

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER d: LOW LEVEL RADIOACTIVE WASTE/TRANSPORTATION

PART 605
STANDARDS FOR SELECTION OF CONTRACTORS

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AUTHORITY: Implementing and authorized by Section 5 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/5].

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Section 605.10 Scope

This Part sets out the standards the Illinois Emergency Management Agency (Agency) will use when selecting a contractor for the design, development, construction, operation and closure of the low-level radioactive waste disposal facility envisioned by the Illinois Low-Level Radioactive Waste Management Act. (Act) [420 ILCS 20]. The Agency will issue a Request for Proposals for the project. It is the intent of the Agency that the project will be awarded to the proposer whose proposal, based on the standards of this Part, will result in a low-level radioactive waste disposal facility that furthers the interests of the State of Illinois, as stated in Section 2 of the Act. Illinois is a member of the Central Midwest Interstate Low-Level Radioactive Waste Compact and has been designated as the host state for a regional low-level radioactive waste disposal facility. Therefore, when selecting the proposal that will suit Illinois' needs, the Agency will also evaluate the proposal with respect to implementation of policies and recommendations adopted by the Central Midwest Interstate Low-Level Radioactive Waste Compact Commission, to the extent that those policies and recommendations are not inconsistent

with Illinois standards expressed by the Act and 32 Ill. Adm. Code 340, 341, 400 and 601.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.20 Number of Contractors; Use of Subcontractors

- a) The Agency shall initiate contract negotiations with the single proposer or joint venture that has submitted the overall contract proposal that best conforms to the standards specified in this Part. However, if, based on the criteria stated in this Part, the Agency determines that none of the proposals submitted will serve the interests of the State of Illinois, as stated in Section 2 of the Act, the Agency shall not be required to accept any of the proposals. A time limit of one hundred and eighty (180) days has been established as the allowable negotiation period. If the negotiations are not completed within this period, the Agency may extend the negotiation period with the selected proposer. Furthermore, if a contract cannot be negotiated with the first proposer selected, the Agency may either initiate contract negotiations with another proposer or reissue the Request for Proposals. The Agency reserves the right to terminate negotiations prior to the end of the negotiation period or extend the negotiations.
- b) When evaluating proposals, the Agency shall consider the proposed use of subcontractors and consultants. Specifically, the Agency shall determine, based on the criteria set out in this Part, whether the proposed use of subcontractors and consultants will further the interests of the State of Illinois, as stated in Section 2 of the Act. The Agency shall not select any proposal that calls for the subcontracting of facility operation. Subcontractors will be evaluated against the same standards as contractors, but only to the extent that the standards apply to the specific responsibilities assigned to the subcontractor as set out in the proposal.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.30 Financial Integrity

- a) The proposer who is selected to be contractor shall establish that it has the financial resources necessary to design, develop, construct, operate and close the low-level radioactive waste disposal facility. In addition, the proposer must have resources sufficient to meet the contractor's obligations regarding closure and post-closure (32 Ill. Adm. Code 601). Further, because it is likely that the low-level waste disposal facility will receive mixed waste (i.e., waste that has both radioactive and hazardous components), when evaluating the financial integrity of the proposers, the Agency shall establish whether the firm is capable of meeting the financial requirements of 35 Ill. Adm. Code 724. Specifically, the Agency

shall negotiate a contract only with a proposer that is capable of meeting either of the following two financial tests:

- 1) Test One: The proposer must have:
 - A) Two of the following three ratios:
 - i) a ratio of total liabilities to net worth less than 2.0;
 - ii) a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1;
 - iii) a ratio of current assets to current liabilities greater than 1.5; and
 - B) Net working capital and tangible net worth each at least six times the sum of the closure and post-closure costs estimates contained in the proposal; and
 - C) Tangible net worth of at least \$10 million; and
 - D) Assets in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the closure and post-closure estimates contained in the proposal.
 - 2) Test Two: The proposer must have:
 - A) A current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor or Aaa, Aa, A or Baa as issued by Moody; and
 - B) Tangible net worth at least six times the sum of the closure and post-closure cost estimates contained in the proposal; and
 - C) Tangible net worth of at least \$10 million; and
 - D) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the closure and post-closure cost estimates contained in the proposal.
- b) When evaluating whether a proposer is capable of satisfying the financial requirements of 32 Ill. Adm. Code 601, the Agency shall consider:

