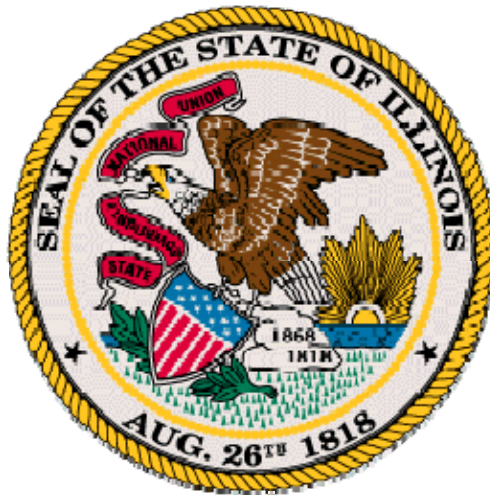




Chairman: Jay Stewart

Members: Ed Bedore, Ricardo Morales, Larry Ivory, Bill Black



COMMUNITY COLLEGE QUALIFICATIONS  
BASED SELECTION STUDY  
FOLLOW-UP REPORT  
MARCH 2013

ORIGINAL REPORT  
OCTOBER 2012

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## BASIS FOR SUBMISSION

In August 2012, the Procurement Policy Board (PPB), via a Freedom of Information Act request, surveyed all Illinois Community Colleges and produced its previous report, *Community College Qualifications Based Selection Study October 2012* (amended July 8, 2013). The PPB initiated this follow-up report to determine if diversity in contracting and contracting with Illinois small businesses at the Community Colleges increased subsequent to our initial report.

Like our initial study, this follow-up study focuses solely on the contracting policies and practices pertaining to Architectural and Engineering Services at the Illinois Community Colleges.

## FOLLOW-UP STUDY OBJECTIVE

**The limited use of Qualifications Based Selection (QBS) or other permissible competitive processes allows architectural and engineering firms to become entrenched.**

In its 2012 survey of Illinois Community Colleges, the PPB concluded in regards to Illinois Community Colleges' Architectural and Engineering selections that the limited use of Qualifications Based Selection (QBS) or other permissible competitive processes allows architectural and engineering firms to become entrenched due to having a "satisfactory relationship" with the Colleges. This in turn seriously restricts the number of Illinois diverse and small vendors who receive contracts as there is simply little to no opportunity to compete for the contracts.

Due to policy concerns with the current "satisfactory relationship" and lack of Qualifications Based Selection processes in use at Illinois Community Colleges, the Procurement Policy Board's objective is to suggest policy and or legislative changes to level the playing field for not only small and diverse Architectural and Engineering firms, but for all firms wishing to do business with the State.

## PROCUREMENT POLICY BOARD REQUEST

As it did for its 2012 study, the Procurement Policy Board sent a Freedom of Information Request to each of the Community Colleges located throughout the State of Illinois:

Black Hawk College

Carl Sandburg College

City Colleges of Chicago (includes the following):

Richard J. Daley College

Harold Washington College

Kennedy-King College

Malcolm X College

Olive-Harvey College

Truman College

Wilbur Wright College

College of DuPage

College of Lake County

Danville Area Community College

Elgin Community College

William Rainey Harper College  
Heartland Community College  
Highland Community College  
Illinois Eastern Community Colleges (includes the following):  
    Frontier Community College  
    Lincoln Trail College  
    Olney Central College  
    Wabash Valley College  
Illinois Central College  
Illinois Valley Community College  
John A. Logan College  
John Wood Community College  
Joliet Junior College  
Kankakee Community College  
Kaskaskia College  
Kishwaukee College  
Lake Land College  
Lewis & Clark Community College  
Lincoln Land Community College  
McHenry County College  
Moraine Valley Community College  
Morton College  
Oakton Community College  
Parkland College  
Prairie State College  
Rend Lake College  
Richland Community College  
Rock Valley College  
Sauk Valley Community College  
Shawnee Community College  
South Suburban College  
Southeastern Illinois College  
Southwestern Illinois College  
Spoon River College  
Triton College  
Waubonsee Community College

For this follow-up request, the PPB requested the information in a different manner in an effort to get a more informative response. The Procurement Policy Board requested the following:

*A copy of the complete procurement file for every Architectural and/or Engineering contract, whatever they may be called, regardless of value, awarded and/or entered into by the College under the Local Government Professional Services Selection Act [50 ILCS 510] between July 1, 2012 and January 31, 2014.*

It became apparent quite quickly via requests for clarification, that the community colleges do not maintain procurement files in a consistent manner. The PPB clarified its request:

*What we're most interested in is the "end result" so we would like documentation that relates to:*

- 1. The scope of the project.*
- 2. Who was awarded.*
- 3. What vehicle was used to get to the award (QBS, prior satisfactory relationship, amendment or modification to an existing contract or "retainer").*
- 4. What the estimated amount of the award or amendment is.*

5. *Recommendation to the College Board.*
6. *Copy of the contract or amendment.*

*What we do not need:*

1. *Vendor proposals*
2. *Evaluation documents*

## OVERVIEW OF RESPONSES

An overview of the responses received by the Board from the Community Colleges follows:

College/QBS Firms	Certified Illinois BEP	Certified Illinois Small Business	Value	Count
<b>Black Hawk College</b>			<b>\$ 620,670.00</b>	<b>11</b>
BLDD Architects Inc	No	No	\$620,670.00	11
<b>Carl Sandburg College</b>			<b>\$ 0.00</b>	<b>0</b>
No Projects Reported for Time Period Requested				
<b>City Colleges of Chicago</b>			<b>\$ 27,969,289.35</b>	<b>21</b>
4240 Architecture Inc	No	Yes	\$71,400.00	1
Cotter Consulting Inc	Yes	No	\$69,682.00	1
Cyclone Energy Group	No	No	\$70,000.00	1
Environmental Systems Design Inc	Yes	No	\$2,753,176.00	1
Goettsch Partners of Chicago	No	No	\$64,000	1
Jacobs Project Management Co	No	No	\$9,618,000.00	2
Koo and Associates LTD	Yes	Yes	\$177,485.00	2
Milhouse Engineering and Construction Inc	Yes	No	\$253,851.00	3
Moody Nolan Inc	Yes	No	\$13,200,000.00	1
Roula Associates Architects, CHTD	Yes	Yes	\$160,000.00	1
Singh and Associates Inc	Yes	Yes	\$87,350.35	1
Site Design Group LTD	Yes	Yes	\$18,240.00	1
SSRCx	No	No	\$755,375.00	1
Stanley Consultants Inc	No	No	\$39,460.00	1
STV Incorporated	No	No	\$43,270.00	1
Urban Works LTD	Yes	No	\$393,000.00	1
Wight & Company	No	No	\$195,000	1
<b>College of DuPage</b>			<b>\$ 5,977,409.51</b>	<b>23</b>
Bailey Edward Design Inc	Yes	No	\$367,046.00	1
Carnow Conibear & Assoc. Ltd.	Yes	No	\$780.00	1
Henneman Engineering Inc	No	No	\$13,000.00	1
Kinsale Contracting Group	No	No	\$49,225.00	2
Legat Architects Inc	No	No	\$1,878,002.51	6
Lobel Schlossman & Hackl	No	No	\$5,800.00	3
Pepper Construction	No	No	\$1,311,684.00	2
Power Construction Company	No	No	\$1,265,000.00	1

