

1 AMENDMENT TO HOUSE BILL 778

2 AMENDMENT NO. _____. Amend House Bill 778 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 including,
13 but not limited to, consulting with, advising, assisting, and
14 making recommendations to the State agency and architect,
15 engineer, or registered landscape architect on all aspects of
16 planning for project construction; reviewing all plans and
17 specifications as they are being developed and making
18 recommendations with respect to construction feasibility,
19 availability of material and labor, time requirements for
20 procurement and construction, and projected costs; making,
21 reviewing, and refining budget estimates based on the State

1 agency's program and other available information; making
2 recommendations to the State agency and the architect or
3 engineer regarding the division of work in the plans and
4 specifications to facilitate the bidding and awarding of
5 contracts; soliciting the interest of capable contractors and
6 assisting the owner in taking bids on the project; analyzing
7 the bids received; and preparing and monitoring a progress
8 schedule during the design phase of the project and
9 preparation of a proposed construction schedule; and

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

1 to review costs.

2 "Construction manager" means any person providing
3 construction management services for a State agency.

4 (30 ILCS 500/33-10 new)

5 Sec. 33-10. Time for using construction management
6 services. The appropriate State purchasing officer or chief
7 procurement officer of a State agency may elect to engage the
8 construction management services of a construction manager
9 when planning, designing, and constructing a building or
10 structure or when improving, altering, or repairing a
11 building or structure. Construction management services may
12 be used by the State agency in the pre-construction phase,
13 the construction phase of public works project, or both
14 phases of the project.

15 (30 ILCS 500/33-15 new)

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

30 A State agency shall establish a committee to select
31 construction managers to provide construction management
32 services. A selection committee may include at least one

1 public member nominated by a statewide association of
2 construction managers. The public member may not be employed
3 or associated with any firm holding a contract with the State
4 agency nor may the public member's firm be considered for a
5 contract with that State agency while he or she is serving as
6 a public member of the committee.

7 In no case shall a State agency, prior to selecting a
8 construction manager, seek formal or informal submission of
9 verbal or written estimates of costs or proposals in terms of
10 dollars, hours required, percentage of construction cost, or
11 any other measure of compensation.

12 (30 ILCS 500/33-20 new)

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

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

29 (b) The construction manager, or any entity that
30 controls, is controlled by, or shares common ownership with
31 the construction manager, is not permitted to bid on or
32 perform any of the actual construction on a public works
33 project in which he or she is acting as construction manager.

1 The actual construction work on the project must be awarded
 2 by competitive bidding as provided in this Code. All
 3 successful bidders for actual construction work must contract
 4 directly with the State agency, but must perform his or her
 5 obligations at the direction of the construction manager
 6 unless otherwise provided in the construction manager's
 7 contract with the State agency. All successful bidders for
 8 actual construction work must enter into a trust agreement
 9 under Section 30-25 of this Code. This subsection is subject
 10 to the applicable provisions of the following Acts:

- 11 (1) the Prevailing Wage Act;
- 12 (2) the Public Construction Bond Act;
- 13 (3) the Public Works Employment Discrimination Act;
- 14 (4) the Public Works Preference Act;
- 15 (5) the Employment of Illinois Workers on Public
 16 Works Act;
- 17 (6) the Illinois Architecture Practice Act of 1989;
- 18 (7) the Professional Engineering Practice Act of
 19 1989;
- 20 (8) the Illinois Professional Land Surveyor Act of
 21 1989;
- 22 (9) the Structural Engineering Practice Act of
 23 1989;
- 24 (10) the Public Contract Fraud Act; and
- 25 (11) the Illinois Construction Evaluation Act.

26 (30 ILCS 500/33-25 new)
 27 Sec. 33-25. Prohibited conduct. No construction
 28 management services contract may be awarded by a State agency
 29 on a negotiated basis as provided in this Article if the
 30 construction manager or an entity that controls, is
 31 controlled by, or shares common ownership or control with the
 32 construction manager (i) guarantees, warrants, or otherwise
 33 assumes financial responsibility for the work of others on

1 the project; (ii) provides the State agency with a guaranteed
2 maximum price for the work of others on the project; or (iii)
3 furnishes or guarantees a performance or payment bond for
4 other contractors on the project. In any such case, the
5 contract for construction management services must be let by
6 competitive bidding as in the case of contracts for
7 construction work.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law."