

AN ACT concerning transportation.

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

Section 1. Short title. This Act may be cited as the Innovations for Transportation Infrastructure Act.

Section 5. Legislative policy.

(a) It is the public policy of the State of Illinois to promote the development of infrastructure projects that serve the needs of the public.

(b) The design-build project delivery method and Construction Manager/General Contractor project delivery method and use of Alternative Technical Concepts have the potential to capture private sector innovation and safely deliver infrastructure projects on more predictable schedules and budgets. Earlier completion and lower cost for projects are possible with the ability to shift or share risks with the private sector that are generally retained by the public in the conventional design-bid-build project delivery method.

(c) It is the intent of the General Assembly that the Department of Transportation and the Illinois State Toll Highway Authority may evaluate and use Alternative Technical Concepts proposed by bidders and proposers and to use the design-build project delivery method and Construction

Manager/General Contractor project delivery method.

(d) It is the intent of this Act to use design professionals, construction companies, and workers from this State, reflecting the diversity of the State's businesses and workforce, to the greatest extent possible.

(e) Except as otherwise provided in this Act, the powers granted in this Act are in addition to any other powers authorized under applicable law.

Section 10. Definitions. As used in this Act:

"Alternative Technical Concepts" means a proposed deviation from the contract requirements set forth in the procurement documents for a transportation facility that offers a solution that is equal to or better than the requirements in the procurement documents.

"Authority" means the Illinois State Toll Highway Authority.

"Best value" means any selection process in which proposals contain both price and qualitative components and award is based upon a combination of price, qualitative concepts, and other factors.

"Chief procurement officer" means the chief procurement officer for the Transportation Agency.

"Construction Manager/General Contractor" means a proposer that has entered into a Construction Manager/General Contractor contract under this Act.

"Construction Manager/General Contractor contract" means a two-phase contract between the Transportation Agency and a Construction Manager/General Contractor that includes a first phase addressing preconstruction services and a second phase addressing the construction of the transportation facility.

"Construction Manager/General Contractor project delivery method" means a method of procurement and contracting that makes a Construction Manager/General Contractor who enters into a contract with the Transportation Agency responsible for certain preconstruction services and then, if the parties reach agreement on key terms, responsible for construction of the transportation facility.

"Department" means the Illinois Department of Transportation.

"Design-bid-build project delivery method" means the traditional method of procuring and contracting for design services and construction services used separately in this State that incorporates the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act and the principles of competitive bidding under the Illinois Procurement Code.

"Design-build contract" means a contract between the Transportation Agency and a design-builder under which the design-builder agrees to furnish architectural, surveying, engineering, construction, and related services for a transportation facility, and may include, but is not limited

to, the progressive design-build project delivery method.

"Design-build project delivery method" means a method of procurement and contracting that provides responsibility within a single contract between the Transportation Agency and a design-builder for the furnishing of architectural, surveying, engineering, construction, and related services for a transportation facility.

"Design-builder" means a proposer that has entered into a design-build contract with the Transportation Agency under this Act.

"Evaluation Committee" means the committee assembled to evaluate and score statements of qualifications and proposals.

"Evaluation criteria" means the standards and requirements established by the Transportation Agency against which the qualifications and proposals of a proposer will be assessed during the procurement of a design-build contract or Construction Manager/General Contractor contract, as applicable.

"Executive Director" means the Executive Director of the Illinois State Toll Highway Authority.

"Metropolitan planning organization" means a metropolitan planning organization under 23 U.S.C. 134 whose metropolitan planning area boundaries are partially or completely within this State.

"Preconstruction services" means all non-construction-related services that a Construction

Manager/General Contractor is required to perform during the first phase of a Construction Manager/General Contractor contract, and may include, but is not limited to, giving advice to the Transportation Agency regarding scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

"Progressive design-build project delivery method" is a type of design-build project delivery method that consists of 2 phases, with the first phase including budget-level design development, preconstruction services, and negotiation of a contract price (either lump sum or guaranteed maximum price). After completion of the first phase, the second phase is begun. The second phase consists of final design, construction, and commissioning of the project.

"Proposal" means a proposer's response to a request for proposals.

"Proposer" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity legally established to conduct business in this State that proposes to be the design-builder or Construction Manager/General Contractor for any transportation facility under this Act.

"Qualifications" means a statement of qualifications submitted by a proposer in response to a request for qualifications.

"Request for proposals" means the document issued by the

Transportation Agency to solicit proposals and describe the procurement process for a design-build contract or Construction Manager/General Contractor contract in accordance with the design-build project delivery method or the Construction Manager/General Contractor project delivery method, as applicable.