- 1) The proposer's current assets and liabilities;
 - 2) The proposer's short-term and long-term debt;
 - 3) The proposer's credit rating;
 - 4) The most recent Form 10K and all Form 10Qs since the last 10K that the proposer (or if more than one firm is proposing, all proposers) has filed with the United States Securities and Exchange Commission;
 - 5) If proposer has not filed a Form 10K with the United States Securities and Exchange Commission, audited financial statements for the past three fiscal years and quarterly financial reports for the past two years;
 - 6) Court decisions, decrees or agreements that have been issued or that are pending and that could adversely affect the financial well-being of the company;
 - 7) Whether the proposer has ever initiated bankruptcy proceedings, either voluntary or involuntary, as well as the time and performance of the proposer since the proceedings; and
 - 8) Any additional information provided by proposer.
- c) When determining whether a proposer is capable of satisfying the financial requirements of 32 Ill. Adm. Code 601, the Agency shall apply the accounting standards of the Financial Accounting Standards Board (FASB) (see www.fasb.org).

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.40 Experience of the Firm; Performance History Requirements

- a) The Agency shall select as contractor a proposer who has demonstrated an ability to design, develop, construct, operate and close a low-level radioactive waste disposal facility that incorporates the best available management technologies that are economically reasonable, technologically feasible and environmentally sound. When evaluating whether a proposer has demonstrated this ability, the Agency shall evaluate the proposer's experience developing and operating a low-level radioactive waste storage, treatment or disposal facility. If a proposer does not have experience in both the development and operation of a low-level radioactive waste disposal facility, the Agency shall evaluate the proposer's experience as

either a low-level radioactive waste disposal facility developer or as a disposal facility operator, or the proposer's experience in radioactive materials management, hazardous materials management, nuclear fuel cycle facility design, construction, or operation, or other related experience presented by the proposer.

- b) The proposer shall provide a complete performance history of its activities as described in subsection (a). When evaluating the proposer's experience, the Agency shall consider for each project:
- 1) general information about the project, including:
 - A) the facility and its location;
 - B) the capacity of the facility;
 - C) the actual performance of the facility;
 - D) the type of storage, treatment or disposal method used;
 - E) the proposer's role in the project (i.e., design, construction, operation);
 - F) project initiation and completion dates;
 - G) current facility status and, if closed, the reason for closure;
 - H) the proposer's client;
 - I) current facility manager business address and phone;
 - 2) the complexity and scope of the previous project, such as, but not limited to, the previous projects' budget, duration, staffing and regulatory complexity;
 - 3) the success of the project, i.e., whether the proposer met the objectives of the project in a timely manner, without exceeding anticipated costs and in a manner consistent with regulatory requirements, as well as whether the client was satisfied with the proposer's performance;
 - 4) whether the proposer has ever forfeited a performance bond or neglected to fulfill contract responsibilities;
 - 5) whether the proposer has ever initiated or defended litigation arising from

the activities, as described in the performance history, as well as the nature and outcome of the litigation;

- 6) the proposer's history with respect to licensing and regulatory compliance, including any record of safety violations or other compliance problems; and
- 7) any other information provided by the proposer.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.50 Management Qualifications of the Firm

The Agency shall select as a contractor a proposer who possesses and will apply the project management resources, procedures, and expertise necessary to assure that the low-level radioactive waste disposal facility will be designed, developed, constructed, operated and closed according to the schedule contained in the proposal. To evaluate whether a proposer meets the requisite management qualifications, the Agency will review the proposed system of management and cost and quality control, the proposer's record of experience and expertise in managing projects of similar magnitude and scope, the proposed project schedules and resources dedicated to accomplishment of each task, the proposed system of quality control checks, financial controls, cost accounting procedures, and efficient use of time and personnel, by evaluating such things as the proposer's schedule of completion against statutory deadlines and also by examining the proposer's estimated costs. The Agency will also review the organizational chart submitted by the proposer, which shall identify the key management positions in the project, the responsibilities assigned to each position, the chain of responsibility in the project management team, and the procedures that would be used to assure accountability and control of all phases of the project. In addition, the Agency shall consider any other information provided by the proposer.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.60 Qualifications of the Employees of the Firm

