

104TH GENERAL ASSEMBLY**State of Illinois****2025 and 2026****HB2894**

Introduced 2/6/2025, by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-45020
55 ILCS 5/5-45025
65 ILCS 5/11-39.2-20
65 ILCS 5/11-39.2-25
70 ILCS 705/11k

Amends the Counties Code. In a provision concerning the development of scope and performance criteria for design-build projects, deletes a provision that requires the county to develop preliminary design plans. Specifies that a design-build entity shall not be disqualified solely due to having previously been awarded a project or projects under any applicable public procurement statute of the State. Provides that, if a county receives one Phase I response, nothing prohibits the county from proceeding with a Phase II evaluation of the single respondent, if the county, in its discretion, finds proceeding to be in its best interest. Amends the Illinois Municipal Code. In a provision concerning the development of scope and performance criteria for design-build projects, deletes a provision that requires the municipality to develop preliminary design plans. Specifies that a design-build entity shall not be disqualified solely due to having previously been awarded a project or projects under any applicable public procurement statute of the State. Provides that, if a municipality receives one response to Phase I, nothing shall prohibit the municipality from proceeding with a Phase II evaluation of the single respondent, if the municipality, in its discretion, finds proceeding to be in its best interest. Amends the Fire Protection District Act. Provides that the Act's competitive bidding provisions do not prohibit a fire protection district from entering into design-build contracts.

LRB104 10096 JDS 20168 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Sections 5-45020 and 5-45025 as follows:

6 (55 ILCS 5/5-45020)

7 Sec. 5-45020. Development of scope and performance
8 criteria.

9 (a) The county shall develop, with the assistance of a
10 licensed design professional or public art designer, a request
11 for proposal, which shall include scope and performance
12 criteria. The scope and performance criteria must be in
13 sufficient detail and contain adequate information to
14 reasonably apprise the qualified design-build entities of the
15 county's overall programmatic needs and goals, including
16 criteria and preliminary design plans, general budget
17 parameters, schedule, and delivery requirements.

18 (b) Each request for proposal shall also include a
19 description of the level of design to be provided in the
20 proposals. This description must include the scope and type of
21 renderings, drawings, and specifications that, at a minimum,
22 will be required by the county to be produced by the
23 design-build entities.

(c) The scope and performance criteria shall be prepared by a design professional or public art designer who is an employee of the county, or the county may contract with an independent design professional or public art designer selected under the Local Government Professional Services Selection Act to provide these services.

(d) The design professional or public art designer that prepares the scope and performance criteria is prohibited from participating in any design-build entity proposal for the project.

(e) The design-build contract may be conditioned upon subsequent refinements in scope and price and may allow the county to make modifications in the project scope without invalidating the design-build contract.

(Source: P.A. 102-954, eff. 1-1-23.)

(55 TTCS 5/5-45025)

Sec. 5-45025. Procedures for Selection.

(a) The county must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The county shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of

1 design-build entities that the county has set forth. Each
2 request for proposal shall establish the relative importance
3 assigned to each evaluation factor and subfactor, including
4 any weighting of criteria to be employed by the county. The
5 county must maintain a record of the evaluation scoring to be
6 disclosed in event of a protest regarding the solicitation.

7 The county shall include the following criteria in every
8 Phase I evaluation of design-build entities: (i) experience of
9 personnel; (ii) successful experience with similar project
10 types; (iii) financial capability; (iv) timeliness of past
11 performance; (v) experience with similarly sized projects;
12 (vi) successful reference checks of the firm; (vii) commitment
13 to assign personnel for the duration of the project and
14 qualifications of the entity's consultants; and (viii) ability
15 or past performance in meeting or exhausting good faith
16 efforts to meet the utilization goals for business enterprises
17 established in the Business Enterprise for Minorities, Women,
18 and Persons with Disabilities Act and with Section 2-105 of
19 the Illinois Human Rights Act. The county may include any
20 additional relevant criteria in Phase I that it deems
21 necessary for a proper qualification review.

22 The county may not consider any design-build entity for
23 evaluation or award if the entity has any pecuniary interest
24 in the project or has other relationships or circumstances,
25 including, but not limited to, long-term leasehold, mutual
26 performance, or development contracts with the county, that

1 may give the design-build entity a financial or tangible
2 advantage over other design-build entities in the preparation,
3 evaluation, or performance of the design-build contract or
4 that create the appearance of impropriety. A design-build
5 entity shall not be disqualified under this Section solely due
6 to having previously been awarded a project or projects under
7 any applicable public procurement statute of the State. No
8 proposal shall be considered that does not include an entity's
9 plan to comply with the requirements established in the
10 Business Enterprise for Minorities, Women, and Persons with
11 Disabilities Act, for both the design and construction areas
12 of performance, and with Section 2-105 of the Illinois Human
13 Rights Act.

