



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3053

Introduced 2/17/2023, by

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1022 from Ch. 34, par. 5-1022  
55 ILCS 5/5-45015  
55 ILCS 5/5-45025  
55 ILCS 5/5-45045

Amends the Counties Code. Provides that a county may establish goals, based upon a legally defensible disparity study, for the procurement of goods and services to promote and encourage the continuing economic development of: (1) minority-owned and minority-operated businesses; (2) women-owned and women-operated businesses; (3) businesses owned and operated by persons with disabilities; and (4) businesses owned and operated by veterans of the armed forces of the United States. In the County Design-Build Authorization Division of the Code, provides that, rather than evaluating design-build proposals to see if they comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and provisions of the Illinois Human Rights Act, design-build proposals may be evaluated to determine if the proposals meet the county's contracting goals for the county's program for disadvantaged business enterprises based on the county's most recent, legally defensible disparity study.

LRB103 29729 AWJ 56135 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 5-1022, 5-45015, 5-45025, and 5-45045 as follows:

6 (55 ILCS 5/5-1022) (from Ch. 34, par. 5-1022)

7 Sec. 5-1022. Competitive bids.

8 (a) Any purchase by a county with fewer than 2,000,000  
9 inhabitants of services, materials, equipment or supplies in  
10 excess of \$30,000, other than professional services, shall be  
11 contracted for in one of the following ways:

12 (1) by a contract let to the lowest responsible bidder  
13 after advertising for bids in a newspaper published within  
14 the county or, if no newspaper is published within the  
15 county, then a newspaper having general circulation within  
16 the county; or

17 (2) by a contract let without advertising for bids in  
18 the case of an emergency if authorized by the county  
19 board.

20 (b) In determining the lowest responsible bidder, the  
21 county board shall take into consideration the qualities of  
22 the articles supplied; their conformity with the  
23 specifications; their suitability to the requirements of the

1 county, availability of support services; uniqueness of the  
2 service, materials, equipment, or supplies as it applies to  
3 networked, integrated computer systems; compatibility to  
4 existing equipment; and the delivery terms. The county board  
5 also may take into consideration whether a bidder is a private  
6 enterprise or a State-controlled enterprise and,  
7 notwithstanding any other provision of this Section or a lower  
8 bid by a State-controlled enterprise, may let a contract to  
9 the lowest responsible bidder that is a private enterprise.

10 (c) This Section does not apply to contracts by a county  
11 with the federal government or to purchases of used equipment,  
12 purchases at auction or similar transactions which by their  
13 very nature are not suitable to competitive bids, pursuant to  
14 an ordinance adopted by the county board.

15 (d) Notwithstanding the provisions of this Section, a  
16 county may let without advertising for bids in the case of  
17 purchases and contracts, when individual orders do not exceed  
18 \$35,000, for the use, purchase, delivery, movement, or  
19 installation of data processing equipment, software, or  
20 services and telecommunications and inter-connect equipment,  
21 software, and services.

22 (e) A county may require, as a condition of any contract  
23 for goods and services, that persons awarded a contract with  
24 the county and all affiliates of the person collect and remit  
25 Illinois Use Tax on all sales of tangible personal property  
26 into the State of Illinois in accordance with the provisions

1 of the Illinois Use Tax Act regardless of whether the person or  
2 affiliate is a "retailer maintaining a place of business  
3 within this State" as defined in Section 2 of the Use Tax Act.  
4 For purposes of this subsection (e), the term "affiliate"  
5 means any entity that (1) directly, indirectly, or  
6 constructively controls another entity, (2) is directly,  
7 indirectly, or constructively controlled by another entity, or  
8 (3) is subject to the control of a common entity. For purposes  
9 of this subsection (e), an entity controls another entity if  
10 it owns, directly or individually, more than 10% of the voting  
11 securities of that entity. As used in this subsection (e), the  
12 term "voting security" means a security that (1) confers upon  
13 the holder the right to vote for the election of members of the  
14 board of directors or similar governing body of the business  
15 or (2) is convertible into, or entitles the holder to receive  
16 upon its exercise, a security that confers such a right to  
17 vote. A general partnership interest is a voting security.

18 (f) Bids submitted to, and contracts executed by, the  
19 county may require a certification by the bidder or contractor  
20 that the bidder or contractor is not barred from bidding for or  
21 entering into a contract under this Section and that the  
22 bidder or contractor acknowledges that the county may declare  
23 the contract void if the certification completed pursuant to  
24 this subsection (f) is false.

25 (g) A county may establish goals, based upon a legally  
26 defensible disparity study, for the procurement of goods and

1 services to promote and encourage the continuing economic  
2 development of:

3 (1) minority-owned and minority-operated businesses;

4 (2) women-owned and women-operated businesses;

5 (3) businesses owned and operated by persons with  
6 disabilities; and

7 (4) businesses owned and operated by veterans of the  
8 armed forces of the United States.

9 (Source: P.A. 95-331, eff. 8-21-07; 96-170, eff. 1-1-10.)

10 (55 ILCS 5/5-45015)

11 Sec. 5-45015. Solicitation of proposals.

12 (a) A county may enter into design-build contracts. In  
13 addition to the requirements set forth in its local  
14 ordinances, when the county elects to use the design-build  
15 delivery method, it must issue a notice of intent to receive  
16 proposals for the project at least 14 days before issuing the  
17 request for the proposal. The county must publish the advance  
18 notice in the manner prescribed by ordinance, which shall  
19 include posting the advance notice online on its website. The  
20 county may publish the notice in construction industry  
21 publications or post the notice on construction industry  
22 websites. A brief description of the proposed procurement must  
23 be included in the notice. The county must provide a copy of  
24 the request for proposal to any party requesting a copy.