- a) Because the contractor and its subcontractors will be responsible for performing a variety of activities, as set forth in this Part and 32 Ill. Adm. Code 601, ranging from designing a facility to negotiating plans for impact assistance with local governments, when selecting a contractor to design, develop, construct, operate and close a low-level radioactive waste disposal facility, the Agency will only select a proposer that has or will obtain a qualified staff that will be assigned to the project and that meets the requirements of this Section. The employee qualifications listed in this Section are minimum requirements for the contractor and must be met collectively by the contractor's staff; the qualifications need not

be met by a single individual.

- 1) Project Manager
 - A) The contractor selected shall have an identified individual (or individuals) who will act as Project Manager for the designing, development, construction, operation and closure of the low-level radioactive waste disposal facility.
 - B) The Project Manager will be required to work with the Agency to ensure that the project is proceeding in accordance with the provisions of the contract and in accordance with the requirements of the Act.
 - C) The Project Manager will also be responsible for organizing, managing and coordinating the staff of both the contractor and the subcontractors. To assure that the Project Manager is capable of fulfilling these responsibilities, the Project Manager must have previous managerial experience on a project of similar magnitude and complexity (i.e., project of similar budget, duration, staffing, and regulatory complexity). The Project Manager must have been manager of a project that involved supervision of at least 30 professional (engineering or other technical) employees. Additionally, the Project Manager must be familiar with federal, State and local requirements applicable to radioactive or hazardous waste disposal, or with radioactive materials licensing. The Project Manager's familiarity with these regulatory requirements shall have been obtained through involvement on previous projects.
- 2) Senior Project Engineer. The Senior Project Engineer will be responsible for approving all engineering plans, designs, drawings, reports, specifications and other engineering documents on behalf of the contractor. Therefore, the Senior Project Engineer shall:
 - A) Be a Professional Engineer licensed in Illinois by the Department of Financial and Professional Regulation in accordance with the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] or be a Professional Engineer licensed in another state and be eligible for reciprocal licensure within six months; and
 - B) Have been a senior engineer on at least two other engineering projects of similar complexity and magnitude as the proposed

project (i.e., project of similar budget, duration, staffing and regulatory complexity). Preference will be given to proposers who designate as a senior engineer an individual who has worked on a project for the design, development, or remediation of a radioactive waste disposal facility.

- 3) Mechanical Engineer. If the proposer's plan requires the services of a mechanical engineer, the mechanical engineer shall:
 - A) Be a Professional Engineer licensed in Illinois by the Department of Financial and Professional Regulation in accordance with the Professional Engineering Practice Act of 1989 [225 ILCS 325] or be a Professional Engineer licensed in another state and be eligible for reciprocal licensure within six months; or
 - B) Have a degree in mechanical engineering and at least five years experience as a mechanical engineer.
- 4) Geotechnical or Civil Engineer. The geotechnical or civil engineer shall:
 - A) Be a Professional Engineer licensed in Illinois by the Department of Financial and Professional Regulation in accordance with the Professional Engineering Practice Act of 1989 [225 ILCS 325] or be a Registered Professional Engineer licensed in another state and be eligible for reciprocal licensure within six months; or
 - B) Have a degree in geotechnical or civil engineering and at least five years experience as a geotechnical or civil engineer.
- 5) Structural Engineer. The Structural Engineer will be responsible for designing structural components of the facility. To be able to accomplish this task, the structural engineer will have to be knowledgeable in reinforced concrete design and construction. At a minimum, the individual identified to perform these responsibilities shall:
 - A) Be a Structural Engineer licensed in Illinois by the Department of Financial and Professional Regulation in accordance with the Structural Engineering Practice Act of 1989 [225 ILCS 340] or be a Structural Engineer licensed in another state and be eligible for reciprocal licensure within six months; and
 - B) Shall have at least 10 years of experience in reinforced concrete design and construction.

