 ILCS 500/33-45 new)

27 Sec. 33-45. Firm performance evaluation. The Board shall
28 evaluate the performance of each firm upon completion of a
29 contract. That evaluation shall be made available to the firm
30 and the firm may submit a written response, with the evaluation
31 and response retained solely by the Board. The evaluation and
32 response shall not be made available to any other person or
33 firm and is exempt from disclosure under the Freedom of

1 Information Act. The evaluation shall be based on the terms
2 identified in the construction manager's contract.

3 (30 ILCS 500/33-50 new)

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

6 (a) Upon the award of a construction management services
7 contract, a construction manager must contract with the Board
8 to furnish his or her skill and judgment in cooperation with,
9 and reliance upon, the services of the project architect or
10 engineer. The construction manager must furnish business
11 administration, management of the construction process, and
12 other specified services to the Board and must perform his or
13 her obligations in an expeditious and economical manner
14 consistent with the interest of the Board. If it is in the
15 State's best interest, the construction manager may provide or
16 perform basic services for which reimbursement is provided in
17 the general conditions to the construction management services
18 contract.

19 (b) The actual construction work on the project must be
20 awarded to contractors under this Code. The Capital Development
21 Board may further separate additional divisions of work under
22 this Article. This subsection is subject to the applicable
23 provisions of the following Acts:

24 (1) the Prevailing Wage Act;

25 (2) the Public Construction Bond Act;

26 (3) the Public Works Employment Discrimination Act;

27 (4) the Public Works Preference Act;

28 (5) the Employment of Illinois Workers on Public Works
29 Act;

30 (6) the Public Contract Fraud Act;

31 (7) the Illinois Construction Evaluation Act; and

32 (8) the Illinois Architecture Practice Act of 1989, the
33 Professional Engineering Practice Act of 1989, the
34 Illinois Professional Land Surveyor Act of 1989, and the
35 Structural Engineering Practice Act of 1989.

1 (30 ILCS 500/33-55 new)

2 Sec. 33-55. Prohibited conduct. No construction
3 management services contract may be awarded by the Board on a
4 negotiated basis as provided in this Article if the
5 construction manager or an entity that controls, is controlled
6 by, or shares common ownership or control with the construction
7 manager (i) guarantees, warrants, or otherwise assumes
8 financial responsibility for the work of others on the project;
9 (ii) provides the Board with a guaranteed maximum price for the
10 work of others on the project; or (iii) furnishes or guarantees
11 a performance or payment bond for other contractors on the
12 project. In any such case, the contract for construction
13 management services must be let by competitive bidding as in
14 the case of contracts for construction work.

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