

AN ACT concerning local government.

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

Section 1. Short title. This Act may be cited as the Forest Preserve District and Conservation District Design-Build Authorization Act.

Section 5. Purpose. This purpose of this Act is to authorize forest preserve districts and conservation districts to use design-build processes to increase the efficiency and effectiveness of delivering public projects.

Section 10. Definitions. As used in this Act:

"Delivery system" means the design and construction approach used to develop and construct a project.

"Design-bid-build" means the traditional delivery system used on public projects that incorporates the Local Government Professional Services Selection Act, the competitive bidding process set forth in Section 6 of the Conservation District Act, the competitive bidding process set forth in subsection (b) of Section 8 of the Downstate Forest Preserve District Act, or the competitive bidding process set forth in Section 14 of the Cook County Forest Preserve District Act.

"Design-build" means a delivery system that provides

responsibility within a single contract for the furnishing of architecture, engineering, land surveying, and related services as required and the labor, materials, equipment, and other construction services for the project.

"Design-build contract" means a contract for a public project under this Act between a forest preserve district or conservation district and a design-build entity to furnish: architecture, engineering, land surveying, public art or interpretive exhibits, and related services, as required; and the labor, materials, equipment, and other construction services for the project.

"Design-build entity" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under this Act. A design-build entity and associated design professionals shall conduct themselves in accordance with the relevant laws of this State and the related provisions of the Illinois Administrative Code.

"Design professional" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that offers services under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, or the Illinois Professional Land Surveyor Act of 1989.

"Evaluation criteria" means the requirements for the separate phases of the selection process as defined in this Act and may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.

"Proposal" means the offer to enter into a design-build contract as submitted by a design-build entity in accordance with this Act.

"Public art designer" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that has demonstrated experience with the design and fabrication of public art including any media that has been planned and executed with the intention of being staged in the physical public domain outside and accessible to all or any art which is exhibited in a public space including publicly accessible buildings, or interpretive exhibits including communication media that is designed to engage, excite, inform, relate, or reveal the intrinsic nature or indispensable quality of a topic or story being presented.

"Request for proposal" means the document used by the forest preserve district or conservation district to solicit proposals for a design-build contract.

"Scope and performance criteria" means the requirements for the public project, including, but not limited to, the

intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and quantifiable specifications and drawings that can be reasonably inferred and are suited to allow a design-build entity to develop a proposal.

Section 15. Solicitation of proposals.

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

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

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

(1) The name of the forest preserve district or conservation district.

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

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

(4) Prequalification criteria for design-build entities wishing to submit proposals. The forest preserve district or conservation district shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements; however, nothing precludes the use of additional prequalification criteria by the forest preserve district or conservation district.

(5) Material requirements of the contract, including, but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the

solicitation. Price may not be used as a factor in the evaluation of Phase I proposals.

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

(c) The forest preserve district or conservation district may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for proposal. In the event the cost of the project is estimated to exceed \$12,000,000, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The forest preserve district or conservation district shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

Section 20. Development of scope and performance criteria.

(a) The forest preserve district or conservation district shall develop, with the assistance of a licensed design professional or public art designer, a request for proposal, which shall include scope and performance criteria. The scope and performance criteria must be in sufficient detail and

contain adequate information to reasonably apprise the qualified design-build entities of the forest preserve district's or conservation district's overall programmatic needs and goals, including criteria and preliminary design plans, general budget parameters, schedule, and delivery requirements.

(b) Each request for proposal shall also include a description of the level of design to be provided in the proposals. This description must include the scope and type of renderings, drawings, and specifications that, at a minimum, will be required by the forest preserve district or conservation district to be produced by the 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 forest preserve district or conservation district, or the forest preserve district or conservation district 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

forest preserve district or conservation district to make modifications in the project scope without invalidating the design-build contract.

Section 25. Procedures for Selection.

(a) The forest preserve district or conservation district 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 forest preserve district or conservation district 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 design-build entities that the forest preserve district or conservation district has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the forest preserve district or conservation district. The forest preserve district or conservation district must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The forest preserve district or conservation district shall include the following criteria in every Phase I evaluation of design-build entities: (i) experience of



personnel; (ii) successful experience with similar project types; (iii) financial capability; (iv) timeliness of past performance; (v) experience with similarly sized projects; (vi) successful reference checks of the firm; (vii) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (viii) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The forest preserve district or conservation district may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The forest preserve district or conservation district may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the forest preserve district or conservation district, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements

established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the forest preserve district or conservation district shall create a shortlist of the most highly qualified design-build entities. The forest preserve district or conservation district, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided that no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals.

The forest preserve district or conservation district shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The forest preserve district or conservation district must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the forest preserve district or conservation district.

(c) The forest preserve district or conservation district shall include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each request for proposal shall establish, for both the technical and cost submission

components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the forest preserve district or conservation district. The forest preserve district or conservation district must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

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

The forest preserve district or conservation district shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The forest preserve or conservation district may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighing factor

shall not exceed 30%.