Testing Services Corporation	No	No	\$95,708.00	2
V3 Companies	No	No	\$921,164.00	3
Wiss, Janney, Elstner Associates Inc	No	No	\$70,000.00	1
<b>College of Lake County*</b>			<b>\$ 4,454,655.00</b>	<b>5</b>
Affiliated Engineers Inc	No	No	\$360,005.00	1
Legat Architects Inc	No	No	\$4,094,650.00	3
McClure Engineering Associates Inc	No	No	Unknown**	1
*The College of Lake County did not provide details for any transactions under \$25,000.				
**The PPB was unable to determine the estimated amount for this contract based on the documentation provided.				
<b>Danville Area Community College</b>			<b>\$ 389,000.00</b>	<b>1</b>
Walton & Associates Architects	No	Yes	\$389,000.00	7
<b>Elgin Community College</b>			<b>\$ 638,194.00</b>	<b>21</b>
Dewberry Architects Inc	No	No	\$134,240.00	3
DLA Architects LTD	No	No	\$203,700.00	3
Hampton, Lenzini and Renwick Inc	No	No	\$119,899.00	6
KJWW Engineering Consultants	No	No	\$7,400.00	1
Kluber Inc	No	Yes	\$104,205.00	6
Structural Technologies Inc	No	No	\$68,750.00	2
<b>Heartland Community College</b>			<b>\$ 0.00</b>	<b>0</b>
No Projects Reported for Time Period Requested				
<b>Highland Community College</b>			<b>\$ 9,500.00</b>	<b>2</b>
RL Johnson Associates	No	No	\$9,500.00	2
<b>Illinois Central College</b>			<b>\$ 2,166,359.00</b>	<b>20</b>
Analytical Design Group	No	No	\$22,255.00	1
apaceDesign	No	No	\$23,000.00	1
Architectural Design Group Inc	No	No	\$90,583.00	3
BLDD Architects Inc	No	No	\$763,500.00	2
Craig W Wright & Associates Inc	No	No	\$42,389.00	1
Demonica Kemper Architects	No	No	\$700,000.00	1
Farnsworth Group Inc	No	No	\$66,370.00	2
Melotte Morse Leonatti Parker LTD	No	Yes	\$5,000.00	1
Midwest Engineering Professionals Inc	No	No	\$453,262.00	8
<b>Illinois Eastern Community Colleges</b>			<b>\$ 0.00</b>	<b>0</b>
No Projects Reported for Time Period Requested				
<b>Illinois Valley Community College</b>			<b>\$ 119,282.00</b>	<b>3</b>
Basalay, Cary & Alstadt	No	No	\$119,282.00	3
<b>John A Logan College</b>			<b>\$ 468,340.00</b>	<b>2</b>
Architechniques LTD	No	Yes	\$150,000.00	1

White & Borgognoni Architects PC	No	No	\$318,340.00	1
<b>John Wood Community College</b>			<b>\$ 1,908.45</b>	<b>1</b>
Architechnics Inc	No	No	\$1,908.45	1
<b>Joliet Junior College</b>			<b>\$0.00</b>	<b>0</b>
No Projects Reported for Time Period Requested				
<b>Kankakee Community College</b>			<b>\$ 836,334.50</b>	<b>18</b>
Demonica Kemper Architects	No	No	\$709,500.00	4
Elara Energy Services Inc	No	No	\$10,937.50	3
Jeffery A Jarvis	No	No	\$3,312.00	2
Larson Engineering Inc	No	No	\$2,250.00	1
Midwest Environmental Consulting Service Inc	No	No	\$6,675.00	2
Midwest Underground Technology	No	No	\$850.00	1
Structure Tec	No	No	\$57,900.00	2
Tyson Engineering Inc	No	No	\$44,910.00	3
<b>Kaskaskia College</b>			<b>\$ 867,816.00</b>	<b>20</b>
BLDD Architects Inc	No	No	\$819,592.00	8
Curl & Associates Inc	No	No	\$1,975.00	2
Curry & Associates	No	No	\$2,500.00	1
Farmer Environmental Services Inc	No	Yes	\$8,872.00	2
Holcomb Foundation Engineering Company	No	No	\$5,261.00	2
Hurst-Rosche Engineers Inc	No	No	\$6,000.00	1
Rhutasel and Associates Inc	No	No	\$720.00	1
WRF Engineers LLC	Yes	Yes	\$22,896.00	3
<b>Kishwaukee College</b>			<b>\$ 14,800.00</b>	<b>1</b>
Demonica Kemper Architects	No	No	\$14,800.00	1
<b>Lake Land College</b>			<b>\$1,336,520.00</b>	<b>1</b>
Legat Architects, Inc	No	No	\$1,336,520.00	1
<b>Lewis and Clark Community College</b>			<b>\$ 3,542,781.00</b>	<b>38</b>
AAIC Inc	No	No	\$3,065,150.00	16
Bric Partnership LLC	No	No	\$118,590.00	7
HDR Engineering	No	No	\$37,785.00	1
Oates Associates	No	No	\$7,854.00	2
Randy Burkett Lighting Design	No	No	\$23,250.00	5
Sheppard, Morgan & Schwaab Inc	No	No	\$290,152.00	7
<b>Lincoln Land Community College</b>			<b>\$ 299,428.00</b>	<b>12</b>
Dewberry Architects Inc	No	No	\$66,250.00	2
FWAI	No	No	\$36,500.00	1
GHR Engineers and Associates Inc	No	No	\$50,313.00	3
Graham & Hyde	No	No	\$15,000.00	1
Hanson Professional Services Inc	No	No	\$52,635.00	2
Martin Engineering	No	No	\$78,730.00	3