- 6) Geohydrologist. The proposer selected as contractor shall have a geohydrologist knowledgeable in geologic interpretation and hydraulic transport of contaminants through soil or other porous material. The geohydrologist shall either:
 - A) Hold a Master's Degree in geology or hydrogeology and have at least five years experience as a hydrogeologist; or
 - B) Hold a Bachelor's degree in geology and have at least eight years of experience as hydrogeologist.
- 7) Environmental Scientist. The proposer selected as contractor shall have an environmental scientist who:
 - A) Holds an advanced degree (Ph.D., M.A. or M.S.) in Environmental Science or related natural or physical science; and
 - B) Has at least five years experience in evaluation and mitigation of environmental impacts.
- 8) Health Physicists
 - A) During the design, development and planning of operation of a low-level radioactive waste disposal facility, the full time services of a health physicist will be required to establish compliance with the requirements of 32 Ill. Adm. Code 310, 330, 341, 400 and 601. The health physicist will be responsible for developing and implementing an environmental monitoring plan, preparing an emergency response plan, and assisting the contractor in the design and development of a disposal facility that incorporates the best available management technologies that are economically reasonable, technologically feasible and environmentally sound. In order to assure that the health physicist available to the contractor is competent to fulfill these responsibilities, the contractor selected must have a health physicist whose services will be dedicated to the project and who meets one of the following:
 - i) Is certified by the American Board of Health Physics, 1313 Dolley Madison Blvd., Suite 402, McLean VA 22101, in accordance with that organization's standards for certification in effect in November 2011. A copy of these

standards is available from the Agency;

- ii) Holds a Doctorate (Ph.D.) in health physics, medical radiological physics or physics, and has at least three years of applied radiation protection experience; or
 - iii) Holds a Master's (M.S., M.A.) degree in health physics or physics and has at least five years of applied radiation protection experience.
- B) Operation. During the operation of the low-level radioactive waste disposal facility, health physicists will be needed to conduct personnel monitoring, perform environmental monitoring, inspect packages received for disposal, and perform the responsibilities of a Radiation Safety Officer. In order to assure that the health physicists available to the contractor are capable of performing duties necessary to establish compliance with the requirements of 32 Ill. Adm. Code 340 and 601, the contractor selected must have health physicists whose services will be dedicated, i.e., a full-time employee on site, to the operation of the low-level radioactive waste disposal facility. In addition, the health physicists must either:
- i) Be certified by the American Board of Health Physics, 1313 Dolley Madison Blvd, Suite 402, McLean VA 22101, in accordance with that organization's standards for certification in effect in November 2011. A copy of these standards is available from the Agency;
 - ii) Hold a Doctorate (Ph.D.) in health physics, physics or natural or physical science and have at least three years of applied radiation protection experience;
 - iii) Hold a Master's (M.S., M.A.) degree in health physics, physics or natural or physical science and have at least five years of applied radiation protection experience; or
 - iv) Hold a Bachelor's (B.S., B.A.) degree in health physics, physics, or natural or physical science and have at least eight years of applied radiation protection experience.
- 9) Radiochemist. The contractor will be required to operate an onsite radiochemistry laboratory. This laboratory will be used to analyze

incoming radioactive materials, as well as samples obtained in the process of environmental monitoring. The radiochemist will be responsible for managing this laboratory and performing chemical analyses. In order to ensure that the contractor will be able to fulfill its obligation to provide radiochemistry support services, the proposer selected must have a radiochemist who:

- A) Holds an advanced degree (Ph.D., M.A., M.S.) in radiochemistry or chemistry; and
- B) Has at least five years experience working in a radiochemistry laboratory.