The forest preserve or conservation district shall directly employ or retain a licensed design professional or a public art designer to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

Upon completion of the technical submissions and cost submissions evaluation, the forest preserve or conservation district may award the design-build contract to the highest overall ranked entity.

Section 30. Small projects. In any case where the total overall cost of the project is estimated to be less than \$12,000,000, the forest preserve or conservation district may combine the two-phase procedure for selection described in Section 25 into one combined step, provided that all the requirements of evaluation are performed in accordance with Section 25.

Section 35. Submission of proposals. Proposals must be properly identified and sealed. Proposals may not be reviewed until after the deadline for submission has passed as set forth in the request for proposals. All design-build entities submitting proposals shall be disclosed after the deadline for submission, and all design-build entities who are selected for Phase II evaluation shall also be disclosed at the time of that

determination.

Proposals shall include a bid bond in the form and security as designated in the request for proposals. Proposals shall also contain a separate sealed envelope with the cost information within the overall proposal submission. Proposals shall include a list of all design professionals, public art designers, and other entities to which any work may be subcontracted during the performance of the contract.

Proposals must meet all material requirements of the request for proposal or they may be rejected as non-responsive. The forest preserve or conservation district shall have the right to reject any and all proposals.

The drawings and specifications of the proposal may remain the property of the design-build entity.

The forest preserve or conservation district shall review the proposals for compliance with the performance criteria and evaluation factors.

Proposals may be withdrawn prior to evaluation for any cause. After evaluation begins by the forest preserve or conservation district, clear and convincing evidence of error is required for withdrawal.

Section 40. Award. The forest preserve or conservation district may award the contract to the highest overall ranked entity. Notice of award shall be made in writing. Unsuccessful entities shall also be notified in writing. The forest

preserve or conservation district may not request a best and final offer after the receipt of proposals. The forest preserve or conservation district may negotiate with the selected design-build entity after award but prior to contract execution for the purpose of securing better terms than originally proposed, provided that the salient features of the request for proposal are not diminished.

Section 45. Reports and evaluation. At the end of every 6 month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the forest preserve or conservation district, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.

Section 905. The Conservation District Act is amended by changing Section 6 as follows:

(70 ILCS 410/6) (from Ch. 96 1/2, par. 7106)

Sec. 6. Officers and employees. As soon as possible after the initial election or the initial appointments, as the case may be, the trustees shall organize by selecting from their

members a president, secretary, treasurer, and other officers as are deemed necessary, who shall hold office for 2 years in the case of an elected board, or the fiscal year in which elected in the case of an appointed board, and until their successors are selected and qualify. Three trustees shall constitute a quorum of the board for the transaction of business if the district has 5 trustees. If the district has 7 trustees, 4 trustees shall constitute a quorum of the board for the transaction of business. The board shall hold regular monthly meetings. Special meetings may be called by the president and shall be called on the request of a majority of members, as may be required.

The board shall provide for the proper and safe keeping of its permanent records and for the recording of the corporate action of the district. It shall keep a proper system of accounts showing a true and accurate record of its receipts and disbursements, and it shall cause an annual audit to be made of its books, records, and accounts.

The records of the district shall be subject to public inspection at all reasonable hours and under regulations as the board may prescribe.

The district shall annually make a full and complete report to the county board of each county within the district and to the Department of Natural Resources of its transactions and operations for the preceding year. The report shall contain a full statement of its receipts, disbursements, and

the program of work for the period covered, and may include recommendations as may be deemed advisable.

Executive or ministerial duties may be delegated to one or more trustees or to an authorized officer, employee, agent, attorney, or other representative of the district.

All officers and employees authorized to receive or retain the custody of money or to sign vouchers, checks, warrants, or evidences of indebtedness binding upon the district shall furnish surety bond for the faithful performance of their duties and the faithful accounting for all moneys that may come into their hands in an amount to be fixed and in a form to be approved by the board.

All contracts for supplies, material, or work involving an expenditure in excess of \$30,000 ~~\$25,000~~, or a lower amount if required by board policy, shall be let to the lowest responsible bidder, after due advertisement, excepting work requiring personal confidence or necessary supplies under the control of monopolies, where competitive bidding is impossible, or as otherwise provided in the Forest Preserve District and Conservation District Design-Build Authorization Act. All contracts for supplies, material, or work shall be signed by the president of the board and by any other officer as the board in its discretion may designate.

(Source: P.A. 99-771, eff. 8-12-16.)

Section 910. The Downstate Forest Preserve District Act is



amended by changing Section 8 as follows:

(70 ILCS 805/8) (from Ch. 96 1/2, par. 6315)

Sec. 8. Powers and duties of corporate authority and officers; contracts; salaries.

(a) The board shall be the corporate authority of such forest preserve district and shall have power to pass and enforce all necessary ordinances, rules and regulations for the management of the property and conduct of the business of such district. The president of such board shall have power to appoint such employees as may be necessary. In counties with population of less than 3,000,000, within 60 days after their selection the commissioners appointed under the provisions of Section 3a of this Act shall organize by selecting from their members a president, vice president, secretary, treasurer and such other officers as are deemed necessary who shall hold office for the fiscal year in which elected and until their successors are selected and qualify. In the one district in existence on July 1, 1977, that is managed by an appointed board of commissioners, the incumbent president and the other officers appointed in the manner as originally prescribed in this Act shall hold such offices until the completion of their respective terms or in the case of the officers other than president until their successors are appointed by said president, but in all cases not to extend beyond January 1, 1980 and until their successors are selected and qualify.