"Request for qualifications" means the document issued by the Transportation Agency in the first phase of a two-phase procurement to solicit qualifications from proposers in accordance with the design-build project delivery method or the Construction Manager/General Contractor project delivery method, as applicable.

"Scope and performance requirements" means the activities, constructed elements, and standards of performance the Transportation Agency requires the design-builder or the Construction Manager/General Contractor to comply with in the development of the transportation facility, and may include, but is not limited to, the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, preliminary engineering, design, and other requirements as developed and determined by the Transportation Agency.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Transportation Agency" means the Illinois Department of Transportation or the Illinois State Toll Highway Authority.

"Transportation facility" means any new or existing

facility or group of facilities that are the subject of a design-build contract or a Construction Manager/General Contractor contract, and includes highways, roads, bridges, tunnels, overpasses, bus ways, guideways, ferries, airports or other aviation facilities, public transportation facilities, vehicle parking facilities, port facilities, rail facilities, stations, hubs, terminals, intermodal facilities, transit facilities, or similar facilities used for the transportation of persons or goods, together with any buildings, structures, parking areas, appurtenances, intelligent transportation systems, and other property or facilities related to the operation or maintenance of these facilities.

Section 15. Authorization of project delivery methods.

(a) Notwithstanding any other law, and as authority supplemental to its existing powers, except as otherwise provided for in this Act, the Transportation Agency, in accordance with this Act, may use the design-build project delivery method for transportation facilities if the capital costs for transportation facilities delivered utilizing the design-build project delivery method or Construction Manager/General Contractor project delivery method or Alternative Technical Concepts in a design-bid-build project delivery method do not: (i) for transportation facilities delivered by the Department, exceed \$400 million of contracts awarded during the Department's multi-year highway improvement

program for any 5-year period; or (ii) for transportation facilities delivered by the Authority, exceed 20% of the Authority's annual improvement program. The Transportation Agency shall make this calculation before commencing the procurement. Notwithstanding any other law, and as authority supplemental to its existing powers, the Department, in accordance with this Act, may use the Construction Manager/General Contractor project delivery method for up to 2 transportation facilities per year. Before commencing a procurement under this Act for either a design-build contract or a Construction Manager/General Contractor contract, the Transportation Agency shall first undertake an analysis and make a written determination that it is in the best interests of this State to use the selected delivery method for that transportation facility. The analysis and determination shall discuss the design-build project delivery method or Construction Manager/General Contractor project delivery method's impact on the anticipated schedule, completion date, and project costs. The best interests of the State analysis shall be made available to the public.

(b) The Transportation Agency shall report to the General Assembly annually for the first 5 years after the effective date of this Act on the progress of procurements and transportation facilities procured under this Act.

(c) A contract entered into pursuant to the provisions of this Act are excepted from the Public Contract Fraud Act.



Section 20. Preconditions to commencement of procurement.

If the Transportation Agency determines to use the design-build project delivery method or the Construction Manager/General Contractor project delivery method for a particular transportation facility, the Transportation Agency may not commence a procurement for the transportation facility until the Transportation Agency has satisfied the following requirements:

(1) the Transportation Agency does one of the following:

(A) the Transportation Agency includes the transportation facility in the Transportation Agency's respective multi-year highway improvement program and designates it as a design-build project delivery method project or Construction Manager/General Contractor project;

(B) the Transportation Agency issues a notice of intent to receive qualifications, that includes a description of the proposed procurement and transportation facility, at least 28 days before the issuance of the request for qualifications, and for a Department-issued notice of intent publishes the notice in the Illinois Transportation Procurement Bulletin and for an Authority-issued notice of intent publishes the notice in the Illinois Procurement Bulletin; or

(C) for a single-phase procurement authorized under

subsection (a) of Section 25 of this Act, the Transportation Agency issues a notice of intent to receive proposals, that includes a description of the proposed procurement and transportation facility, at least 14 days before the issuance of the request for proposals, and for a Department-issued notice of intent publishes the notice in the Illinois Transportation Procurement Bulletin and for an Authority-issued notice of intent publishes the notice in the Illinois Procurement Bulletin; and

(2) the Transportation Agency uses its best efforts to ensure that the transportation facility is consistent with the regional plan in existence at the time of any metropolitan planning organization in which the boundaries of the transportation facility is located, or any other publicly-approved plan.

Section 25. Procurement process.