- 10) Community Liaison. The community liaison will be responsible for involving all segments of the public in the decision making surrounding the development, operation, closure and post-closure phases of the facility and will also be responsible for establishing a long-term local citizens' advisory group. To ensure that the community liaison is capable of fulfilling these responsibilities, the proposer selected must have a community liaison who will be assigned to this project and who either has:

- A) An advanced degree (Ph.D., M.S., M.A.) in public administration or a related field, e.g., public affairs, or technology and public policy, and a minimum of three years experience in conducting public participation programs, particularly those involving the siting of locally controversial land uses, such as prisons or landfills; or
- B) A Bachelor's degree (B.A., B.S.) in public administration or a related field and a minimum of five years experience in conducting public participation programs, particularly those involving the siting of locally controversial land uses.

- 11) Support Services

- A) Comptroller – The contractor shall dedicate to the project the full-time services of a comptroller experienced in managing projects of similar budget size and complexity of the proposed project. The comptroller shall hold a degree in accounting and shall have at least five years experience.
- B) Information Management Services Staff. The contractor will be responsible for developing and maintaining computerized record

keeping systems that track generators, container contents, shippers, dates, certifications, treatments, package characteristics, special disposal requirements and location of containers in disposal units. These computerized record keeping systems must be compatible with the Agency's systems. To ensure that the contractor is capable of fulfilling this responsibility, the proposer shall have an information management specialist who has training in the development and maintenance of computer systems. The information management specialist shall hold a Bachelor's or graduate level degree in computer science or information management and shall have at least three years of computer programming experience.

- b) The Agency shall evaluate the qualifications of any other project staff identified by the proposer in its proposal. When determining whether the staff is qualified to perform the responsibilities identified in the proposal, the Agency will evaluate staff qualifications as characterized by the proposer in the proposal. In addition, the Agency will evaluate the qualifications specified by the proposer for positions that have been identified but not yet filled in order to determine whether the proposer anticipates filling vacant positions with individuals competent to perform assigned tasks. The Agency also will evaluate the proposer's procedures for hiring qualified replacements when the identified staff leaves the employ of the proposer.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.70 Socioeconomic Merit of Proposal

The proposer who is selected to be contractor for the design, development, construction, operation and closure of the low-level radioactive waste disposal facility will be required to develop a plan that, if executed, would assure that the community hosting a low-level radioactive waste disposal facility would realize benefits. In order to ensure that the contractor selected is capable of developing such a plan, the Agency will evaluate the proposed plan for identifying and addressing local concerns, providing public information and a forum for public involvement, and designing and negotiating programs for incentives and compensation to the host community.

- a) **Public Information Plan.** The Agency shall evaluate the proposer's public information plan by establishing whether the plan contains the following:
 - 1) A program for explaining both the potential risks and benefits associated with low-level radioactive waste disposal and the proposer's approach for minimizing the risks;

- 2) A method for effectively identifying all interested or potentially affected parties; and
 - 3) A plan for development and distribution of sufficient, accurate, and understandable informational materials to permit and encourage public participation in the site development process.
- b) Local Involvement Plan. The Agency shall evaluate the local involvement plan to establish that the proposer selected as contractor is capable of and willing to ascertain and respond to the matters of particular concern to each county or municipality that has been selected as a potential host community. When evaluating the adequacy of local involvement plans, the Agency will review:
- 1) The proposer's plan for:
 - A) Guaranteeing the property value of land contiguous to the facility;
 - B) Establishing or encouraging compatible economic or other activities in the vicinity of the facility;
 - C) Preserving the local revenue attributable to property taxes on the land that will be used for the facility;
 - D) Preparing an economic and community development plan;
 - E) Providing local residents with appropriate training and jobs at the facility;
 - F) Procuring goods and services locally;
 - G) Assuring procedures for local oversight of and participation in facility operation and development, including independent or cooperative monitoring and access to information regarding facility operations;
 - H) Assuring that third party liability and remedial action funds are available to meet reasonably foreseeable contingencies as described in the plan required under Section 605.80(b)(5);
 - I) Guaranteeing that the selling price of local produce is not adversely affected due to the presence of the disposal facility;
 - J) Enhancing the human and natural environment in the vicinity of

