



Legislation Text

File #: 15-0245, Version: 1

PROPOSED ORDINANCE AMENDMENT

Title 1 Chapter 8 Section 2 - District Finances

BE IT ORDAINED, by the Forest Preserve District Cook County Board of Commissioners, that Title 1 - Administrative, Chapter 8 - District Finances, Section 2 - Contracts and Purchases of the Forest Preserve District of Cook County Code is hereby amended as Follows:

1-8-2: - CONTRACTS AND PURCHASES.

A. *Conditions and Restrictions on Awarding a Contract:*

2. *Restrictions on Awarding a Contract:* No person or business entity shall be awarded a contract or subcontract with the Forest Preserve District, for a period of five (5) years from the date of conviction or entry of a plea or admission of guilt, if that person or business entity:
- a. Has been convicted of an act committed, within the State, of bribery or attempting to bribe an officer or employee of a unit of State or local government or school district in the State in that officer's or employee's official capacity;
 - b. Has been convicted of an act committed, within the State, of bid-rigging or attempting to rig bids as defined in the Sherman Anti-Trust Act and Clayton Act;
 - c. Has been convicted of bid-rigging or attempting to rig bids under the laws of the State;
 - d. Has been convicted of an act committed, within the State of Illinois, of price-fixing or attempting to fix prices as defined by the Sherman Anti-Trust Act and Clayton Act;
 - e. Has been convicted of price-fixing or attempting to fix prices under the laws of the State of Illinois;
 - f. Has been convicted of defrauding or attempting to defraud any unit of State or local government or school district within the State of Illinois;
 - g. Has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages;
 - gh. Has made an admission of guilt of such conduct as set forth in subparagraphs a. through fg. above, which admission is a matter of record, whether or not such person or business entity was subject to prosecution for the offense or offenses admitted to;
 - hi. Has entered a plea of nolo contendere to charges of bribery, price-fixing, bid-rigging, fraud, or wage theft

as set forth in subparagraphs a. through gf. above.

3. *Disqualification of Business Entity:* A person or business entity shall be disqualified if:

- a. It is convicted, or enters a plea of nolo contendere, or makes an admission of guilt to any act described in subparagraphs 2.a. through 2.hi. above.

4. *Exceptions:* If a person or business entity is ineligible to contract with the District due to the provisions of Section 1-8-2.A.2.g above, then the person or business entity seeking the contract may submit a request for a reduction or waiver of the ineligibility period to the Purchasing Agent. The request shall be in writing in a manner and form prescribed by the Purchasing Agent and shall include that one or more of the following actions have been taken:

- a. There has been a bona fide change in ownership or control of the ineligible business entity;
- b. Disciplinary action has been taken against the individual(s) responsible for the acts giving rise to the violation;
- c. Remedial action has been taken to prevent a recurrence of the acts giving rise to the disqualification or default; or
- d. Other factors that the person or business entity believes are relevant.

The Purchasing Agent shall review the documentation submitted, make any inquiries deemed necessary, request additional documentation where warranted and determine whether a reduction or waiver is appropriate. Should the Purchasing Agent determine that a reduction or waiver of the ineligibility period is appropriate; the Purchasing Agent shall submit its decision and findings to the District Board.

In addition, a using department may request an exception to such period of ineligibility with respect to a particular contract by submitting a written request to the Purchasing Agent, supported by facts that establish that it is in the best interests of the District that the contract be made from such ineligible person or business entity. The Purchasing Agent shall review the documentation, make any inquiries deemed necessary, and determine whether the request should be approved. If an exception is granted, such exception shall apply to that contract only and the period of ineligibility shall continue for its full term as to any other contract. Said exceptions granted by the Purchasing Agent shall be communicated to the District Board.

45. *Voiding Contracts:* Any contract or subcontract found to have been awarded in violation of this subsection shall be voidable at discretion of the Forest Preserve District Board of Commissioners. Payment for work completed at the time of any such voiding shall be at a quantum meruit rate less a twenty-five (25) percent liquidated damage reserve.

56. *Hearing:* The determination as to whether a Person is disqualified under any provision of this Section 1-8-2 of the District's Code or has made a false statement, shall be made pursuant to the Cook County Department of Administrative Hearings pursuant to Chapter 2, Article IX, of the Cook County Code.

76. *Appeals:* Decisions of the Cook County Administrative Hearing Department shall be subject to review pursuant to the Illinois Administrative Review Act (735 ILCS 5/3-101 et seq.).

87. *Bids to Contain Information Herein:* Specifications for all bids shall contain the information contained in this subsection and bidders shall certify that they have read the information contained herein and are not in violation thereof.

V. Disqualification Due to Prior Default or Termination:

DD. Selection of Professional Services for Debt Transactions:

1. Selection.

(a) For each debt transaction or for multiple debt transactions the Chief Financial Officer shall select three or more firms from the qualified list developed by the District and/or Cook County for each of the following, as required for the transaction: bond counsel, underwriter counsel, special tax counsel, pension-disclosure counsel, and financial advisor.

(b) The Chief Financial Officer shall request that each of the law firms under consideration to provide legal services submit a proposal which shall include at least the following: experience with the relevant type of financing; knowledge of the District; the key personnel to be assigned for the engagement, including their qualifications and experience; the proposed fees or fee structure for the engagement; the firm's capacity for, experience in, and commitment to providing continuing legal advice and support in such areas as compliance and taxation; and the manner and degree to which the firm will use an engagement on the contemplated financing initiative to promote or incubate the participation of minorities, women, and veterans as legal professionals, on the potential engagement.