14 Upon completion of the qualifications evaluation, the
15 county shall create a shortlist of the most highly qualified
16 design-build entities. The county, in its discretion, is not
17 required to shortlist the maximum number of entities as
18 identified for Phase II evaluation, provided that no less than
19 2 design-build entities nor more than 6 are selected to submit
20 Phase II proposals. If a county receives one response to Phase
21 I, nothing in this Section shall prohibit the county from
22 proceeding with a Phase II evaluation of the single respondent
23 if the county, in its discretion, finds proceeding to be in its
24 best interest.

25 The county shall notify the entities selected for the
26 shortlist in writing. This notification shall commence the

1 period for the preparation of the Phase II technical and cost
2 evaluations. The county must allow sufficient time for the
3 shortlist entities to prepare their Phase II submittals
4 considering the scope and detail requested by the county.

5 (c) The county shall include in the request for proposal
6 the evaluating factors to be used in the technical and cost
7 submission components of Phase II. Each request for proposal
8 shall establish, for both the technical and cost submission
9 components of Phase II, the relative importance assigned to
10 each evaluation factor and subfactor, including any weighting
11 of criteria to be employed by the county. The county must
12 maintain a record of the evaluation scoring to be disclosed in
13 event of a protest regarding the solicitation.

14 The county shall include the following criteria in every
15 Phase II technical evaluation of design-build entities: (i)
16 compliance with objectives of the project; (ii) compliance of
17 proposed services to the request for proposal requirements;
18 (iii) quality of products or materials proposed; (iv) quality
19 of design parameters; (v) design concepts; (vi) innovation in
20 meeting the scope and performance criteria; and (vii)
21 constructability of the proposed project. The county may
22 include any additional relevant technical evaluation factors
23 it deems necessary for proper selection.

24 The county shall include the following criteria in every
25 Phase II cost evaluation: the total project cost, the
26 construction costs, and the time of completion. The county may

1 include any additional relevant technical evaluation factors
2 it deems necessary for proper selection. The total project
3 cost criteria weighting factor shall not exceed 30%.

4 The county shall directly employ or retain a licensed
5 design professional or a public art designer to evaluate the
6 technical and cost submissions to determine if the technical
7 submissions are in accordance with generally accepted industry
8 standards. Upon completion of the technical submissions and
9 cost submissions evaluation, the county may award the
10 design-build contract to the highest overall ranked entity.

11 (Source: P.A. 102-954, eff. 1-1-23; 103-154, eff. 6-30-23.)

12 Section 10. The Illinois Municipal Code is amended by
13 changing Sections 11-39.2-20 and 11-39.2-25 as follows:

14 (65 ILCS 5/11-39.2-20)

15 Sec. 11-39.2-20. Development of scope and performance
16 criteria.

17 (a) The municipality must develop, with the assistance of
18 a licensed design professional or public art designer, a
19 request for proposal, which must include scope and performance
20 criteria. The scope and performance criteria must be in
21 sufficient detail and contain adequate information to
22 reasonably apprise the qualified design-build entities of the
23 municipality's overall programmatic needs and goals, including
24 criteria and ~~preliminary design plans~~, general budget

1 parameters, schedule, and delivery requirements.

2 (b) Each request for proposal must also include a
3 description of the level of design to be provided in the
4 proposals. This description must include the scope and type of
5 renderings, drawings, and specifications that, at a minimum,
6 will be required by the municipality to be produced by the
7 design-build entities.

8 (c) The scope and performance criteria must be prepared by
9 a design professional or public art designer who is an
10 employee of the municipality, or the municipality may contract
11 with an independent design professional or public art designer
12 selected under the Local Government Professional Services
13 Selection Act to provide these services.

14 (d) The design professional or public art designer that
15 prepares the scope and performance criteria is prohibited from
16 participating in any design-build entity proposal for the
17 project.

18 (e) The design-build contract may be conditioned upon
19 subsequent refinements in scope and price and may allow the
20 municipality to make modifications in the project scope
21 without invalidating the design-build contract.

22 (Source: P.A. 103-491, eff. 1-1-24.)