<b>McHenry County College</b>			<b>\$ 191,021.94</b>	<b>13</b>
HR Green Inc	No	No	\$73,086.94	7
KJWW Engineering	No	No	\$85,000.00	1
Midland Standard Engineering & Testing Inc	No	No	\$18,935.00	4
RuckPate Architecture	No	No	\$14,000.00	1
<b>Moraine Valley Community College</b>			<b>\$ 180,600.00</b>	<b>2</b>
US Services Inc	No	No	\$180,600.00	2
<b>Morton College</b>			<b>\$ 112,689.04</b>	<b>2</b>
Demonica Kemper Architects	No	No	\$12,369.04	1
Patrick Engineering	No	No	\$100,320.00	1
<b>Oakton Community College</b>			<b>\$ 773,254.00</b>	<b>15</b>
Henneman Engineering Inc	No	No	\$42,300.00	1
Kluber Inc	No	Yes	\$242,240.00	4
Legat Architects Inc	No	No	\$357,414.00	6
Manhard Consulting LTD	No	No	\$131,300.00	4
<b>Parkland College</b>			<b>\$ 611,599.00</b>	<b>10</b>
Clark Dietz Inc	No	No	\$188,199.00	2
DKA Inc	No	No	\$245,300.00	1
EC&S Inc	No	No	\$55,100.00	3
IGW Architecture Inc	No	No	\$123,000.00	4
<b>Prairie State College</b>			<b>\$ 41,460.00</b>	<b>5</b>
Planera Architects Inc	No	No	\$41,460.00	5
<b>Rend Lake College</b>			<b>\$ 172,200.00</b>	<b>3</b>
Eggemeyer Associates Architects	No	No	\$32,200.00	2
White & Borgognoni Architects PC	No	No	\$140,000.00	1
<b>Richland Community College</b>			<b>\$ 70,000.00</b>	<b>2</b>
BLDD Architects Inc	No	No	\$10,000.00	1
Henneman Engineering Inc	No	No	\$60,000.00	1
<b>Rock Valley College</b>			<b>\$ 2,430,965.73</b>	<b>16</b>
ARC Design Resources	No	No	\$3,012.50	1
Primera Engineers	Yes	No	\$124,820.00	1
Saavedra Gehlhausen Architects	No	Yes	\$2,298,233.23	13
TEM Incorporated	No	No	\$4,900.00	1
<b>Sauk Valley Community College</b>			<b>\$ 0.00</b>	<b>0</b>
No Projects Reported for Time Period Requested				
<b>Shawnee Community College</b>			<b>\$ 40,000.00</b>	<b>1</b>
Image Architects Inc	Yes	Yes	\$40,000.00	1



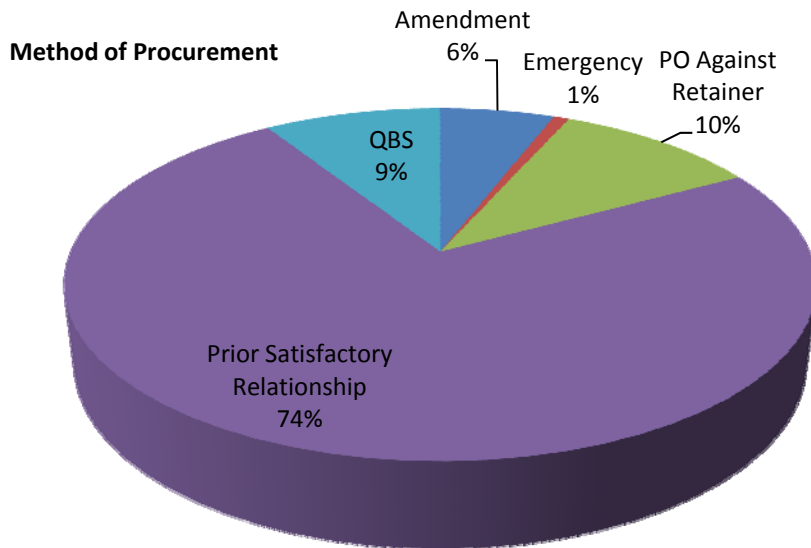
<b>South Suburban College</b>			<b>\$ 86,208.77</b>	<b>8</b>
Detella Planera Architects	No	No	\$40,068.71	4
Planera Architects Inc	No	No	\$46,140.06	4
<b>Southeastern Illinois College</b>			<b>\$ 5,200.00</b>	<b>1</b>
Bacon Farmer Workman Engineering & Testing	No	No	\$5,200.00	1
<b>Southwestern Illinois College</b>			<b>\$ 497,800.00</b>	<b>9</b>
William B Ittner Architects	No	No	\$497,800.00	9
<b>Spoon River College</b>			<b>\$ 0.00</b>	<b>0</b>
No Projects Reported for Time Period Requested				
<b>Triton College</b>			<b>\$ 975,192.89</b>	<b>17</b>
Arcon Associates Inc	No	No	\$149,112.89	7
Wight & Company	No	No	\$826,080.00	10
<b>Waubensee Community College</b>			<b>\$ 1,469,653.20</b>	<b>11</b>
Cordogan Clark and Associates	No	No	\$1,346,436.00	10
Patrick Engineering Inc	No	No	\$123,217.20	1
<b>William Rainey Harper College</b>			<b>\$ 3,988,529.90</b>	<b>53</b>
Alta Engineering LTD	No	No	\$7,600.00	2
Cannon Design Inc	No	No	\$957,000.00	5
Eriksson Engineering Associates LTD	No	Yes	\$483,500.00	5
Grumman/Butkus Assoc	No	No	\$18,700.00	2
Haeger Engineering LLC	No	No	\$2,800.00	1
Holabird & Root LLC	No	No	\$1,818,322.00	13
Kluber, Skahan & Assoc Inc	No	No	\$9,900.00	2
Legat Architects Inc	No	No	\$367,478.50	13
SmithGroup JJR Inc	No	No	\$262,600.00	7
Studio GC Inc	No	No	\$50,000.00	2
Wiss, Janney, Elstner Associates Inc	No	No	\$10,629.40	1

## FINDINGS

### METHOD OF PROCUREMENT

**Based the FOIA responses, “satisfactory prior relationship” awards accounted for 73.8% of reported transactions.**

The Local Government Professional Services Selections Act [50 ILCS 510] requires, in sections 4, 5 and 6, that qualifications based selection be used whenever a project requiring architectural, engineering or land surveying services is proposed *unless it has a satisfactory relationship for services with one or more firms*. It is shocking just how little any form of competitive selection is used at the Community Colleges. In many cases, however, it was impossible to determine just *how* a firm was selected from the documentation provided to the Board. Based on what we could divine from the FOIA responses, “satisfactory prior relationship” awards accounted for 73.8% of reported transactions.



