

1 AN ACT concerning State construction projects.

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 design phases
- 12 of a construction project including, but not limited to,
- 13 consulting with, advising, assisting, and making
- 14 recommendations to the State agency and architect, engineer,
- 15 or registered landscape architect on all aspects of planning
- 16 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
- 22 agency's program and other available information; making
- 23 recommendations to the State agency and the architect or
- 24 engineer regarding the division of work in the plans and
- 25 specifications to facilitate the bidding and awarding of
- 26 contracts; soliciting the interest of capable contractors and
- 27 assisting the owner in taking bids on the project; analyzing
- 28 the bids received; and preparing and monitoring a progress
- 29 schedule during the design phase of the project and
- 30 preparation of a proposed construction schedule; and

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

27 "Construction manager" means any person providing
28 construction management services for a State agency.

29 (30 ILCS 500/33-10 new)

30 Sec. 33-10. Time for using construction management
31 services. The appropriate State purchasing officer or chief
32 procurement officer of a State agency may elect to engage the
33 construction management services of a construction manager

1 when planning, designing, and constructing a building or
2 structure or when improving, altering, or repairing a
3 building or structure. Construction management services may
4 be used by the State agency in the pre-construction phase,
5 the construction phase of public works project, or both
6 phases of the project.

7 (30 ILCS 500/33-15 new)

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

22 A State agency shall establish a committee to select
23 construction managers to provide construction management
24 services. A selection committee may include at least one
25 public member nominated by a statewide association of
26 construction managers. The public member may not be employed
27 or associated with any firm holding a contract with the State
28 agency nor may the public member's firm be considered for a
29 contract with that State agency while he or she is serving as
30 a public member of the committee.

31 In no case shall a State agency, prior to selecting a
32 construction manager, seek formal or informal submission of
33 verbal or written estimates of costs or proposals in terms of

1 dollars, hours required, percentage of construction cost, or
2 any other measure of compensation.

3 (30 ILCS 500/33-20 new)

4 Sec. 33-20. 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 State
8 agency to furnish his or her skill and judgment in
9 cooperation with, and reliance upon, the services of the
10 project architect or engineer. The construction manager must
11 furnish business administration, management of the
12 construction process, and other specified services to the
13 State agency and must perform his or her obligations in an
14 expeditious and economical manner consistent with the
15 interest of the State agency. If it is in the State's best
16 interest, the construction manager may provide or perform
17 basic services for which reimbursement is provided in the
18 general conditions to the construction management services
19 contract.

20 (b) The construction manager, or any entity that
21 controls, is controlled by, or shares common ownership with
22 the construction manager, is not permitted to bid on or
23 perform any of the actual construction on a public works
24 project in which he or she is acting as construction manager.
25 The actual construction work on the project must be awarded
26 by competitive bidding as provided in this Code. All
27 successful bidders for actual construction work must contract
28 directly with the State agency, but must perform his or her
29 obligations at the direction of the construction manager
30 unless otherwise provided in the construction manager's
31 contract with the State agency. All successful bidders for
32 actual construction work must enter into a trust agreement
33 under Section 30-25 of this Code. This subsection is subject

1 to the applicable provisions of the following Acts:

- 2 (1) the Prevailing Wage Act;
- 3 (2) the Public Construction Bond Act;
- 4 (3) the Public Works Employment Discrimination Act;
- 5 (4) the Public Works Preference Act;
- 6 (5) the Employment of Illinois Workers on Public
7 Works Act;
- 8 (6) the Public Contract Fraud Act; and
- 9 (7) the Illinois Construction Evaluation Act.

10 (30 ILCS 500/33-25 new)

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

25 Section 99. Effective date. This Act takes effect upon
 26 becoming law.