(c) The Chief Financial Officer shall request that each of the firms under consideration for investment banking services submit a proposal which shall include at least the following: experience with the particular type of financing; a recommended strategy for identifying and targeting investors in the bonds or notes; knowledge of the District; the key personnel to be assigned for the engagement, including their qualifications and experience; the proposed fees or fee structure for the engagement; and the manner in and degree to which the firm will use an engagement on the contemplated financing initiative to promote or incubate the participation of minorities, women, and veterans as finance professionals, on any potential engagement.

(d) The Chief Financial Officer shall request that each of the financial advisors under consideration to provide financial-advisory services submit a proposal which shall include at least the following: experience with the particular type of financing; knowledge of the District; the key personnel to be assigned for the engagement, including their qualifications and experience; the proposed fees for the engagement; the firm's capacity for, experience in, and commitment to providing advice and support in such areas as pricing and marketing of municipal bonds; and the manner in and degree to which the firm will use an engagement on the contemplated financing to promote or incubate the participation of minorities, women, and veterans as finance professionals, on the potential engagement.

(e) To redress the historical under-representation of minority- and woman-owned firms in the financial services arena, in the selection of law firms, investment banks, and financial advisors associated with bond issuances, it shall be the continued goal of the District that:

- (1) No less than thirty-five percent (35%) of the cumulative remunerated portion of legal services associated with a financing initiative shall be provided by law firms that are certified as MBEs or WBEs under District's Minority- and Women-Owned Business Enterprise Ordinance and that consistently maintain and staff a functional commercial presence and office in Cook County, IL; and
- (2) No less than thirty-five percent (35%) of the cumulative underwriting liability in a financing initiative shall be undertaken by investment banks that are at least 51 percent owned, controlled, and managed by one or more persons who are either a minority or a woman and that consistently

maintain and staff a functional commercial presence and office in Cook County, IL; and

- (3) No less than thirty-five percent (35%) of the cumulative remunerated portion of financial-advisory services associated with a financing initiative shall be provided by financial-advisor firms that are at least 51 percent owned, controlled, and managed by one or more persons who are either a minority or a woman and that consistently maintain and staff a functional commercial presence and office in Cook County, IL.

(f) The Chief Financial Officer shall recommend to the President the selection of legal counsel, investment banks, financial advisors, and other professionals based upon the proposals provided per this subdivision. In making the recommendation, the Chief Financial Officer shall consider methods to give multiple firms a fair opportunity to compete for and participate in District bond sales. The selection shall be made by the President upon the recommendation of the Chief Financial Officer, and shall be submitted to the District Board for approval. The Chief Financial Officer shall report to the District Board a summary of the rationale of any proposed financing initiative; the financial benefits of a proposed financing approach with regards to the District's long-term fiscal health; a summary of the financing team proposed to work on the financing initiative; an identification of any firms that are certified as MBEs or WBEs or 51 percent owned, controlled, and managed by minority individuals or women; the total estimated participation of such firms as a percentage of professional services (comprised of legal and financial advisory services) and as a percentage of underwriting liability; and, on financing initiatives where circumstances are such that the 35 percent goals set forth in Subsection (e) cannot be prudently reached, an explanation of such circumstances. The proposals by firms selected to work on a financing initiative shall be available for review by members of the District Board.

2. Specific bond underwriter requirements. Each contract between the District and any bond underwriters shall include the following:

(a) The underwriter shall use its best efforts to assure that the District meets its objectives in the fair and reasonable allocation of bond selling commissions to members of the underwriting syndicate, particularly to Cook County and minority- and women-owned firms; and

(b) The underwriter shall report the allocation of bond selling commissions and fees received by each member of the underwriting syndicate to the Chief Financial Officer within 30 days of closing of the bond issue; and

(c) The underwriter shall comply with all limitations or disclosure requirements concerning political contributions that are or may be imposed by the Municipal Securities Regulatory Board or the Securities and Exchange Commission. Failure by the underwriter to comply with this provision shall not void the sale, but the underwriter may be subject to disqualification.

3. Continued Management of Bond Proceeds.

(a) When permissible and practicable under related bond ordinances, debt instruments, and debt agreements, the Chief Financial Officer shall maintain investment of bond proceeds in accord with:

- (1) The Illinois Public Funds Investment Act; or
- (2) Such policies as are promulgated by the Chief Financial Officer, following submission to the District Board.

(b) In selecting financial institutions to serve as broker-dealers in acquiring investments of bond proceeds under this Section, the Chief Financial Officer shall, for each contemplated investment, elicit proposals from at least three broker-dealers deemed qualified under policies and procedures promulgated by the Chief Financial Officer, the State of Illinois, or the City of Chicago.

(c) In the selection of broker-dealers under this Section, it shall be the continued goal of the District that no less

than 35 percent of the cumulative value of the proposed investment purchased in a given fiscal year shall be consummated by one or more broker-dealers that consistently maintain and staff a functional commercial presence and office in Cook County, IL and are at least 51 percent owned, controlled, and managed by minority individuals or women.

Effective date: This ordinance shall be in effect immediately upon adoption.