What is a qualifications based selection (QBS) and why use it? QBS is a negotiated procurement process for selection of design professionals based on qualifications and competence in relation to the work to be performed. As with other competitive methods, when conducted properly QBS promotes diversity, helps to ensure fair and reasonable cost and best value for the contracting entity.

It is obvious when given the opportunity entities will take complete advantage of noncompetitive selection practices. Without competition, small and diverse firms are at a distinct disadvantage when it is clear that with these entrenched vendors in place, they can expect to never, or nearly never, be awarded these contracts.

### DIVERSE AND SMALL BUSINESSES

**Only a very minute portion of all of the**

As in our 2012 study, drawing from the responses to the Board’s Freedom of Information Act request, the first, and perhaps the most striking issue is

**Community College Architectural and Engineering contracts go to certified Business Enterprise Program (BEP) or Illinois small businesses.**

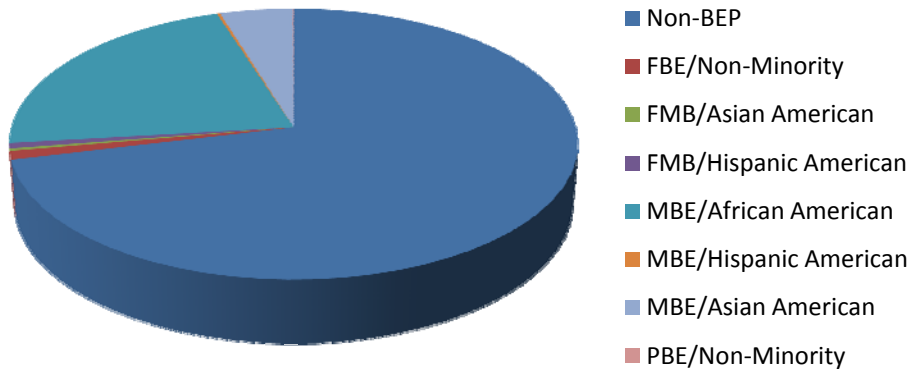
that only a very minute portion of all of the Community College Architectural and Engineering contracts go to certified Business Enterprise Program (BEP) or Illinois small businesses. The Board compared the vendors' names that were submitted by the Community Colleges to the BEP and Illinois Small Business vendors utilizing the Department of Central Management Services' vendor directories. It must be noted, however, that it is possible that some vendors who have contracts with the Community Colleges may be eligible for BEP and/or Small Business certification and may not have completed the steps necessary for certification. If that is the case, it is more than likely that that number would be relatively small so we are confident that the following numbers are representative of BEP and Illinois Small Business usage for the Community Colleges' Architectural and Engineering contracts.

**CERTIFIED ILLINOIS BEP VENDORS**

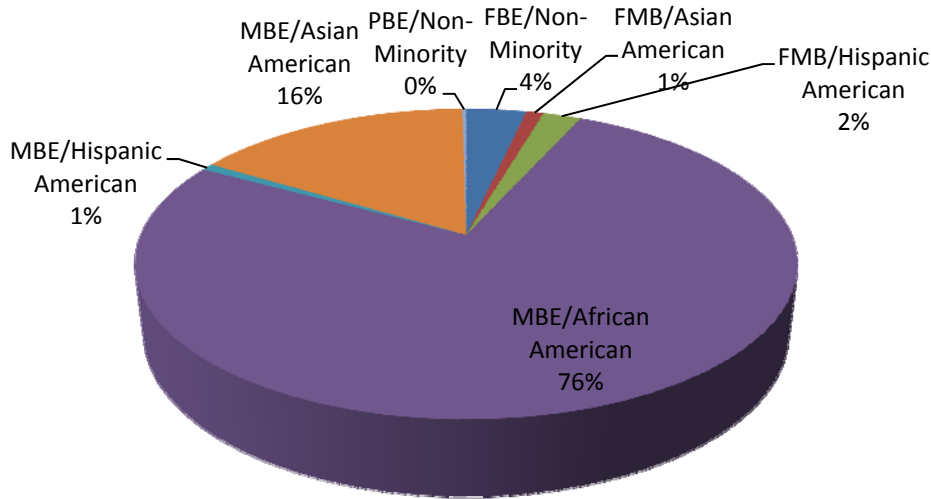
87.18% of Community Colleges had NO contracts with certified BEP  
 4.65% of the total number of contracts awarded to certified BEP  
 28.8% of the total value of contracts awarded to certified BEP (this includes 1 contract that accounts for 74.71% of the total value of BEP contracts)

BEP/Diverse contracts – of the 409 contracts valued at \$61,358,661.28 listed by the Community Colleges:

Total	Value	BEP Code	Gender	Ethnicity
7	\$620,404.00	FBE – Female Owned/Controlled	Female	Non-Minority
2	\$177,485.00	FMB – Female Minority	Female	Asian American
1	\$393,000.00	FMB – Female Minority	Female	Hispanic American
4	\$13,453,851.00	MBE – Minority Owned/Controlled	Male	African American
3	\$2,858,766.35	MBE – Minority Owned/Controlled	Male	Asian American
1	\$124,820.00	MBE – Minority Owned/Controlled	Male	Hispanic American
1	\$40,000.00	PBE – Person with Disability Owned	Male	Non-Minority
<b>Total</b>	<b>19</b>			



DISTRIBUTION OF THE 19 BEP CONTRACTS:



Distribution of BEP Contracts

The Community Colleges listed below awarded contracts to BEP certified vendors:

College	Total Value	BEP Value	BEP Value %	Total Contracts	BEP Contracts	BEP Contracts %
City Colleges of Chicago	\$27,969,289.35	\$17,112,784.35	61.18%	21	12	57.14%
College of DuPage	\$5,977,409.51	\$367,826.00	6.15%	23	2	8.70%
Kaskaskia College	\$867,816.	\$22,896.00	2.64%	20	3	15%
Rock Valley College	\$2,430,965.73	\$124,820.00	5.13%	16	1	6.25%
Shawnee Community College	\$40,000.00	\$40,000.00	100%	20	1	100%

