



Sen. Don Harmon

Filed: 3/7/2005

09400SB0518sam001

LRB094 08764 RSP 43051 a

1 AMENDMENT TO SENATE BILL 518

2 AMENDMENT NO. _____. Amend Senate Bill 518 by replacing
3 everything after the enacting clause with the following:

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

1 Board and the architect or engineer regarding the division
2 of work in the plans and specifications to facilitate the
3 bidding and awarding of contracts; soliciting the interest
4 of capable contractors and taking bids on the project;
5 analyzing the bids received; and preparing and maintaining
6 a progress schedule during the design phase of the project
7 and preparation of a proposed construction schedule; and

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

1 "Construction manager" means any individual, sole
2 proprietorship, firm, partnership, corporation, or other legal
3 entity providing construction management services for the
4 Board and prequalified by the State in accordance with 30 ILCS
5 500/33-10.

6 "Board" means the Capital Development Board.

7 (30 ILCS 500/33-10 new)

8 Sec. 33-10. Prequalification. The Board shall establish
9 procedures to prequalify firms seeking to provide construction
10 management services or may use prequalification lists from
11 other State agencies to meet the requirements of this Section.

12 (30 ILCS 500/33-15 new)

13 Sec. 33-15. Public notice. Whenever a project requiring
14 construction management services is proposed for a State
15 agency, the Board shall provide no less than a 14-day advance
16 notice published in a request for proposals setting forth the
17 projects and services to be procured. The request for proposals
18 shall be mailed to each firm that is prequalified under Section
19 33-10. The request for proposals shall include a description of
20 each project and shall state the time and place for interested
21 firms to submit a letter of interest and, if required by the
22 request for proposals, a statement of qualifications.

23 (30 ILCS 500/33-20 new)

24 Sec. 33-20. Evaluation procedure. The Board shall evaluate
25 the construction managers submitting letters of interest and
26 other prequalified construction managers, taking into account
27 qualifications; and the Board may consider, but shall not be
28 limited to considering, ability of personnel, past record and
29 experience, performance data on file, willingness to meet time
30 requirements, location, workload of the construction manager,
31 and any other qualifications-based factors as the Board may

1 determine in writing are applicable. The Board may conduct
2 discussions with and require public presentations by
3 construction managers deemed to be the most qualified regarding
4 their qualifications, approach to the project, and ability to
5 furnish the required services.

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

14 In no case shall the Board, prior to selecting a
15 construction manager for negotiation under Section 33-30, seek
16 formal or informal submission of verbal or written estimates of
17 costs or proposals in terms of dollars, hours required,
18 percentage of construction cost, or any other measure of
19 compensation.

20 (30 ILCS 500/33-25 new)

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

32 (30 ILCS 500/33-30 new)

1 Sec. 33-30. Contract Negotiation.

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

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

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

27 (30 ILCS 500/33-35 new)

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

31 (30 ILCS 500/33-40 new)

32 Sec. 33-40. Emergency services. Sections 33-20, 33-25, and

1 33-30 do not apply in the procurement of construction
2 management services by the Board (i) when the Board determines
3 in writing that it is in the best interest of the State to
4 proceed with the immediate selection of a firm or (ii) in
5 emergencies when immediate services are necessary to protect
6 the public health and safety, including, but not limited to,
7 earthquake, tornado, storm, or natural or man-made disaster.

8 (30 ILCS 500/33-45 new)

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

18 (30 ILCS 500/33-50 new)

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

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

1 contract.

2 (b) The actual construction work on the project must be
3 awarded to contractors under this Code. The Capital Development
4 Board may further separate additional divisions of work under
5 this Article. This subsection is subject to the applicable
6 provisions of the following Acts:

7 (1) the Prevailing Wage Act;

8 (2) the Public Construction Bond Act;

9 (3) the Public Works Employment Discrimination Act;

10 (4) the Public Works Preference Act;

11 (5) the Employment of Illinois Workers on Public Works
12 Act;

13 (6) the Public Contract Fraud Act;

14 (7) the Illinois Construction Evaluation Act; and

15 (8) the Illinois Architecture Practice Act of 1989, the
16 Professional Engineering Practice Act of 1989, the
17 Illinois Professional Land Surveyor Act of 1989, and the
18 Structural Engineering Practice Act of 1989.

19 (30 ILCS 500/33-55 new)

20 Sec. 33-55. Prohibited conduct. No construction
21 management services contract may be awarded by the Board on a
22 negotiated basis as provided in this Article if the
23 construction manager or an entity that controls, is controlled
24 by, or shares common ownership or control with the construction
25 manager (i) guarantees, warrants, or otherwise assumes
26 financial responsibility for the work of others on the project;
27 (ii) provides the Board with a guaranteed maximum price for the
28 work of others on the project; or (iii) furnishes or guarantees
29 a performance or payment bond for other contractors on the
30 project. In any such case, the contract for construction
31 management services must be let by competitive bidding as in
32 the case of contracts for construction work.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".