



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1226

Introduced 2/2/2023, by Sen. Dan McConchie

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-45015
55 ILCS 5/5-45025
55 ILCS 5/5-45045

Amends the County Design-Build Authorization Division of the Counties Code. Provides that, rather than evaluating design-build proposals to see if they meet 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 05282 AWJ 50300 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 5-45015, 5-45025, and 5-45045 as follows:

6 (55 ILCS 5/5-45015)

7 Sec. 5-45015. Solicitation of proposals.

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

21 (b) The request for proposal shall be prepared for each
22 project and must contain, without limitation, the following
23 information:

1 (1) The name of the county.

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

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

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

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

24 (6) The performance criteria.

25 (7) The evaluation criteria for each phase of the
26 solicitation. Price may not be used as a factor in the

1 evaluation of Phase I proposals.

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

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

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

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

18 (55 ILCS 5/5-45025)

19 Sec. 5-45025. Procedures for Selection.

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

25 (b) The county shall include in the request for proposal

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

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

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

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

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 ~~weighing~~ 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; revised 12-16-22.)

12 (55 ILCS 5/5-45045)

13 Sec. 5-45045. Reports and evaluation. At the end of every
14 6-month period following the contract award, and again prior
15 to final contract payout and closure, a selected design-build
16 entity shall detail, in a written report submitted to the
17 county, its efforts and success in implementing the entity's
18 plan to comply with the county's contracting goals for the
19 county's program for disadvantaged business enterprises based
20 on the county's most recent, legally defensible disparity
21 study or the utilization goals for business enterprises
22 established in the Business Enterprise for Minorities, Women,
23 and Persons with Disabilities Act and the provisions of
24 Section 2-105 of the Illinois Human Rights Act.

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