Thereafter, the officers shall be selected in the manner as prescribed in this Section except that their first term of office shall not expire until June 30, 1981 and until their successors are selected and qualify.

(a-5) An officer selected pursuant to subsection (a) may be removed, with or without cause, upon a motion adopted by an affirmative vote of four-fifths of the board of the forest preserve district. Upon adoption of a motion to remove an officer: (i) the office becomes vacant and the former officer's compensation shall be prorated to the date the motion was approved; (ii) if the officer removed is the president then the vice president immediately assumes the duties of the president without president compensation and, if the officer removed is the vice president, treasurer, or secretary, then the president shall select an interim appointee who shall serve until the next regularly scheduled forest preserve district board meeting; and (iii) a new officer shall be selected at the next regularly scheduled forest preserve district board meeting. An officer removed under this Section maintains his or her status as a member of the forest preserve district board.

(b) In any county, city, village, incorporated town or sanitary district where the corporate authorities act as the governing body of a forest preserve district, the person exercising the powers of the president of the board shall have power to appoint a secretary and an assistant secretary and

treasurer and an assistant treasurer and such other officers and such employees as may be necessary. The assistant secretary and assistant treasurer shall perform the duties of the secretary and treasurer, respectively in case of death of such officers or when such officers are unable to perform the duties of their respective offices. All contracts for supplies, material or work involving an expenditure in excess of \$30,000 ~~\$25,000~~, or a lower amount if required by board policy, shall be let to the lowest responsible bidder, after advertising at least once in one or more newspapers of general circulation within the district, excepting work requiring personal confidence or necessary supplies under the control of monopolies, where competitive bidding is impossible, or as otherwise provided in the Forest Preserve District and Conservation District Design-Build Authorization Act. Contracts for supplies, material or work involving an expenditure of \$30,000 ~~\$25,000~~, or a lower amount if required by board policy, or less may be let without advertising for bids, but whenever practicable, at least 3 competitive bids shall be obtained before letting such contract. All contracts for supplies, material or work shall be signed by the president of the board of commissioners or by any such other officer as the board in its discretion may designate.

(c) The president of any board of commissioners appointed under the provisions of Section 3a of this Act shall receive a salary not to exceed the sum of \$2500 per annum and the salary

of other members of the board so appointed shall not exceed \$1500 per annum. Salaries of the commissioners, officers and employees shall be fixed by ordinance.

(d) Whenever a forest preserve district owns any personal property that, in the opinion of three-fifths of the members of the board of commissioners, is no longer necessary, useful to, or for the best interests of the forest preserve district, then three-fifths of the members of the board, at any regular meeting or any special meeting called for that purpose by an ordinance or resolution that includes a general description of the personal property, may authorize the conveyance or sale of that personal property in any manner that they may designate, with or without advertising the sale.

(Source: P.A. 101-544, eff. 8-23-19.)

Section 915. The Cook County Forest Preserve District Act is amended by changing Section 14 as follows:

(70 ILCS 810/14) (from Ch. 96 1/2, par. 6417)

Sec. 14. The board, as corporate authority of a forest preserve district, shall have power to pass and enforce all necessary ordinances, rules and regulations for the management of the property and conduct of the business of such district. The president of such board shall have power to appoint a secretary and an assistant secretary, and treasurer and an assistant treasurer and such other officers and such employees

as may be necessary, all of whom, excepting the treasurer and attorneys, shall be under civil service rules and regulations, as provided in Section 17 of this Act. The assistant secretary and assistant treasurer shall perform the duties of the secretary and treasurer, respectively, in case of death of said officers or when said officers are unable to perform the duties of their respective offices because of absence or inability to act. All contracts for supplies, material or work involving an expenditure by forest preserve districts in excess of \$30,000 ~~\$25,000~~ shall be let to the lowest responsible bidder, after due advertisement, excepting work requiring personal confidence or necessary supplies under the control of monopolies, where competitive bidding is impossible, or as otherwise provided in the Forest Preserve District and Conservation District Design-Build Authorization Act. Contracts for supplies, material or work involving an expenditure of \$30,000 ~~\$25,000~~ or less may be let without advertising for bids, but whenever practicable, at least 3 competitive bids shall be obtained before letting such contract. Notwithstanding the provisions of this Section, a forest preserve district may establish procedures to comply with State and federal regulations concerning affirmative action and the use of small businesses or businesses owned by minorities or women in construction and procurement contracts. All contracts for supplies, material or work shall be signed by the president of the board or by any such other officer as

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the board in its discretion may designate.

Salaries of employees shall be fixed by ordinance.

(Source: P.A. 99-264, eff. 1-1-16.)

Section 997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 999. Effective date. This Act takes effect June 1, 2022.