(a) The Transportation Agency may solicit a proposer with which to enter into a design-build contract or Construction Manager/General Contractor contract, as applicable, by using, without limitation, one or more requests for qualifications, a shortlisting of the most highly qualified proposers, requests for proposals, and negotiations. The Transportation Agency shall use a two-phase procurement for a design-build contract to select the successful proposer, except that the Transportation Agency may use a single-phase procurement if

the transportation facility is estimated to cost less than \$5,000,000 or the Secretary or the Executive Director makes a written determination that the Transportation Agency may use a single-phase procurement for a particular transportation facility. In a two-phase procurement, the Transportation Agency shall use the first phase to evaluate and shortlist the most highly qualified proposers based on a proposer's qualifications, and then use the second phase to evaluate and select a proposer based on proposals submitted by the shortlisted proposers. During the first phase of a two-phase procurement, the Transportation Agency shall not consider price proposals to make its shortlist decision. In a single-phase procurement, the Transportation Agency shall solicit proposers with a request for proposals, and shall evaluate and select a proposer based on those proposals.

(b) The request for qualifications may contain any terms deemed appropriate by the Transportation Agency including, without limitation, the following:

(1) a description of the anticipated scope of work for the transportation facility;

(2) a requirement that the proposer identify certain key personnel, and for design-build contracts certain key firms, the experience of the personnel and firms, and the conditions on which identified personnel and firms can be replaced;

(3) the evaluation criteria for the qualifications and

the relative importance of those criteria; these evaluation criteria may address, without limitation, the proposer's technical and financial qualifications, such as specialized experience, technical competence, capability to perform, financial capacity, the proposer's workload, local office presence, past performance including the proposer's safety record and record of utilization of business enterprises, including disadvantaged business enterprises, and any other qualifications-based factors;

(4) the Transportation Agency's prequalification, licensing, and registration requirements, including any requirements from the Professional Engineering Practice Act of 1989, the Illinois Architecture Practice Act of 1989, the Structural Engineering Practice Act of 1989, and the Illinois Professional Land Surveyor Act of 1989, except that nothing contained herein precludes the Transportation Agency's use of additional prequalification criteria or pass-fail evaluation factors addressing minimum levels of technical experience or financial capabilities;

(5) a requirement that the proposer provide references or contact information for persons who can attest to the past performance of the proposer, including with respect to successful project delivery, subcontracting, labor relations, diverse business utilization, workforce diversity, and compliance with contract requirements;

(6) the maximum number of proposers the Transportation Agency will shortlist to submit proposals; and

(7) any other relevant information the Transportation Agency deems appropriate.

(c) Upon completion of the qualifications evaluation, the Transportation Agency shall, based on the evaluation criteria set forth in the request for qualifications, create a shortlist of the most highly qualified proposers. The Transportation Agency shall shortlist no more than 5 and no fewer than 2 of the most highly qualified proposers. Notwithstanding other provisions of this subsection (c), the Transportation Agency may shortlist fewer than 2 proposers if the Secretary or the Executive Director makes a finding that an emergency situation justifies the limited shortlisting and fewer than 2 proposers meet any applicable prequalification or pass-fail requirements set forth in the request for qualifications.

(d) The request for proposals may contain any terms deemed appropriate by the Transportation Agency including, without limitation, the following:

(1) the form and amount of required bid security;

(2) the terms of the design-build contract or Construction Manager/General Contractor contract, including, but not limited to, scope and performance requirements, schedule or completion date requirements, subcontractor requirements, payment and performance

security requirements, and insurance requirements;

(3) the requirements for the technical component of the proposal, including a description of the level of design, scope and type of renderings, drawings, and specifications to be provided in the proposals;

(4) the requirements for the price component of the proposal, which for Construction Manager/General Contractor contracts may include a requirement for the proposer to submit a lump sum price for the direct costs to perform the required preconstruction services and percentage mark-up on those direct costs;

(5) the evaluation criteria for the proposals, including technical criteria, innovation, and schedule, and the relative importance of those criteria, as the Transportation Agency deems appropriate;

(6) a process for the Transportation Agency to review and accept Alternative Technical Concepts;

(7) requirements regarding utilization of business enterprises, including disadvantaged business enterprises, and workforce development, including a description of utilization and workforce diversity plans and certifications to be provided in the proposals for both design and construction phases;

(8) requirements regarding the proposer's qualifications; and

(9) any other relevant information the Transportation

Agency deems appropriate.