**City Colleges of Chicago are responsible for 96.86% of the total value of the BEP contracts.**

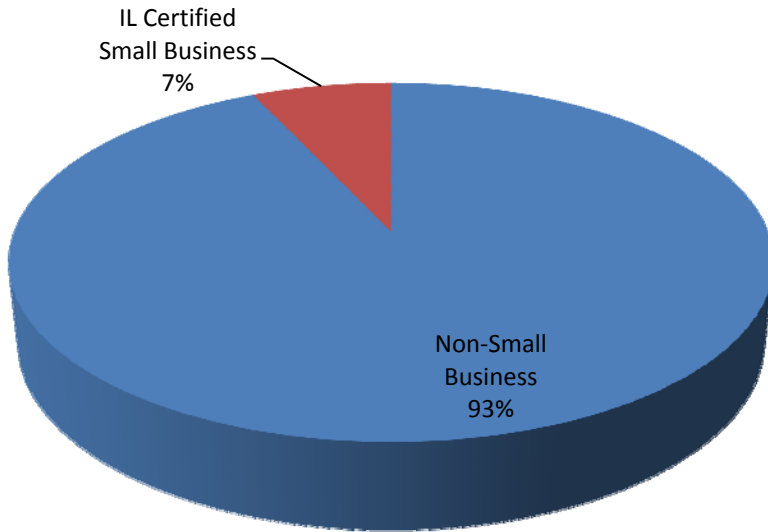
City Colleges of Chicago did not award every prime contract to Illinois certified BEP vendors, however, it appeared that a share of each of these prime contracts provided business to BEP vendors via subcontracting. Had it not been for the City Colleges of Chicago awarding 96.86% of the total value of the BEP contracts and 63.16% of the total number of BEP contracts, the BEP numbers would be quite dismal. Even so, 77.14% of the value of the City Colleges of Chicago contracts was for one contract (which accounted for 74.71% of the total value of all of the BEP contracts).

**CERTIFIED ILLINOIS SMALL BUSINESS**

74.36% of Community Colleges had NO contracts with certified Small Business Vendors  
 11.49% of the total number of contracts awarded to certified Small Business Vendors  
 6.94% of the total value of contracts awarded to certified Small Business Vendors

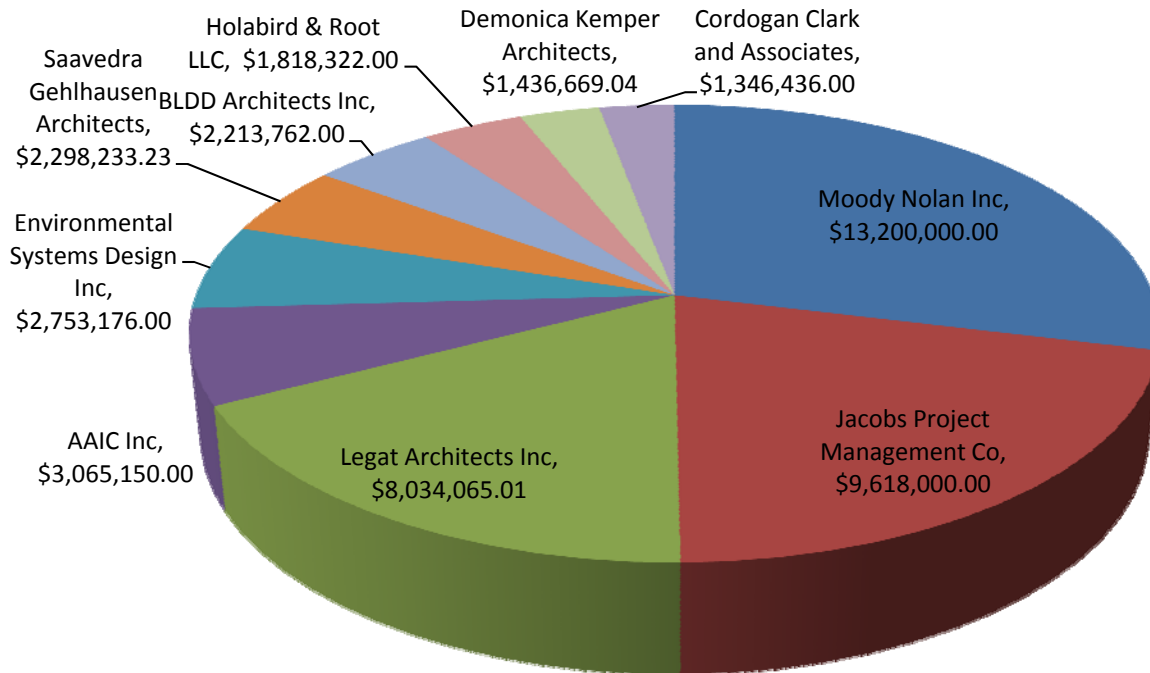
Illinois Small Business contracts – of the 409 contracts valued at \$61,358,661.28 listed by the Community Colleges:

49 contracts valued at \$4,258,421.58 were awarded to certified Illinois Small Businesses