25 (b) The request for proposal shall be prepared for each

1 project and must contain, without limitation, the following  
2 information:

3 (1) The name of the county.

4 (2) A preliminary schedule for the completion of the  
5 contract.

6 (3) The proposed budget for the project, the source of  
7 funds, and the currently available funds at the time the  
8 request for proposal is submitted.

9 (4) Prequalification criteria for design-build  
10 entities wishing to submit proposals. The county shall  
11 include, at a minimum, its normal qualifications,  
12 licensing, registration, and other requirements; however,  
13 nothing precludes the use of additional prequalification  
14 criteria by the county.

15 (5) Material requirements of the contract, including,  
16 but not limited to, the proposed terms and conditions,  
17 required performance and payment bonds, insurance, and the  
18 entity's plan to comply with the county's contracting  
19 goals for the county's program for disadvantaged business  
20 enterprises based on the county's most recent, legally  
21 defensible disparity study or to comply with the  
22 utilization goals for business enterprises established in  
23 the Business Enterprise for Minorities, Women, and Persons  
24 with Disabilities Act and with Section 2-105 of the  
25 Illinois Human Rights Act.

26 (6) The performance criteria.

1           (7) The evaluation criteria for each phase of the  
2 solicitation. Price may not be used as a factor in the  
3 evaluation of Phase I proposals.

4           (8) The number of entities that will be considered for  
5 the technical and cost evaluation phase.

6           (c) The county may include any other relevant information  
7 that it chooses to supply. The design-build entity shall be  
8 entitled to rely upon the accuracy of this documentation in  
9 the development of its proposal.

10          (d) The date that proposals are due must be at least 21  
11 calendar days after the date of the issuance of the request for  
12 proposal. If the cost of the project is estimated to exceed  
13 \$12,000,000, then the proposal due date must be at least 28  
14 calendar days after the date of the issuance of the request for  
15 proposal. The county shall include in the request for proposal  
16 a minimum of 30 days to develop the Phase II submissions after  
17 the selection of entities from the Phase I evaluation is  
18 completed.

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

20           (55 ILCS 5/5-45025)

21           Sec. 5-45025. Procedures for Selection.

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

1 the technical and cost proposals.

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

11 The county shall include the following criteria in every  
12 Phase I evaluation of design-build entities: (i) experience of  
13 personnel; (ii) successful experience with similar project  
14 types; (iii) financial capability; (iv) timeliness of past  
15 performance; (v) experience with similarly sized projects;  
16 (vi) successful reference checks of the firm; (vii) commitment  
17 to assign personnel for the duration of the project and  
18 qualifications of the entity's consultants; and (viii) ability  
19 or past performance in meeting or exhausting good faith  
20 efforts to meet the county's contracting goals for the  
21 county's program for disadvantaged business enterprises based  
22 on the county's most recent, legally defensible disparity  
23 study or to the utilization goals for business enterprises  
24 established in the Business Enterprise for Minorities, Women,  
25 and Persons with Disabilities Act and with Section 2-105 of  
26 the Illinois Human Rights Act. The county may include any



1 additional relevant criteria in Phase I that it deems  
2 necessary for a proper qualification review.

3 The county may not consider any design-build entity for  
4 evaluation or award if the entity has any pecuniary interest  
5 in the project or has other relationships or circumstances,  
6 including, but not limited to, long-term leasehold, mutual  
7 performance, or development contracts with the county, that  
8 may give the design-build entity a financial or tangible  
9 advantage over other design-build entities in the preparation,  
10 evaluation, or performance of the design-build contract or  
11 that create the appearance of impropriety. No proposal shall  
12 be considered that does not include an entity's plan to comply  
13 with the county's contracting goals for the county's program  
14 for disadvantaged business enterprises based on the county's  
15 most recent, legally defensible disparity study or to comply  
16 with the requirements established in the Business Enterprise  
17 for Minorities, Women, and Persons with Disabilities Act, for  
18 both the design and construction areas of performance, and  
19 with Section 2-105 of the Illinois Human Rights Act.

20 Upon completion of the qualifications evaluation, the  
21 county shall create a shortlist of the most highly qualified  
22 design-build entities. The county, in its discretion, is not  
23 required to shortlist the maximum number of entities as  
24 identified for Phase II evaluation, provided that no less than  
25 2 design-build entities nor more than 6 are selected to submit  
26 Phase II proposals.

1           The county shall notify the entities selected for the  
2 shortlist in writing. This notification shall commence the  
3 period for the preparation of the Phase II technical and cost  
4 evaluations. The county must allow sufficient time for the  
5 shortlist entities to prepare their Phase II submittals  
6 considering the scope and detail requested by the county.

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

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

26           The county shall include the following criteria in every

1 Phase II cost evaluation: the total project cost, the  
2 construction costs, and the time of completion. The county may  
3 include any additional relevant technical evaluation factors  
4 it deems necessary for proper selection. The total project  
5 cost criteria weighting ~~weighing~~ factor shall not exceed 30%.

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

13 (Source: P.A. 102-954, eff. 1-1-23; revised 12-16-22.)

14 (55 ILCS 5/5-45045)

15 Sec. 5-45045. Reports and evaluation. At the end of every  
16 6-month period following the contract award, and again prior  
17 to final contract payout and closure, a selected design-build  
18 entity shall detail, in a written report submitted to the  
19 county, its efforts and success in implementing the entity's  
20 plan to comply with the county's contracting goals for the  
21 county's program for disadvantaged business enterprises based  
22 on the county's most recent, legally defensible disparity  
23 study or to comply with the utilization goals for business  
24 enterprises established in the Business Enterprise for  
25 Minorities, Women, and Persons with Disabilities Act and the

1 provisions of Section 2-105 of the Illinois Human Rights Act.

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