- the facility by establishing recreational facilities, wildlife preserves, natural areas or similar land uses;
- K) Employing permanent and seasonal workers in professional, clerical, skilled or semi-skilled positions, with employment efforts directed at hiring local residents;
 - L) Soliciting input from local officials regarding concerns associated with hosting the disposal facility; and
 - M) Accommodating other requests and responding to other concerns that may be raised by the counties and municipalities where the alternative sites will be located.
- 2) The proposer's plan for addressing technical matters of local concern, including the following:
- A) Facility design;
 - B) Facility construction schedules, plans and procedures;
 - C) Facility operating procedures;
 - D) Monitoring systems and procedures;
 - E) Emergency, remedial action and closure plans;
 - F) Long-term care and maintenance plans;
 - G) Control and routing of transport of low-level radioactive waste to the facility; and
 - H) Solicitation of input from local officials regarding technical and procedural concerns associated with design, construction, operation, monitoring and closing a low-level radioactive waste disposal facility.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.80 Method of Disposal

The Agency shall select as a contractor a proposer who is capable of designing, constructing, operating, and closing a low-level radioactive waste disposal facility that does not incorporate

the use of shallow land burial or deep well injection and that will further the objective of providing *for the management of these wastes in the safest manner possible and in a manner that creates the least risk to human health and the environment of Illinois* [420 ILCS 20/2(b)]. For purposes of this Section, shallow land burial has the same definition ascribed in Section 3 of the Act. The Agency will establish whether a proposer is capable of designing such a facility by evaluating a reference facility design submitted by the proposer as part of its proposal. The reference facility design shall briefly and concisely describe for consideration by the Agency the proposer's concept of the best available technology that is economically reasonable, technologically feasible, and environmentally sound for the disposal of low-level radioactive waste. The reference facility design shall include schematic drawings and narrative descriptions only in sufficient detail to permit an evaluation by the Agency of the technical merit of the design and the knowledge and expertise of the proposer. The reference facility design shall specifically address the role and performance of the engineered features in enhancing long-term isolation, monitoring, retrievability or remedial action and minimizing exposure to personnel. Reference facility designs shall be evaluated according to the following criteria:

- a) Disposal Facility Design
 - 1) To determine whether the proposer has demonstrated an ability to meet the design constraints of 32 Ill. Adm. Code 601 and the Act, the Agency will request each proposer to submit a reference facility design.
 - 2) To make this determination, the Agency will then evaluate the reference design to determine whether the proposer has applied the following criteria:
 - A) Incorporation of multiple engineered features to provide structural integrity, prevent release of material from engineered containment, and provide radiation shielding;
 - B) Incorporation of design elements that reduce the amount of waste on site and not permanently disposed of and that minimize the time waste is held on site prior to disposal;
 - C) Promotion of worker safety, including minimization of worker radiation dose to as low as is reasonably achievable;
 - D) Disposal capacity sufficient to accommodate the anticipated waste volume;
 - E) Ability of the facility to accommodate waste that is of unusual volume or shape;

- F) Ability of the facility to accommodate mixed waste (i.e., waste that has both radioactive and chemically hazardous components); and
 - G) Flexibility to accommodate waste streams and volumes not currently identified.
- b) **Operating Plan.** When evaluating the proposer's operating plan, the Agency will evaluate the adequacy of the proposer's procedures for:
- 1) Inspection of packages;
 - 2) Treatment of wastes for disposal;
 - 3) Personnel monitoring;
 - 4) Environmental monitoring, specifically monitoring of air, groundwater, and soil;
 - 5) Contingency planning;
 - 6) Maintaining records of the source and type of waste received for disposal; and
 - 7) Continual in situ testing of the design and construction of disposal units, research and development of improved methods of disposal, and application of those methods.
- c) **Closure Plan.** The Agency will evaluate the adequacy of the proposer's plan for satisfying the closure requirements of 32 Ill. Adm. Code 601.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.90 Procedures for Soliciting Proposals