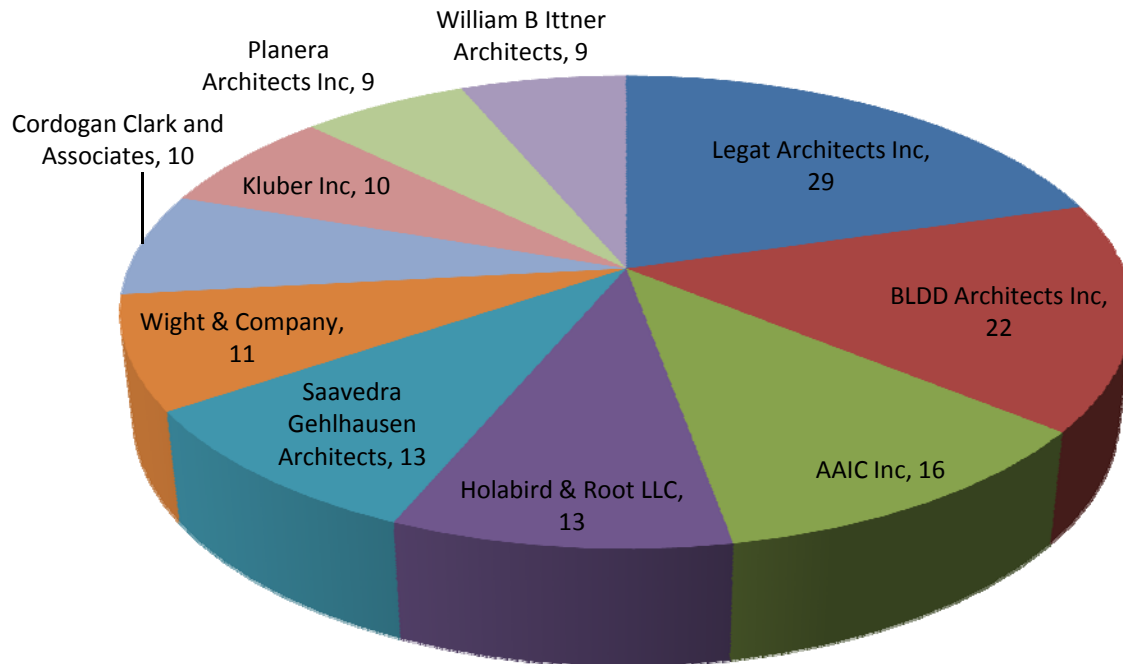


#### LIMITED NUMBER OF VENDORS

Community Colleges contracted with total of 101 individual vendors with the top 10 vendors by contract value accounting for 74.62% of the total value of all of the contracts:



The top 10 vendors by number of contracts accounts for 33.78% of the total number of contracts:



As of August 31, 2012, there were 1,052 Architectural and Engineering firms prequalified to do business with the Capital Development Board.

22 of 48 Colleges awarded 50% or more of their contracts to one vendor  
 14 of 48 Colleges awarded 75% or more of their contracts to one vendor  
 12 of 48 Colleges awarded 100% or more of their contracts to one vendor

The five colleges listed below most frequently used the same vendor most or all of the time:

1. Black Hawk College used BLDD Architects Inc 100% of the time (11 of 11)
2. Southwestern Illinois College used William B Ittner Architects 100% of the time (9 of 9)
3. Danville Area Community College used Walton and Associates Architects 100% of the time (7 of 7)
4. Waubonsee Community College used Cordogan Clark and Associates 90.91% of the time (10 of 11)
5. Rock Valley College used Saavedra Gehlhausen Architects 81.25% of the time (13 of 16)

As was stated in the Board's previous report, the latitude afforded the Community Colleges to select architects and engineers without competition if they have "*a satisfactory relationship for services with one or more firm*" has contributed to the limited number of vendors selected and the lack of diversity.

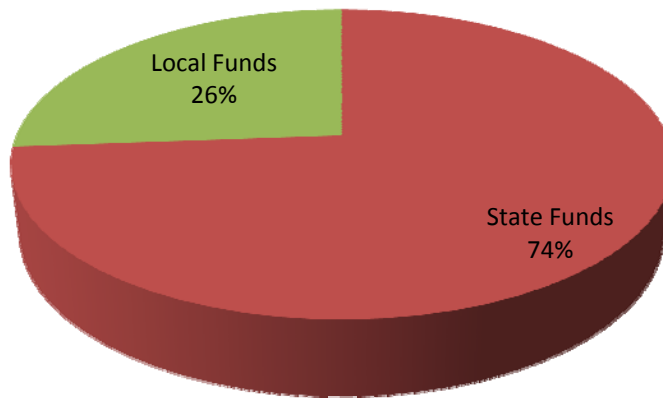
#### STATE CAPITAL FUNDED PROJECTS

Between July 1, 2012 and January 31, 2014, 18 projects totaling \$173,788,685 in State Capital Funds (\$234,709,464 is the total when local matching funds are included) were awarded to Illinois Community Colleges for various projects, falling under two categories, RAMP (Resource Allocation Management Plan) funded projects and Capital Renewal funded projects.

**A total of \$229,452,809 in projects was awarded – \$169,376,229 in State Capital Funds with local matching funds totaling \$60,076,580.**

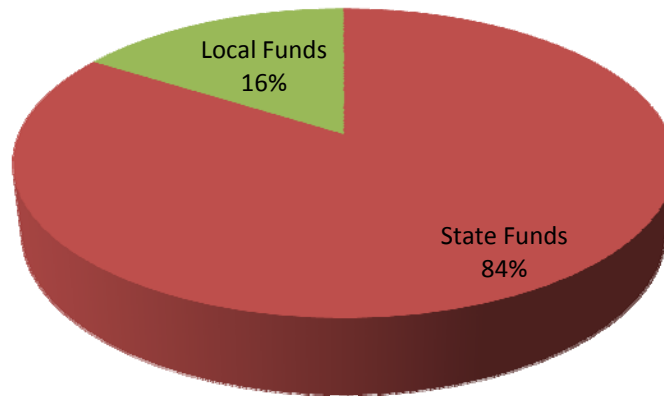
RAMP funded projects are the large capital improvements or new building projects that are requested of the Illinois Community College Board (ICCB) on an annual basis and approved by the Illinois Board of Higher Education. Once approved, the list is provided to the Governor and the General Assembly. These types of projects generally require at least a 25% local match to the State appropriation, although the General Assembly has at times provided exemptions from this statutory requirement. A total of \$229,452,809 in projects was awarded – \$169,376,229 in State Capital Funds with local matching funds totaling \$60,076,580. If one assumes that the average of the architectural and/or engineering fees is 10%, approximately \$22,945,281 was awarded to architectural and/or engineering firms.

**07/01/2012 - 01/31/2014 RAMP Funded Projects**



Capital Renewal funded projects are deferred maintenance projects generally of lesser size and scope than RAMP funded projects. Capital Renewal funds are distributed to public universities and community colleges based on the amount of owned gross square footage for each institution. The community college system receives approximately 30% of any capital renewal funds that are appropriated by the General Assembly for this purpose. Capital Renewal funded projects do not require a 25% local match. a total of \$5,256,655 in projects was awarded – \$4,412,456 in State Capital Funds with local matching funds totaling \$844,199. If one assumes that the average of the architectural and/or engineering fees is 10%, approximately \$525,665.50 was awarded to architectural and/or engineering firms.