(e) Before the proposers' submittal of proposals, the Transportation Agency may conduct confidential meetings and exchange confidential information with proposers to promote understanding of the request for proposals, review Alternative Technical Concepts, or discuss other issues related to the procurement.

(f) The date proposals are due must be at least 28 calendar days after the date the Transportation Agency first issues the request for proposals.

(g) The Transportation Agency may offer to pay a stipend in an amount and on the terms and conditions determined by the Transportation Agency and as set forth in the request for proposals to: (1) all shortlisted proposers if the Transportation Agency cancels the procurement after the proposals have been released, but before the due date for proposals; or (2) each unsuccessful proposer that submits a responsive proposal; or (3) each member of the proposer team that incurs costs in the preparation of the proposal. The Transportation Agency may pay a stipend only to those proposers who grant to the Transportation Agency the right to use any work product contained in the unsuccessful proposer's proposal and other proposal-related submissions or, if the Transportation Agency cancels the procurement after the proposals have been released, but before the due date for proposals, any work product developed before cancellation,

including technologies, techniques, methods, processes, and information contained in the recipient's design for the transportation facility.

(h) The Transportation Agency shall, as appropriate depending on whether the transportation facility includes building facilities, directly employ or retain a professional engineer or engineers licensed in this State or a licensed architect or architects, or both engineers licensed in this State and licensed architects, to prepare the scope and assist in the evaluation of the proposals' technical submissions under a design-build project delivery method. The professional engineers and licensed architects performing these services are precluded from participating in the procurement of the transportation facility at issue as a member of a proposer team.

(i) The Transportation Agency has the right to reject any and all qualifications or proposals, including, but not limited to, the right to reject any qualifications or proposals as non-responsive, if, in the Transportation Agency's sole discretion, the qualifications or proposals do not meet all material requirements of the request for qualifications or request for proposals, as appropriate. The Transportation Agency shall not consider a proposal that does not include:

(1) the proposer's plan to comply with requirements established by the Transportation Agency regarding



utilization of business enterprises, including disadvantaged business enterprises; or

(2) bid security in the form and amount designated in the request for proposals.

(j) The Transportation Agency shall consult with the appropriate chief procurement officer on the design-build project delivery method and the Construction Manager/General Contractor project delivery method procurement processes, and the Secretary or the Executive Director, in consultation with the chief procurement officer, shall determine which procedures to adopt and apply to the design-build project delivery method and Construction Manager/General Contractor project delivery method procurement processes in order to ensure an open, transparent, and efficient process that accomplishes the purposes of this Act.

(k) To ensure taxpayer accountability, for any project with an estimated cost over \$30,000,000, the Transportation Agency shall independently procure an owner's representative or construction manager to supplement staff directly employed by the Transportation Agency, provide design reviews, constructability reviews, construction acceptance, oversight of utility relocations, independent quality assurance surveys, independent material testing, documentation of construction, risk mitigation, and oversight of construction activities, including construction management, maintenance of traffic, permit compliance, and other services which may include: value

engineering, stakeholder coordination, or public involvement management.

Section 30. Evaluation committee.

(a) The Transportation Agency shall establish one or more evaluation committees to assist in selecting a design-builder and a Construction Manager/General Contractor. The Transportation Agency, in its sole discretion, shall determine the appropriate size and composition of the evaluation committee; however, at least half of the committee must be licensed professional engineers.

(b) The Transportation Agency may establish an evaluation committee for a set term or for the procurement of a particular transportation facility.

(c) Once the Transportation Agency identifies the proposers for a transportation facility, each member of an evaluation committee must certify that no conflict of interest exists between the member and the proposers. If the Transportation Agency, after consultation with the chief procurement officer, determines that an actual conflict exists, the member shall not participate on the evaluation committee for that procurement and the Transportation Agency shall appoint a replacement member on either a permanent or a temporary basis.

Section 35. Procedures for selection.

(a) The Transportation Agency shall review, evaluate, score, and rank proposals and determine which proposal offers the best value to the public based on the evaluation criteria set forth in the request for proposals. The Transportation Agency shall award the contract based on this determination. Notwithstanding other provisions of this Section, if for any reason the proposer awarded the contract is unable or unwilling to execute the contract, including the failure of the proposer and the Transportation Agency to successfully complete negotiations, if any, of the contract, the Transportation Agency may award the contract to the proposer whose proposal the Transportation Agency determines offers the public the next best value.

(b) After a response to a request for qualifications or a request for proposals has been submitted as provided in Section 25, a design-builder shall not replace, remove, or otherwise modify any firm identified as a member of the proposer team unless authorized to do so by the Transportation Agency.