23 (65 ILCS 5/11-39.2-25)

24 Sec. 11-39.2-25. Procedures for Selection.

25 (a) The municipality must use a two-phase procedure for

1 the selection of the successful design-build entity. Phase I
2 of the procedure will evaluate and shortlist the design-build
3 entities based on qualifications, and Phase II will evaluate
4 the technical and cost proposals.

5 (b) The municipality must include in the request for
6 proposal the evaluating factors to be used in Phase I. These
7 factors are in addition to any prequalification requirements
8 of design-build entities that the municipality has set forth.
9 Each request for proposal must establish the relative
10 importance assigned to each evaluation factor and subfactor,
11 including any weighting of criteria to be employed by the
12 municipality. The municipality must maintain a record of the
13 evaluation scoring to be disclosed in event of a protest
14 regarding the solicitation.

15 The municipality must include the following criteria in
16 every Phase I evaluation of design-build entities: (i)
17 experience of personnel; (ii) successful experience with
18 similar project types; (iii) financial capability; (iv)
19 timeliness of past performance; (v) experience with similarly
20 sized projects; (vi) successful reference checks of the firm;
21 (vii) commitment to assign personnel for the duration of the
22 project and qualifications of the entity's consultants; and
23 (viii) ability or past performance in meeting or exhausting
24 good faith efforts to meet the utilization goals for business
25 enterprises established in the Business Enterprise for
26 Minorities, Women, and Persons with Disabilities Act and with

1 Section 2-105 of the Illinois Human Rights Act. The
2 municipality may include any additional, relevant criteria in
3 Phase I that it deems necessary for a proper qualification
4 review.

5 The municipality may not consider any design-build entity
6 for evaluation or award if the entity has any pecuniary
7 interest in the project or has other relationships or
8 circumstances, such as long-term leasehold, mutual
9 performance, or development contracts with the municipality,
10 that may give the design-build entity a financial or tangible
11 advantage over other design-build entities in the preparation,
12 evaluation, or performance of the design-build contract or
13 that create the appearance of impropriety. A design-build
14 entity shall not be disqualified under this Section solely due
15 to having previously been awarded a project or projects under
16 any applicable public procurement statute of the State. No
17 proposal may be considered that does not include an entity's
18 plan to comply with the requirements established in the
19 Business Enterprise for Minorities, Women, and Persons with
20 Disabilities Act, for both the design and construction areas
21 of performance, and with Section 2-105 of the Illinois Human
22 Rights Act.

23 Upon completion of the qualification evaluation, the
24 municipality must create a shortlist of the most highly
25 qualified design-build entities. The municipality, in its
26 discretion, is not required to shortlist the maximum number of

1 entities as identified for Phase II evaluation if no less than
2 design-build entities nor more than 6 are selected to submit
3 Phase II proposals. If a municipality receives one response to
4 Phase I, nothing in this Section shall prohibit the
5 municipality from proceeding with a Phase II evaluation of the
6 single respondent if the municipality, in its discretion,
7 finds proceeding to be in its best interest.

8 The municipality must notify the entities selected for the
9 shortlist in writing. This notification must commence the
10 period for the preparation of the Phase II technical and cost
11 evaluations. The municipality must allow sufficient time for
12 the shortlist entities to prepare their Phase II submittals
13 considering the scope and detail requested by the
14 municipality.

15 (c) The municipality must include in the request for
16 proposal the evaluating factors to be used in the technical
17 and cost submission components of Phase II. Each request for
18 proposal must establish, for both the technical and cost
19 submission components of Phase II, the relative importance
20 assigned to each evaluation factor and subfactor, including
21 any weighting of criteria to be employed by the municipality.
22 The municipality must maintain a record of the evaluation
23 scoring to be disclosed in event of a protest regarding the
24 solicitation.

25 The municipality must include the following criteria in
26 every Phase II technical evaluation of design-build entities:

1 (i) compliance with objectives of the project; (ii) compliance
2 of proposed services to the request for proposal requirements;
3 (iii) quality of products or materials proposed; (iv) quality
4 of design parameters; (v) design concepts; (vi) innovation in
5 meeting the scope and performance criteria; and (vii)
6 constructability of the proposed project. The municipality may
7 include any additional relevant technical evaluation factors
8 it deems necessary for proper selection.

9 The municipality must include the following criteria in
10 every Phase II cost evaluation: the total project cost, the
11 construction costs, and the time of completion. The
12 municipality may include any additional relevant technical
13 evaluation factors it deems necessary for proper selection.
14 The total project cost criteria weighting factor may not
15 exceed 30%.

