

## Prohibited and Permitted Bidding Conduct

With construction season on the horizon and many local governmental entities, including libraries, preparing to go out to bid for a variety of different projects, we do not want your board, your staff or your employees to wind up on the wrong side of the law, and thought it would be a good time to provide a reminder regarding prohibited and permitted bidding conduct under the Illinois Criminal Code of 2012 (720 ILCS 5/338-1 *et seq.*). Public officials and employees of local governmental entities should be made aware of the following prohibited and permitted bidding conduct.

Only open bids at the designated time and place with witnesses present, and do not disclose bid related information, unless it is publicly disclosed.

Do not convey information likely to influence the acceptance of a bid, unless it is publicly disclosed.

Do not award a contract based on criteria not publicly disseminated or disclosed.

It is proper to provide a transcript or summary of any pre-bid conference, if also made generally available to the public.

It is illegal to offer or solicit a “kickback” or remuneration of any kind to award a bid. It is also illegal to fail to report such an offer or solicitation to the authorities.

It is proper to: disclose the names of bidders and the awardee; convey information regarding acceptable alternative or substantial plans or specifications, if made available to the public and mailed to any person submitting a bid; and negotiate with the lowest responsible bidder a reduction in only the price term of the bid.

You do not have to go out to bid for architects, engineers or surveyors.

It is illegal to engage in “bid stringing.” Bid stringing occurs when a contract is structured in phases or several smaller contracts to avoid competitive bidding. An example is when a large project which would cost in excess of \$20,000 is broken up into several phases or smaller contracts costing less than \$20,000 each.



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Generally, failure to comply with the Criminal Code of 2012's bidding requirements is punishable by one year incarceration.

If you have any questions regarding prohibited and permitted bidding conduct under the Illinois Criminal Code of 2012, we recommend that you contact your library attorney.

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