Section 40. Project records; confidentiality; public disclosure.

(a) The Transportation Agency shall maintain all written decisions, qualification and proposal evaluations, scoring documents, selection evaluations, proposals, and procurement documents in a procurement file maintained by the

Transportation Agency.

(b) A proposer may identify those portions of a proposal or other submission that the proposer considers to be trade secrets or confidential, commercial, financial, or proprietary information. Confidential and proprietary information, including trade secrets, shall be exempt from disclosure only if the proposer does the following:

(1) requests exclusion from disclosure upon submission of the information or other materials for which protection is sought;

(2) identifies the data or other materials for which protection is sought;

(3) states the statutory or regulatory basis for the protection;

(4) fully complies with the federal Freedom of Information Act and any other applicable provisions of State law, including, but not limited to, the Freedom of Information Act, with respect to information the proposer contends should be exempt from disclosure; and

(5) certifies if the information is in accordance with the protection of the Illinois Trade Secrets Act.

(c) Notwithstanding any other provision of law, in order to properly balance the need to maximize competition under this Act with the need to create a transparent procurement process, the qualifications, proposals, and other information and documents submitted by proposers and the Transportation

Agency's evaluation records shall not be subject to release or disclosure by the Transportation Agency until execution of the design-build contract or Construction Manager/General Contractor contract, as applicable. If the Transportation Agency terminates the procurement for a transportation facility, the exemption from release or disclosure under this Section shall remain in place until the Transportation Agency re-procures the transportation facility and has entered into a design-build contract or Construction Manager/General Contractor contract, as applicable. However, this exemption shall lapse if the Transportation Agency does not commence the re-procurement of the transportation facility within 5 years of the termination.

Section 45. Design-build contract. A design-build contract may include any provisions the Transportation Agency determines are necessary or appropriate, including, but not limited to, provisions regarding the following:

- (1) compensation or payments to the design-builder;
- (2) grounds for termination of the design-build contract, including the Transportation Agency's right to terminate for convenience;
- (3) liability for damages and nonperformance;
- (4) events of default and the rights and remedies available to the design-builder and the Transportation Agency in the event of a default or delay;

(5) the identification of any technical specifications that the design-builder must comply with when developing plans or performing construction work;

(6) the procedures for review and approval of the design-builder's plans;

(7) required performance and payment security;

(8) the terms and conditions of indemnification and minimum insurance requirements; and

(9) any other terms and conditions the Transportation Agency deems necessary.

Section 50. Construction Manager/General Contractor contract.

(a) The Construction Manager/General Contractor contract shall divide the Construction Manager/General Contractor services into 2 phases. The first phase shall address preconstruction services and the procedures the parties shall follow to finalize the contract terms for the second phase. The second phase shall address the Construction Manager/General Contractor's construction of the transportation facility for a lump sum or a guaranteed maximum price.

(b) A Construction Manager/General Contractor contract shall include provisions regarding the following:

(1) the Construction Manager/General Contractor's provision of preconstruction services during the first

phase of the contract, including the Construction Manager/General Contractor's compensation for those services;

(2) a requirement that, during the first phase of the contract, the Construction Manager/General Contractor shall use a competitive bidding process to procure subcontracts for at least the minimum percentage of construction work specified in the request for proposals, provided that:

(A) compliance with this requirement shall be based on an estimated cost for the construction work approved by the Transportation Agency before the start of the competitive bidding process; and

(B) the Construction Manager/General Contractor may not use subcontracts with its wholly or partially owned subsidiaries, parent companies, or affiliates to satisfy this obligation;

(3) the process the Transportation Agency and the Construction Manager/General Contractor shall use to determine a lump sum or guaranteed maximum price for the construction work, including a requirement that the Transportation Agency conduct an independent cost estimate for the construction work; and

(4) grounds for termination of the Construction Manager/General Contractor contract, including the Transportation Agency's right to terminate the contract

and not proceed with the construction phase of the project if the Transportation Agency and the Construction Manager/General Contractor are unable to negotiate a lump sum or guaranteed maximum price for the construction work.

(c) In addition to the provisions under subsection (b) of this Section, a Construction Manager/General Contractor contract may include any other provisions the Transportation Agency determines are necessary or appropriate, including, but not limited to, provisions regarding the following:

(1) liability for damages and nonperformance;

(2) events of default and the rights and remedies available to the Construction Manager/General Contractor and the Transportation Agency in the event of a default or delay;

(3) the identification of any technical specifications that the Construction Manager/General Contractor must comply with when aiding the Transportation Agency with developing plans or performing construction work;

(4) required performance and payment security for the construction phase of the contract;

(5) the terms and conditions of indemnification and minimum insurance requirements; and

(6) any other terms and conditions the Transportation Agency deems necessary.