16 The municipality must directly employ or retain a licensed
17 design professional or a public art designer to evaluate the
18 technical and cost submissions to determine if the technical
19 submissions are in accordance with generally accepted industry
20 standards. Upon completion of the technical submissions and
21 cost submissions evaluation, the municipality may award the
22 design-build contract to the highest overall ranked entity.

23 (Source: P.A. 103-491, eff. 1-1-24.)

24 Section 15. The Fire Protection District Act is amended by
25 changing Section 11k as follows:

1 (70 ILCS 705/11k)

2 Sec. 11k. Competitive bidding; notice requirements.

3 (a) The board of trustees shall have the power to acquire
4 by gift, legacy, or purchase any personal property necessary
5 for its corporate purposes provided that all contracts for
6 supplies, materials, or work involving an expenditure in
7 excess of \$20,000 shall be let to the lowest responsible
8 bidder after advertising as required under subsection (b) of
9 this Section; except that, if the board of trustees seeks to
10 purchase equipment directly from a dealer or an original
11 manufacturer in excess of \$50,000, then the contract for
12 purchase shall be let to the lowest responsible bidder after
13 advertising as required under subsection (b) of this Section.
14 The board is not required to accept a bid that does not meet
15 the district's established specifications, terms of delivery,
16 quality, and serviceability requirements. Contracts which, by
17 their nature, are not adapted to award by competitive bidding,
18 are not subject to competitive bidding, including, but not
19 limited to:

20 (1) contracts for the services of individuals
21 possessing a high degree of professional skill where the
22 ability or fitness of the individual plays an important
23 part;

24 (2) contracts for the printing of finance committee
25 reports and departmental reports;

(3) contracts for the printing or engraving of bonds, tax warrants, and other evidences of indebtedness;

(4) contracts for the maintenance or servicing of, or provision of repair parts for, equipment which are made with the manufacturer or authorized service agent of that equipment where the provision of parts, maintenance, or servicing can best be performed by the manufacturer or authorized service agent, or which involve proprietary parts or technology not otherwise available;

(5) purchases and contracts for the use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and interconnect equipment, software, and services;

(6) contracts for duplicating machines and supplies;

(7) contracts for utility services such as water, light, heat, telephone or telegraph;

(8) contracts for goods or services procured from another governmental agency;

(9) purchases of equipment previously owned by some entity other than the district itself; and

(10) contracts for goods or services which are economically procurable from only one source, such as for the purchase of magazines, books, periodicals, pamphlets, reports, and online subscriptions.

Contracts for emergency expenditures are also exempt from competitive bidding when the emergency expenditure is approved

1 by a vote of 3/4 of the members of the board.

2 (b) Except as otherwise provided in subsection (a) of this
3 Section, all proposals to award contracts involving amounts in
4 excess of \$20,000 shall be published at least 10 days,
5 excluding Sundays and legal holidays, in advance of the date
6 announced for the receiving of bids, in a secular English
7 language newspaper of general circulation throughout the
8 district. In addition, a fire protection district that has a
9 website that the full-time staff of the district maintains
10 shall post notice on its website of all proposals to award
11 contracts in excess of \$20,000. Advertisements for bids shall
12 describe the character of the proposed contract or agreement
13 in sufficient detail to enable the bidders thereon to know
14 what their obligations will be, either in the advertisement
15 itself, or by reference to detailed plans and specifications
16 on file at the time of the publication of the first
17 announcement. Such advertisement shall also state the date,
18 time and place assigned for the opening of bids, and no bids
19 shall be received at any time subsequent to the time indicated
20 in the announcement. All competitive bids for contracts
21 involving an expenditure in excess of \$20,000 must be sealed
22 by the bidder and must be opened by a member of the board or an
23 employee of the district at a public bid opening at which the
24 contents of the bids must be announced. Each bidder must
25 receive at least 3 days' notice of the time and place of the
26 bid opening.

(c) In addition to contracts entered into under the Governmental Joint Purchasing Act, a board of trustees may enter into contracts for supplies, materials, or work involving an expenditure in excess of \$20,000 through participation in a joint governmental or nongovernmental purchasing program that requires as part of its selection procedure a competitive solicitation and procurement process.

(d) Subject to the exceptions under subsections (a) and (c), any procurement by a board of trustees involving the acquisition, by direct or beneficial ownership, of improvements to real estate by a fire protection district which results in an expenditure of district funds in excess of \$20,000 must be competitively bid in accordance with the procedures of subsection (b). Nothing in this Section prohibits a fire protection district from entering into design-build contracts.

(Source: P.A. 102-138, eff. 1-1-22; 102-558, eff 8-20-21; 103-634, eff. 1-1-25.)