- a) The Agency shall issue a Request for Proposals for contractors to design, develop, construct, operate and close a low-level radioactive waste disposal facility.
- b) The deadline for receiving proposals shall be no earlier than 60 days from the date that the proposal announcement is first published in the official state newspaper.
- c) All proposals received by the Agency by the submission date set forth in the Request for Proposals will be catalogued and distributed by the Agency for review and evaluation. All proposals will then be reviewed by the Agency,

Agency staff, and such experts outside the Agency as may be needed. Following the receipt of proposals, the Agency will review all proposals with respect to completeness and conformance with the instructions and requirements specifically indicated in the Request for Proposals. Proposals that are deemed incomplete or non-conforming with instructions and requirements of the Request for Proposals may not be given further evaluation. The Agency reserves the right to reject any or all proposals and to waive any irregularity, variance, or informality, whether technical or substantive in nature. All proposals will be equally evaluated with respect to the completeness of the data provided, the support for the performance claims made, and the criteria established for evaluation in the Request for Proposals according to the Act and related rules (32 Ill. Adm. Code 601).

- d) The Agency shall reject, without consideration of the merits, any proposal that is not accompanied by an acceptable (\$1,000,000) proposal guaranty. The proposal guaranty is acceptable if it is in any of the following forms:
- 1) A certified check, drawn on a solvent commercial bank or trust company to the order of the Illinois Emergency Management Agency;
 - 2) A bank check, drawn on a solvent commercial bank or trust company, to the order of the Illinois Emergency Management Agency;
 - 3) An irrevocable letter of credit issued by a solvent commercial bank or trust company; or
 - 4) A bond executed by a corporate surety company authorized to do business in the State of Illinois.
- e) All proposal guaranties shall:
- 1) Be valid for at least 180 days from the proposal submission date;
 - 2) Be extended at the Agency's request for an additional period, up to 365 days, without cost to the Agency. The Agency would request that proposal guarantees be extended if either:
 - A) No proposer was selected as a contractor within the 180 day period; or
 - B) A proposer was selected, but contract negotiations were not completed within the 180 day period.
 - 3) Be returned, within five business days after execution of a contract for the

design, development, construction, operation and closure of the low-level radioactive waste disposal facility.

- f) Failure of a successful proposer to execute the contract as proposed in the response to the Request for Proposals and file acceptable bonds within 45 days after the contract has been mailed to the proposer shall be just cause for cancellation of the award and the forfeiture of the proposal guaranty that shall become the property of the Agency, not as a penalty, but in liquidation of the damages sustained. If the contract is not executed by the Agency within 30 days following receipt from the proposer of the executed contracts and bonds, the proposer shall have the right to withdraw the proposal without penalty.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.100 Waiver of Requirements

The Agency shall waive any requirement if the specific objective the requirement is intended to achieve has been met or exceeded by an alternative that does not fulfill the requirement itself.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.110 Verification of Statements; Material False Statements

- a) When evaluating proposals, the Agency may request and consider the advice and knowledge of others, such as representatives of local government, other State agencies and technical consultants, in order to verify the validity of statements made in the proposal and to evaluate the proposer's efforts to satisfy the standards.
- b) The Agency shall not select as contractor any proposer who submits a proposal that contains material false statements or material omissions. A false statement or omission is material if it prevents the Agency from making an informed and accurate assessment of the proposer's ability to meet the criteria.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)

Section 605.120 Performance Guaranty

The successful proposer, at the time of the execution of the contract, shall deposit with the Agency a performance guaranty in a form acceptable to the Agency for the full amount of the contract. The performance guaranty shall be acceptable to the Agency if it is of a type listed in Section 605.90(c). At the contractor's request, the amount of the performance guarantee shall be reevaluated and adjusted to reflect the costs of performing remaining contract obligations, upon the submission of application, the granting of licensing, the completion of construction, and the

acceptance of waste for disposal. Guaranty amounts will be forfeited by the contractor if the contractor fails to perform its obligations as specified in the terms of the contract. Any guaranty amounts not forfeited before the first disposal module shall be released by the Agency upon closure of the first disposal module.

(Source: Amended at 37 Ill. Reg. 12414, effective July 19, 2013)