(d) If the Construction Manager/General Contractor contract is terminated for any reason, the Transportation



Agency, in its sole discretion, may readvertise the Construction Manager/General Contractor contract under this Act or use any other authorized procurement method to complete the transportation facility or any portion of the transportation facility. Once the contract is terminated, the Transportation Agency may use any work product developed by the Construction Manager/General Contractor to complete the transportation facility.

Section 55. Funding and financing.

(a) The Transportation Agency may use any lawful source of funding and financing to compensate a design-builder and Construction Manager/General Contractor for work and services performed under a design-build contract or Construction Manager/General Contractor contract, as applicable, and the Transportation Agency may combine federal, State, local, and private funds to finance a transportation facility. Any Transportation Agency that administers a construction program for which federal law or regulations establish standards and procedures for the utilization of minority-owned and women-owned businesses and disadvantaged businesses shall implement a disadvantaged business enterprise program to include minority-owned and women-owned businesses and disadvantaged businesses, using the federal standards and procedures for the establishment of goals and utilization procedures for the State-funded, as well as the federally

assisted, portions of the program. In cases of federal funding or federally assisted projects, these goals shall not exceed those established pursuant to the relevant and applicable federal statutes or regulations.

(b) Subject to appropriation by the General Assembly of the required amounts, the Transportation Agency may obligate and make expenditures of funds as and when needed to satisfy its payment obligations under a design-build contract or Construction Manager/General Contractor contract.

Section 56. Utilization requirements.

(a) Design-builder and Construction Manager/General Contractor projects shall comply with Section 2-105 of the Illinois Human Rights Act and all applicable laws and rules that establish standards and procedures for the utilization of minority, disadvantaged, and women-owned businesses, including, but not limited to, the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Any Transportation Agency that administers a construction program, for which federal law or regulations establish standards and procedures for the utilization of minority-owned and women-owned businesses and disadvantaged businesses shall implement a disadvantaged business enterprise program to include minority-owned and women-owned businesses and disadvantaged businesses, using the federal standards and procedures for the establishment of goals and utilization

procedures for the State-funded, as well as the federally assisted, portions of the program. In cases of federal funding or federally assisted projects, these goals shall not exceed those established pursuant to the relevant and applicable federal statutes or regulations. Each design-build contract and Construction Manager/General Contractor contract shall include remedies for a contractor's failure to comply with commitments made in the proposal or utilization plan, including, without limitation, failure to cooperate in providing information regarding compliance or termination of any subcontractor identified in the utilization plan without the consent of the Transportation Agency. Such remedies may include termination of the contract, imposition of a penalty in an amount equivalent to any profit or cost savings accruing to the contractor as a result of the violation, withholding of payments, liquidated damages, disqualification from future bidding as non-responsible, or any other remedy available to the Transportation Agency at law or in equity.

(b) For the purposes of this Section, aspirational goals compliant with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and Disadvantaged Business Enterprise Program shall be established separately for construction-related professional services and shall be consistent with the Transportation Agency's methodology for design-bid-build contracts. As used in this Section, "construction-related professional services" means those

services within the scope of the practice of architecture, professional engineering, structural engineering, or land surveying, as defined in the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Illinois Professional Land Surveyor Act of 1989, or the Illinois Structural Engineering Practice Act of 1989.

Section 57. Labor.

(a) A contract or agreement under this Act shall require the design-builder or Construction Manager/General Contractor, and all subcontractors, to comply with Section 30-22 of the Illinois Procurement Code as it applies to responsible bidders and to present satisfactory evidence of that compliance to the Transportation Agency, unless the transportation project is federally funded and the application of those requirements would jeopardize the receipt or use of federal funds in support of the transportation project.

(b) A contract or agreement under this Act shall require the design-builder or Construction Manager/General Contractor to enter into a project labor agreement used by the Transportation Agency.

(c) This Section does not apply to construction-related professional services. As used in this Section, "construction-related professional services" means those services within the scope of the practice of architecture, professional engineering, structural engineering, or land

surveying, as defined in the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Illinois Professional Land Surveyor Act of 1989, or the Illinois Structural Engineering Practice Act of 1989.

