

AN ACT concerning local government.

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

Section 5. The Metropolitan Transit Authority Act is amended by changing Section 32 as follows:

(70 ILCS 3605/32) (from Ch. 111 2/3, par. 332)

Sec. 32. The Board shall adopt regulations to insure that the construction or acquisition by the Authority of services or public transportation facilities (other than real estate) involving a cost of more than \$40,000 ~~\$10,000~~ and the disposition of all property of the Authority shall be after public notice and with public bidding. The regulations may provide for exceptions to the requirements for the issuance and sale of bonds or notes of the Authority, to the acquisition of professional or utility services and to other matters for which public bidding is disadvantageous. The regulations may also provide for the use of competitive negotiations or the prequalification of responsible bidders consistent with applicable federal regulations. The requirements set forth therein shall not apply to purchase of service agreements or other contracts, purchases or sales entered into by the Authority with any transportation agency or unit of local government.

(Source: P.A. 86-1277.)

Section 10. The Local Mass Transit District Act is amended by adding Section 5.5 as follows:

(70 ILCS 3610/5.5 new)

Sec. 5.5. Public bidding. The Board shall adopt regulations to ensure that the construction or acquisition by the District of services or public transportation facilities (other than real estate) involving a cost of more than \$40,000 and the disposition of all property of the District shall be after public notice and with public bidding. The regulations may provide for exceptions to the requirements for the issuance and sale of bonds or notes of the District, to the acquisition of professional or utility services and to other matters for which public bidding is disadvantageous. The regulations may also provide for the use of competitive negotiations or the prequalification of responsible bidders consistent with applicable federal regulations. The requirements set forth therein shall not apply to purchase of service agreements or other contracts, purchases or sales entered into by the District with any transportation agency or unit of local government.

Section 15. The Regional Transportation Authority Act is amended by changing Section 4.06 as follows:

(70 ILCS 3615/4.06) (from Ch. 111 2/3, par. 704.06)

Sec. 4.06. Public bidding.

(a) The Board shall adopt regulations to ensure that the construction or acquisition by the Authority or a Service Board other than the Chicago Transit Authority of services or public transportation facilities (other than real estate) involving a cost of more than \$40,000 ~~\$10,000~~ and the disposition of all property of the Authority or a Service Board other than the Chicago Transit Authority shall be after public notice and with public bidding. Such regulations may provide for exceptions to such requirements for acquisition of repair parts, accessories, equipment or services previously furnished or contracted for; for the immediate delivery of supplies, material or equipment or performance of service when it is determined by the concurrence of two-thirds of the then Directors that an emergency requires immediate delivery or supply thereof; for goods or services that are economically procurable from only one source; for contracts for the maintenance or servicing of equipment which are made with the manufacturers or authorized service agent of that equipment where the maintenance or servicing can best be performed by the manufacturer or authorized service agent or such a contract would be otherwise advantageous to the Authority or a Service Board, other than the Chicago Transit Authority, except that the exceptions in this clause shall not apply to contracts for

plumbing, heating, piping, refrigeration and automatic temperature control systems, ventilating and distribution systems for conditioned air, and electrical wiring; for goods or services procured from another governmental agency; for purchases and contracts for the use or purchase of data processing equipment and data processing systems software; for the acquisition of professional or utility services; and for the acquisition of public transportation equipment including, but not limited to, rolling stock, locomotives and buses, provided that: (i) it is determined by a vote of 2/3 of the then Directors of the Service Board making the acquisition that a negotiated acquisition offers opportunities with respect to the cost or financing of the equipment, its delivery, or the performance of a portion of the work within the State or the use of goods produced or services provided within the State; (ii) a notice of intention to negotiate for the acquisition of such public transportation equipment is published in a newspaper of general circulation within the City of Chicago inviting proposals from qualified vendors; and (iii) any contract with respect to such acquisition is authorized by a vote of 2/3 of the then Directors of the Service Board making the acquisition. The requirements set forth in this Section shall not apply to purchase of service agreements or other contracts, purchases or sales entered into by the Authority with any transportation agency or unit of local government.

(b) (1) In connection with two-phase design/build

selection procedures authorized in this Section, a Service Board may authorize, by the affirmative vote of two-thirds of the then members of the Service Board, the use of competitive selection and the prequalification of responsible bidders consistent with applicable federal regulations and this subsection (b).

(2) Two-phase design/build selection procedures shall consist of the following:

(i) A Service Board shall develop, through licensed architects or licensed engineers, a scope of work statement for inclusion in the solicitation for phase-one proposals that defines the project and provides prospective offerors with sufficient information regarding the Service Board's requirements. The statement shall include criteria and preliminary design, and general budget parameters and general schedule or delivery requirements to enable the offerors to submit proposals which meet the Service Board's needs. When the two-phase design/build selection procedure is used and the Service Board contracts for development of the scope of work statement, the Service Board shall contract for architectural or engineering services as defined by and in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act and all applicable licensing statutes.

(ii) The evaluation factors to be used in evaluating phase-one proposals must be stated in the solicitation and must include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team) and other appropriate technical and qualifications factors. Each solicitation must establish the relative importance assigned to the evaluation factors and the subfactors that must be considered in the evaluation of phase-one proposals on the basis of the evaluation factors set forth in the solicitation. Each design/build team must include a licensed design professional independent from the Service Board's licensed architect or engineer and a licensed design professional must be named in the phase-one proposals submitted to the Service Board.

(iii) On the basis of the phase-one proposal the Service Board shall select as the most highly qualified the number of offerors specified in the solicitation and request the selected offerors to submit phase-two competitive proposals and cost or price information. Each solicitation must establish the relative importance assigned to the evaluation factors and the subfactors that must be considered in the evaluation of phase-two proposals on the basis of the evaluation

factors set forth in the solicitation. A Service Board may negotiate with the selected design/build team after award but prior to contract execution for the purpose of securing better terms than originally proposed, provided the salient features of the design/build solicitation are not diminished. Each phase-two solicitation evaluates separately (A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work, and (B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals.

(iv) A design/build solicitation issued under the procedures in this subsection (b) shall state the maximum number of offerors that are to be selected to submit competitive phase-two proposals. The maximum number specified in the solicitation shall not exceed 5 unless the Service Board with respect to an individual solicitation determines that a specified number greater than 5 is in the best interest of the Service Board and is consistent with the purposes and objectives of the two-phase design/build selection process.

(v) All designs submitted as part of the two-phase selection process and not selected shall be

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proprietary to the preparers.

(Source: P.A. 89-664, eff. 8-14-96.)

Section 99. Effective date. This Act takes effect upon becoming law.