

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 533

AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-30-1-11, AS AMENDED BY P.L.2-2007, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) "Public agency" means:

- (1) a state agency (as defined in IC 4-13-1-1);
- (2) a state educational institution;
- (3) a unit (as defined in IC 36-1-2-23);
- (4) a body corporate and politic created by state statute; ~~or~~
- (5) a school corporation (as defined in IC 20-26-2-4); ~~or~~
- (6) a conservancy district established for a purpose described in IC 14-33-1-1(a)(4) or IC 14-33-1-1(a)(5).**

(b) The term does not include the Indiana department of transportation.

SECTION 2. IC 5-30-1-12, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) "Public project" means the process of designing, constructing, reconstructing, altering, or renovating a public building, an airport facility, **a sewer, a drain**, or another structure or improvement that is paid for out of:

- (1) a public fund; or
  - (2) a special assessment.
- (b) The term includes either of the following:
- (1) A process described in subsection (a) relating to a building or

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structure leased by a public agency under a lease containing an option to purchase.

(2) A public improvement to real property owned by a public agency.

(c) The term does not include the process of designing, constructing, altering, or repairing a public highway (as defined in IC 9-25-2-4).

SECTION 3. IC 5-30-2-1, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A design-build contract awarded as provided in this ~~chapter~~ **article** is valid and enforceable.

SECTION 4. IC 5-30-4-1, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Before entering into a design-build contract, a public agency must appoint a technical review committee of at least three (3) individuals.

(b) The members of the technical review committee must include the following:

- (1) A representative of the public agency.
- (2) At least two (2) of the following, but not more than one (1) under each clause:
  - (A) An architect registered under IC 25-4.
  - (B) A professional engineer registered under IC 25-31.
  - (C) A qualified contractor under IC 4-13.6 **or an individual employed by the qualified contractor.**

(c) A member of the technical review committee who is an architect or a professional engineer may be:

- (1) an employee of the public agency; or
- (2) an outside consultant retained by the public agency for the specific purpose of evaluating proposals submitted under this article.

(d) The design criteria developer may serve as:

- (1) a full member; or
- (2) a nonvoting adviser;

of the committee.

SECTION 5. IC 5-30-4-3, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The technical review committee shall do the following:

- (1) Qualify potential design-builders as provided in IC 5-30-5.
- (2) Rate and score qualitative proposals as provided in IC 5-30-6 and IC 5-30-7.

(b) The technical review committee may interview persons

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submitting proposals and conduct other business necessary to fulfill the purposes of this article. **However, a public agency may not require an offeror to attend more than three (3) interviews in person with the technical review committee for a design-build contract.**

SECTION 6. IC 5-30-4-4, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) Except for interviews of persons submitting proposals, as otherwise provided in this section, meetings of the a technical review committee shall **must** be open to the public and subject to IC 5-14-1.5.

(b) **A meeting of a technical review committee convened for the purpose of interviewing persons submitting qualifications or proposals is not open to the public.**

(c) **If each member of a technical review committee for a public project is an employee of the public agency that is undertaking the public project, the technical review committee's meetings are not open to the public.**

SECTION 7. IC 5-30-5-1, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) **Except as provided in subsection (c), when design-build contracting has been authorized under IC 5-30-2-2, is used for a public project, a public agency shall publish a notice of a request for qualifications under IC 5-3-1. The notice must allow at least thirty (30) fourteen (14) days for potential design-builders to respond to the request for qualifications.**

(b) **Subsection (c) applies to a public project for which a public agency uses design-build contracting if:**

- (1) **the public agency is a state educational institution; or**
- (2) **the public agency is not a state educational institution and the preliminary estimated cost of the public project does not exceed five million dollars (\$5,000,000).**

(c) **A public agency that undertakes a public project to which this subsection applies may publish a notice of a combined request for qualifications and proposals under IC 5-3-1 that includes:**

- (1) **the information otherwise required by this chapter; and**
- (2) **a request for proposals as otherwise provided under IC 5-30-6.**

**The notice must allow at least thirty (30) days for potential design-builders to respond to the combined request for qualifications and proposals.**

SECTION 8. IC 5-30-6-1, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

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2011]: Sec. 1. **(a) If a separate notice of request for qualifications is issued under IC 5-30-5-1(a)**, the public agency shall issue a request for proposals to the potential design-builders selected under IC 5-30-5-6.

**(b)** Each request for proposals must contain a design criteria package.

**(c) If a public project is a controlled project (as defined in IC 6-1.1-20-1.1) for which a referendum is to be held, a request for proposals may not be issued until after the public agency proposing the controlled project has completed the procedures described in IC 6-1.1-20-3.6.**

SECTION 9. IC 5-30-6-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5.5. The deliverables required for a qualitative proposal in a request for proposals may not exceed the following, as considered appropriate for the type of project by the technical review committee for the public project:**

- (1) All information requested in the design criteria package.**
- (2) A conceptual site plan.**
- (3) Conceptual building, systems, and equipment plans.**
- (4) Conceptual elevations.**
- (5) A project description narrative.**
- (6) A project schedule.**

SECTION 10. IC 5-30-7-1, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A proposal submitted in response to a request for proposals described in IC 5-30-6 must satisfy the following:

- (1) The qualitative proposal and the price proposal must be submitted simultaneously in separately sealed and identified packages. The price proposal must remain sealed until opened in public under section 5 of this chapter.
- (2) A proposal must identify each person with whom the offeror proposes to enter into subcontracts for primary design services and primary construction services, including any subcontractors, under the design-build contract. The public agency may determine requirements under this section.
- (3) The price proposal must:
  - (A) contain one (1) lump sum cost of all design, construction engineering, inspection, and construction costs of the proposed project; or
  - (B) establish a maximum cost of the design-build contract that will not be exceeded if the proposal is accepted without

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(4) The qualitative proposal must include all ~~documents, information, and data requested~~ **the deliverables required for the qualitative proposal** in the request for proposals.

SECTION 11. IC 5-30-7-3, AS ADDED BY P.L.74-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The technical review committee shall review the qualitative proposals and establish a score for each qualitative proposal based on the factors, weighting, and process identified in the request for proposals.

(b) The technical review committee shall give a written ~~composite~~ **comprehensive** score for each qualitative proposal.

**(c) A written comprehensive score for a qualitative proposal must include the following:**

**(1) An explanation of the scoring methodology adopted by the technical review committee that is sufficiently detailed to enable an independent observer to calculate the composite score for the qualitative proposal from the scores described in subdivision (2).**

**(2) For each factor used in calculating the composite score of the qualitative proposal, the following:**

**(A) The unweighted score awarded by each member of the technical review committee for the factor.**

**(B) The unweighted score of the technical review committee as a whole for the factor, calculated from the individual scores described in clause (A).**

**(C) The weight for the factor, if all factors are not given equal weight in calculating the composite score for the qualitative proposal.**

**(D) The weighted score for the factor, if a weight specified under clause (C) is used to adjust the unweighted score determined under clause (B) for the factor.**

**(3) The composite score for the qualitative proposal, calculated from the scores described in subdivision (2) in accordance with the scoring methodology adopted by the technical review committee.**

SECTION 12. IC 5-30-2-2 IS REPEALED [EFFECTIVE JULY 1, 2011].

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

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