Section 58. Disadvantaged business enterprise liaison. The Office of Business and Workforce Diversity established under Section 2705-593 of the Department of Transportation Law of the Civil Administrative Code of Illinois shall retain a staff member or consultant to act as a liaison of for outreach, monitoring, and compliance with the Department's Disadvantaged Business Enterprise Program consistent with all applicable federal rules governing the disadvantaged business enterprise process. The Department shall also determine attainable goals for projects using the new project delivery procurement methods, in accordance with federal regulations. The Department shall publish a quarterly report regarding projects sourced through new procurements methods that includes utilization goals and utilization achieved.

Section 60. Acquisition of property and related agreements. The Transportation Agency may exercise any and all powers of condemnation or eminent domain, including quick-take powers, to acquire lands or estates or interests in land for a transportation facility under this Act to the extent the Transportation Agency finds that the action serves the public

purpose of this Act and deems the action appropriate in the exercise of its powers under this Act. In addition, the Transportation Agency and a design-builder or Construction Manager/General Contractor may enter into leases, licenses, easements, and other grants of property interests that the Transportation Agency determines are necessary to deliver a transportation facility under this Act.

Section 65. Federal requirements. In the procurement of design-build contracts and Construction Manager/General Contractor contracts, the Transportation Agency shall, to the extent applicable, comply with federal law and regulations and take all necessary steps to adapt its rules, policies, and procedures to remain eligible for federal aid.

Section 70. Powers. The powers granted to the Transportation Agency under this Act, including the power to procure and enter into design-build contracts and Construction Manager/General Contractor contracts, shall be liberally construed to accomplish its purpose, are in addition to any existing powers of the Transportation Agency, and shall not affect or impair any other powers authorized under applicable law, except as otherwise provided for in this Act.

Section 75. Rulemaking.

(a) The Illinois Administrative Procedure Act applies to

all administrative rules and procedures of the Transportation Agency under this Act, except that nothing in this Act shall be construed to render any prequalification or other responsibility criteria as a "license" or "licensing" under that Act.

(b) The appropriate chief procurement officer, in consultation with the Transportation Agency, may adopt rules to carry out the provisions of this Act.

Section 80. Repeal. This Act is repealed on July 1, 2032.

Section 905. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by adding Section 2705-233 as follows:

(20 ILCS 2705/2705-233 new)

Sec. 2705-233. Innovations for Transportation Infrastructure Act. The Department may exercise all powers granted to it under the Innovations for Transportation Infrastructure Act, including, but not limited to, the power to enter into all contracts or agreements necessary or incidental to the performance of its powers under that Act, and powers related to any transportation facility implemented under that Act.

Section 910. The Illinois Finance Authority Act is amended

by adding Section 825-108 as follows:

(20 ILCS 3501/825-108 new)

Sec. 825-108. Transportation project financing. For the purpose of financing a transportation facility undertaken under the Innovations for Transportation Infrastructure Act, the Authority may apply for an allocation of tax-exempt bond financing authorization provided by subsection (m) of Section 142 of the United States Internal Revenue Code, as well as financing available under any other federal law or program.

Section 915. The Illinois Procurement Code is amended by adding Section 1-10.5 as follows:

(30 ILCS 500/1-10.5 new)

Sec. 1-10.5. Alternative Technical Concepts.

(a) For the purposes of this Section, "Alternative Technical Concepts" and "design-bid-build project delivery method" have the meanings ascribed to those terms in the Innovations for Transportation Infrastructure Act.

(b) Notwithstanding subsection (b) of Section 1-10 of this Code, the Department of Transportation may allow bidders and proposers to submit Alternative Technical Concepts in their bids and proposals, if the Department determines that the Alternative Technical Concepts provide an equal or better solution than the underlying technical requirements applicable



to the work. Notwithstanding the foregoing, for projects the Department delivers using the design-bid-build project delivery method, the Department shall use the Alternative Technical Concepts process for no more than 3 projects per year. If the Department allows bidders or proposers for a particular contract to submit Alternative Technical Concepts, the Department shall describe the process for submission and evaluation of Alternative Technical Concepts in the procurement documents for that contract, including the potential use of confidential meetings and the exchange of confidential information with bidders and proposers to review and discuss potential or proposed Alternative Technical Concepts.

Section 920. The Public Construction Bond Act is amended by adding Section 1.9 as follows:

(30 ILCS 550/1.9 new)

Sec. 1.9. Design-build contracts and Construction Manager/General Contractor contracts. This Act applies to any design-build contract or Construction Manager/General Contractor contract entered into under the Innovations for Transportation Infrastructure Act.