## 07/01/2012 - 01/31/2014 Capital Renewal Funded Projects



### MAJOR CONCLUSIONS

As in 2012, it is apparent that certified minorities, females, and persons with disabilities are at a distinct disadvantage when it comes to receiving contract awards at Illinois' Community Colleges. The Business Enterprise for Minorities, Females, and Persons with Disabilities (BEP) Act does not include Community Colleges, although most or all receive funds from the State. Between July 1, 2007 and January 31, 2014 \$525,984,267 in funding was appropriated to the Community Colleges for capital investment and construction. While the BEP Act does not specifically include Community Colleges' construction projects, it does specifically outline requirements for State construction projects in [30 ILCS 575/4(b)] (see Appendix B): *In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. Not less than 10% of the total dollar amount of State construction contracts is established as a goal to be awarded to minority and female owned businesses, and contracts representing 50% of the amount of all State construction contracts awarded to minority and female owned businesses shall be awarded to female owned businesses.*

In addition, the current statutory language in the Local Government Professional Services Selection Act allows vendors to become entrenched, "*unless it has a satisfactory relationship for services with one or more firms*" (see Appendix A), Community Colleges have ample opportunity to not comply with either the Qualifications Based Selection requirements of the Procurement Code or the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. It also appears that Community Colleges routinely stay with one or two firms who have done acceptable work for them in the past rather than seek competition. When not conducted properly, Qualifications Based Selection can be an overly subjective process and may allow for personal bias to creep in and for initiatives like "spreading the work around" to be implemented, which in some cases could be construed as a form of bias as well. Small and minority owned firms struggle against the larger firms for business and there is an overall lack of follow up with unsuccessful firms.

### CONCLUSION

This follow up report has confirmed the Board's previously established opinion that diversity and competition in contracting for Architectural and Engineering services at Illinois' Community Colleges is



alarmingly deficient. With that in mind, the Board maintains and vigorously reaffirms its conclusions from the 2012 report:

#### Business Enterprise for Minorities, Females, and Persons with Disabilities (BEP) Act

The Board recommends that the Business Enterprise for Minorities, Females, and Persons with Disabilities (BEP) Act [30 ILCS 575] be expanded to include Illinois' Community Colleges when funding is appropriated by the State of Illinois for all or a portion of capital investment and construction, including architectural and engineering projects.

#### Local Government Professional Services Selection Act

The Local Government Professional Services Selection Act [50 ILCS 510] should be amended to remove the following language from Sections 4, 5, and 6: ***unless it has a satisfactory relationship for services with one or more firms.*** In addition, language is recommended that promotes and encourages the development of minority, female and persons with disabilities owned and operated businesses including the establishment of minimum contracting goals when all or a portion of the funding is provided by the State of Illinois.

**APPENDIX A  
APPLICABLE ILLINOIS QUALIFICATIONS BASED  
SELECTION LAWS AND RULES**

Illinois Procurement Code Requirements

Section 30-15(c) of the Illinois Procurement Code [30 ILCS 500] establishes that *‘All construction-related professional services contracts shall be awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. “Professional services” means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.’*

Capital Development Board Procurement Rules:

Title 44: Government Contracts, Procurement and Property Management, Subtitle A: Procurement and Contract Provisions, Chapter IV: Chief Procurement Officer for Capital Development Board, Part 8 Procurement Practices, Section 8.140 Architect and Engineer Contracts:

Solicitation for procurement of services of architects/engineers (A/Es), or related professionals, shall be in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and CDB's rules (44 Ill. Adm. Code 1000).

Architectural, Engineering, and Land Surveying Qualifications  
Based Selection Act Requirements

Section 5 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] states *“It is the policy of State agencies of this State to publicly announce all requirements for architectural, engineering, and land surveying services, to procure these services on the basis of demonstrated competence and qualifications, to negotiate contracts at fair and reasonable prices, and to authorize the Department of Professional Regulation to enforce the provisions of Section 65 of this Act.”*

The Act goes on to set the requirements for Qualifications Based Selection, including, but not limited to:

1. Federal Requirements – *A State agency may comply with federal law and regulations...and take all necessary steps to adapt its rules, specifications, policies, and procedures accordingly to remain eligible for federal aid. [30 ILCS 535/10]*
2. Prequalification – *A State agency shall establish procedures to prequalify firms seeking to provide architectural, engineering, and land surveying services or may use prequalification lists from other State agencies to meet the requirements of this Section. [30 ILCS 535/20]*
3. Public Notice – *Whenever a project requiring architectural, engineering, or land surveying services is proposed for a State agency, the State agency shall provide no less than a 14 day advance notice... [30 ILCS 535/25]*
4. Evaluation Procedure – *A State agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications; and the State agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based factors as the State agency may determine in writing are applicable. The State agency may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services...A State*

- agency shall establish a committee to select firms to provide architectural, engineering, and land surveying services...In no case shall a State agency, prior to selecting a firm for negotiation under Section 40, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation. [30 ILCS 535/30]*
5. *Selection Procedure – On the basis of evaluations, discussions, and any presentations, the State agency shall select no less than 3 firms it determines to be qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The State agency shall then contact the firm ranked most preferred to negotiate a contract at a fair and reasonable compensation... [30 ILCS 535/35]*
  6. *Contract Negotiation – (a) The State agency shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the State agency determines in writing to be fair and reasonable. In making this decision, the State agency shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered. In no case may a State agency establish a maximum overhead rate or other payment formula designed to eliminate firms from contention or restrict competition or negotiation of fees.  
(b) If the State agency is unable to negotiate a satisfactory contract with the firm that is most preferred, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred...  
(c) If the State agency is unable to negotiate a satisfactory contract with any of the selected firms, the State agency shall re-evaluate the...services requested, including the estimated value, scope, complexity, and fee requirements. The State agency shall then compile a second list of not less than 3 qualified firms and proceed in accordance with the provisions of this Act.  
(d) A firm negotiating a contract with a State agency shall negotiate subcontracts for architectural, engineering, and land surveying services at compensation that the firm determines in writing to be fair and reasonable based upon a written description of the scope of the proposed services. [30 ILCS 535/40]*

#### The Capital Development Board Act Requirements

The Capital Development Board Act [20 ILCS 3105] provides that the purposes of the Capitol Development Board are, but not limited to, the following:

- a. *To provide for the acquisition, planning, construction, reconstruction, improvement and installation of capital facilities, consisting of buildings, structures and equipment and for the acquisition and improvement of real property and interest in real property required, or expected to be required, in connection therewith and for the acquisition, protection and development of land within the State of Illinois for open spaces, recreational and conservation purposes, as authorized by the General Assembly by appropriations from the Capital Development Fund, the School Construction Fund, General Revenue Fund, other funds, or revenue bonds, but not including capital facilities provided entirely by local community college district or local school district funds or capital facilities at non-profit, non-public health service educational institutions. [20 ILCS 3105/9.01]*
- b. *To establish rules and regulations governing the acquisition, planning, construction, reconstruction, improvement and installation of capital facilities as defined in Section 9.01 of this Act. The Board may require any state agency to submit information deemed necessary for the Board to fulfill its responsibilities under this Act, and may prescribe the form of such report. [20 ILCS 3105/9.06]*
- c. *To accept assignment of contracts entered into by other state agencies for construction services on projects over which the Board shall have jurisdiction, whether or not such contracts shall*

*have been awarded in accordance with the terms of the Illinois Purchasing Act. [20 ILCS 3105/9.07]*

Section 12 of the Capital Development Board Act also states *“Nothing in this Act shall be construed to include the power to abrogate those powers vested in the boards of the local public community college districts and the Illinois Community College Board by the Public Community College Act, the Board of Trustees of the University of Illinois, The Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, and the Board of Trustees of Western Illinois University, hereinafter referred to as Governing Boards. In the exercise of the powers conferred by law upon the Board and in the exercise of the powers vested in such Governing Boards, it is hereby provided that (i) the Board and any such Governing Board may contract with each other and other parties as to the design and construction of any project to be constructed for or upon the property of such Governing Board or any institution under its jurisdiction; (ii) in connection with any such project, compliance with the provisions of the Illinois Purchasing Act by either the Board or such Governing Board shall be deemed to be compliance by the other; (iii) funds appropriated to any such Governing Board may be expended for any project constructed by the Board for such Governing Board; (iv) in connection with any such project the architects and engineers retained for the project and the plans and specifications for the project must be approved by both the Governing Board and the Board before undertaking either design or construction of the project, as the case may be.”*

CDB Rules:

Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter XII: Capital Development Board, Part 1000 Selection of Architects/Engineers (A/E):

#### Section 1000.170 Delegation of Evaluations

CDB may delegate the evaluation of prospective A/Es to the user agency (school district, college, university, Illinois Community College Board or unit of local government). The user agency shall be required to comply with the Architectural, Engineering, and Land Surveying Qualification Based Selection Act [30 ILCS 535] or the Local Government Professional Services Selection Act [50 ILCS 510], as may be applicable. Recommendations pursuant to 30 ILCS 535 for contracts of \$25,000 or more shall state the three selected firms ranked in order of qualifications. Recommendations pursuant to 50 ILCS 510 for contracts of \$25,000 or more shall state the three selected firms ranked in order of qualifications unless the selection is stated to be an exception under 50 ILCS 510/5. CDB or the user may request that a member of its staff be a voting or nonvoting member of the user agency's evaluation committee. The user agency shall transmit its recommendations to CDB for review and approval of the Board. CDB will provide a form for submitting the recommendations. Transmittal to CDB shall include a letter with a certification statement requiring an authorized signature verifying that the selections were made in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and the Local Government Professional Services Selection Act [50 ILCS 510]. CDB may request the user agency make other recommendations if the firm(s) recommended are not acceptable to CDB.

#### Local Government Professional Services Selection Act

The Local Government Professional Services Selections Act [50 ILCS 510] mandates:

Section 4. Public notice. *Present provisions of law notwithstanding, in the procurement of architectural, engineering or land surveying services, each political subdivision which utilizes architectural,*

*engineering or land surveying services shall permit firms engaged in the lawful practice of their professions to annually file a statement of qualifications and performance data with the political subdivision. Whenever a project requiring architectural, engineering or land surveying services is proposed for a political subdivision, the political subdivision shall, **unless it has a satisfactory relationship for services with one or more firms**...(emphasis added) [50 ILCS 510/4]*

Section 5. Evaluation Procedure. *A political subdivision shall, **unless it has a satisfactory relationship for services with one or more firms**, evaluate the firms submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm, and such other qualifications-based factors as the political subdivision may determine in writing are applicable...(emphasis added) [50 ILCS 510/5]*

Section 6. Selection procedure. *On the basis of evaluations, discussions and presentations, the political subdivision shall, **unless it has a satisfactory relationship for services with one or more firms**, select no less than 3 firms which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project...(emphasis added) [50 ILCS 510/6]*

**APPENDIX B**  
**APPLICABLE SECTIONS OF THE**  
**BUSINESS ENTERPRISE FOR MINORITIES, FEMALES,**  
**AND PERSONS WITH DISABILITIES (BEP) ACT**  
**[30 ILCS 575]**

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Section scheduled to be repealed on June 30, 2016)

Sec. 4. Award of State contracts.

(a) Except as provided in subsections (b) and (c), not less than 20% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as a goal to be awarded to businesses owned by minorities, females, and persons with disabilities; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section, contracts representing at least 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to female-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by persons with disabilities.

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or university which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, females, and persons with disabilities on such contracts shall be included.

(b) In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. Not less than 10% of the total dollar amount of State construction contracts is established as a goal to be awarded to minority and female owned businesses, and contracts representing 50% of the amount of all State construction contracts awarded to minority and female owned businesses shall be awarded to female owned businesses.

(c) In the case of all work undertaken by the University of Illinois related to the planning, organization, and staging of the games, the University of Illinois shall establish a goal of awarding not less than 25% of the annual dollar value of all contracts, purchase orders, and other agreements (collectively referred to as "the contracts") to minority-owned businesses or businesses owned by a person with a disability and 5% of the annual dollar value the contracts to female-owned businesses. For purposes of this subsection, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

(d) Within one year after April 28, 2009 (the effective date of Public Act 96-8), the Department of Central Management Services shall conduct a social scientific study that measures the impact of discrimination on minority and female business development in Illinois. Within 18 months after April 28, 2009 (the effective date of Public Act 96-8), the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and female participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly.

(e) Those who submit bids or proposals for State contracts shall not be given a period after the bid or proposal is submitted to cure deficiencies in the bid or proposal under this Act unless mandated by federal law or regulation.

(Source: P.A. 96-7, eff. 4-3-09; 96-8, eff. 4-28-09; 96-706, eff. 8-25-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

STATE OF ILLINOIS  
PROCUREMENT POLICY BOARD  
222 SOUTH COLLEGE STREET, SUITE 231  
SPRINGFIELD, IL 62704  
217-785-3988