Section 925. The Employment of Illinois Workers on Public Works Act is amended by adding Section 2.8 as follows:

(30 ILCS 570/2.8 new)

Sec. 2.8. Design-build and Construction Manager/General Contractor contracts. This Act applies to any design-build contracts and Construction Manager/General Contractor contracts entered into under the Innovations for Transportation Infrastructure Act.

Section 930. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by adding Section 2.8 as follows:

(30 ILCS 575/2.8 new)

Sec. 2.8. Design-build and Construction Manager/General Contractor contracts. This Act applies to any design-build contracts and Construction Manager/General Contractor contracts entered into under the Innovations for Transportation Infrastructure Act.

Section 935. The Toll Highway Act is amended by adding Section 11.2 as follows:

(605 ILCS 10/11.2 new)

Sec. 11.2. Innovations for Transportation Infrastructure Act. The Authority may exercise all powers granted to it under the Innovations for Transportation Infrastructure Act,

including, but not limited to, the power to enter into all contracts or agreements necessary to perform its powers under that Act, and any powers related to a transportation facility implemented under that Act.

Section 940. The Eminent Domain Act is amended by adding Section 15-5-48 as follows:

(735 ILCS 30/15-5-48 new)

Sec. 15-5-48. Eminent domain powers in new Acts. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

The Innovations for Transportation Infrastructure Act; for the purposes of constructing a transportation facility under the Act.

Section 945. The Prevailing Wage Act is amended by changing Section 2 as follows:

(820 ILCS 130/2) (from Ch. 48, par. 39s-2)

Sec. 2. This Act applies to the wages of laborers, mechanics and other workers employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

As used in this Act, unless the context indicates otherwise:

"Public works" means all fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions, including but not limited to: bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the Industrial Building Revenue Bond Act, the Illinois Finance Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act; loans or other funds made available pursuant to the Build Illinois Act; loans or other funds made available pursuant to the Riverfront Development Fund under Section 10-15 of the River Edge Redevelopment Zone Act; or funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act. "Public works" also includes (i) all projects financed in whole or in part with funds from the Environmental Protection Agency under the Illinois Renewable Fuels Development Program Act for which

there is no project labor agreement; (ii) all work performed pursuant to a public private agreement under the Public Private Agreements for the Illiana Expressway Act or the Public-Private Agreements for the South Suburban Airport Act; ~~and~~ (iii) all projects undertaken under a public-private agreement under the Public-Private Partnerships for Transportation Act; and (iv) all transportation facilities undertaken under a design-build contract or a Construction Manager/General Contractor contract under the Innovations for Transportation Infrastructure Act. "Public works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act. "Public works" also includes the construction of a new wind power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E) and the construction of a new utility-scale solar power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E-5) of the Illinois Enterprise Zone Act. "Public works" also includes electric vehicle charging station projects financed pursuant to the Electric Vehicle Act and renewable energy projects required to pay the prevailing wage pursuant to the Illinois Power Agency Act. "Public works" does not include work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes construction

projects performed by a third party contracted by any public utility, as described in subsection (a) of Section 2.1, in public rights-of-way, as defined in Section 21-201 of the Public Utilities Act, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes construction projects that exceed 15 aggregate miles of new fiber optic cable, performed by a third party contracted by any public utility, as described in subsection (b) of Section 2.1, in public rights-of-way, as defined in Section 21-201 of the Public Utilities Act, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes any corrective action performed pursuant to Title XVI of the Environmental Protection Act for which payment from the Underground Storage Tank Fund is requested. "Public works" does not include projects undertaken by the owner at an owner-occupied single-family residence or at an owner-occupied unit of a multi-family residence. "Public works" does not include work performed for soil and water conservation purposes on agricultural lands, whether or not done under public supervision or paid for wholly or in part out of public funds, done directly by an owner or person who has legal control of those lands.

"Construction" means all work on public works involving laborers, workers or mechanics. This includes any maintenance,

repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

"Locality" means the county where the physical work upon public works is performed, except (1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work and (2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, and includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

"Labor organization" means an organization that is the exclusive representative of an employer's employees recognized

or certified pursuant to the National Labor Relations Act.

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act mean the hourly cash wages plus annualized fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

(Source: P.A. 102-9, eff. 1-1-22; 102-444, eff. 8-20-21; 102-673, eff. 11-30-21; revised 12-9-21.)

Section 997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 999. Effective date. This Act takes effect upon becoming law.