
FACILITIES CONSTRUCTION COMMISSION

School facilities assistance programs

Classroom Facilities Assistance Program

- Requires the calculation of a school district's share for a Classroom Facilities Assistance Program project to be based solely on the required percentage based on the district's equity ranking.
- Requires a district that opts to segment its classroom facilities needs to calculate the required percentage based on equity ranking on the date the Controlling Board approves the first segment for both that segment and future segments.

Vocational School Facilities Assistance Program

- Permits the Facilities Construction Commission (FCC) to set aside a portion of its school facilities funds each biennium to assist at least two joint vocational school districts.

Major sports facilities and youth sports education funding

- Requires the FCC to administer the Sports Facilities Construction and Sports Education Fund ("fund") to support construction and renovation of major and minor league sports facilities throughout Ohio, and to support youth sports education.

Sports facilities definitions

- Defines a major sports facility as a facility designed for the use of a professional sports franchise from certain major sports leagues, the construction or renovation of which costs at least \$1 billion (construction) or \$100 million (renovation), of which 60% of the cost is supported by nonstate funds.
- Defines a major sports facility mixed-use project as a mixed-use project that includes the construction of a major sports facility, integrates retail, residential, recreational, or other uses, that has secured at least 60% of funding from non-state sources, and that is expected to generate increased sales tax revenue.
- Defines "minor league sports facility," except these facilities are for certain minor or independent teams, and must cost at least \$50 million.
- Defines "youth sports education" as programs, instruction, or facilities primarily designed for use by Ohio students and that seek to encourage, teach, or enable lifelong health, physical readiness, and sports knowledges.
- Clarifies that "youth sports education" does not include the use of funds to construct public school facilities.

Ohio Advisory Committee for Sports Facility Construction and Youth Sports Education

- Creates the Ohio Advisory Committee for Sports Facility Construction and Youth Sports Education to evaluate and approve projects to be supported by the fund and administered by the FCC.
- Entitles public members to a per diem rate of \$500 a day on the days they meet and entitles all members to actual and necessary expenses.
- Places certain ethical constraints on members' dealings and relationship with professional sports franchises and leagues.
- Requires the committee to recommend policies and procedures for the administration of the fund for review and adoption by the FCC.
- Requires projects to be awarded from the fund by a majority vote of the Committee.
- Requires the DEW Director, the DPS Director, the ODH Director, and the Adjutant General to advise the Committee.
- Permits the Committee to recommend criteria to the FCC to establish, and permits the FCC to implement, a grant program that facilitates the ability of Ohio communities to secure major sporting events to benefit Ohio economic growth, using the fund.
- Permits the Committee to recommend to the Tax Commissioner the creation of tax credits to support youth sports education.

Public improvements contracts

Electronic notices, advertisements, and filings

- Requires several types of notices or advertisements to be sent via electronic media.
- Requires the FCC to make copies of the plans, details, estimates of cost, and specifications available electronically.
- Removes the requirement that a public authority file a notice of commencement of a public improvement in affidavit form.
- Permits a bidder for most contracts with the state or a political subdivision to file a bid guaranty by electronic verification through an electronic verification and security system, if the state or political subdivision accepts bids electronically.

Certificates of compliance with affirmative action programs

- Requires certificates of compliance with affirmative action programs to be no more than two years old to be valid, rather than 180 days.
- Allows a person to receive an updated certificate of compliance no more than once every two years, rather than 180 days.

Declaration of exigency

- Requires that, when the FCC Executive Director issues a declaration of public exigency at the request of a state agency, the director of the state agency, at the determination of the FCC Executive Director, must enter into a contract with the proper persons to address the exigency.

Building information modeling systems

- For public works contracts of \$200,000 or more, permits a public authority to require an architect or engineer, in preparing plans, details, specifications, estimates, analyses, or other data, to use a building information model system, if the system is based on a nationally recognized standard for building information models.
- Defines “building information model” as a digital representation of physical and functional characteristics of a facility, and electronic files used to design and coordinate the project, whether it is a single model or multiple models used in the aggregate.

Public improvements contracts retainage and escrow

- For partial payments on a public improvements contract, decreases the public authority’s required retainage amount from 8% of the contractor’s estimate to 4% or less, but repeals a provision requiring the public authority to retain 0% after the job is 50% completed.
- Prohibits contractors from paying subcontractors at a retainage rate lower than the rate being paid to the contractor by the public authority.
- Repeals provisions of law requiring the public authority to deposit the retained amount in an escrow account.
- Clarifies that retained funds and the interest accrued by the funds is property of the contractor, and must be paid to the contractor not later than 30 days after the substantial completion of the work.

Expedited processes for design-build firms and managers at risk

- For contracts between public authorities and construction managers at risk or design-build firms, creates an expedited proposal and selection process for projects under \$4 million, adjusted biannually for the rate of inflation by FCC.
- Permits construction managers at risk or design-build firms, for contracts under \$4 million, to submit both an initial qualification proposal or statement along with a pricing proposal, instead of sending them in separate rounds.
- Requires the public authority to have a pre-proposal meeting with any such contractors who desire to jointly submit a statement or proposal and pricing proposal.
- Exempts these contractors from the requirement to submit a sealed bid to self-perform a portion of work before accepting opening any bids for the same work when the public authority requests a guaranteed maximum price proposal due at the time of selection.

Indefinite delivery indefinite quantity contracts

- Permits a public authority to enter into an indefinite delivery indefinite quantity (IDIQ) contract without Controlling Board approval if the contract meets certain requirements.
- Permits the FCC to establish a list of prequalified vendors for IDIQ contracts.
- Requires the FCC to adopt rules that establish objective prequalification criteria for vendors; a process for public authorities to use the list of pre-qualified vendors; and the form, terms, and conditions of IDIQ contracts.

Integrated project delivery contracts

- Permits public authorities to enter into integrated project delivery contracts with integrated project contractors for capital projects, using selection and evaluation processes similar to existing design-build firm and professional design services contracts.

Application, evaluation, selection, and negotiation

- Requires public authorities, for integrated project delivery contracts, to evaluate and rank each applicant contractor, considering each contractor's proposed costs and qualifications, and enter into contract negotiations for integrated project delivery services with the highest ranked contractor.
- Requires the public authority, if it fails to negotiate a contract with the highest ranked contractor, to terminate the negotiations and move on to the second highest ranked contractor, and if that fails, the third, and so forth.
- Permits the public authority, if these subsequent negotiations fail, to select additional integrated project contractors to provide pricing proposals, or select an alternative delivery method for the project.

Project requirements

- Requires the integrated project contractor, before construction begins, to provide a surety bond to the public authority in accordance with rules adopted by the FCC Executive Director.
- Exempts integrated project delivery contracts from certain existing processes and requirements for capital contracts, replacing them with the bill's procedures.
- Requires integrated project contractors to establish criteria to prequalify prospective bidders on subcontracts, subject to the approval of the public authority and consistent with FCC rules.
- Requires the integrated project contractor to identify at least three prospective prequalified bidders (unless less than three exist), verified by the public authority, then solicit proposals from each bidder, under an open book pricing method.
- Clarifies that an integrated project contractor is not required to award a subcontract to a low bidder.

- Requires the FCC to adopt rules related to integrated project contractors and subcontractors.

Controlling Board exemptions

- Exempts from Controlling Board approval competitively bid contracts made by the FCC for the following services: construction management services, professional design services, criteria architect or engineer services, design-build services, and integrated project delivery services.

Expedited processes for design-build firms and managers at risk

- For contracts between public authorities and construction managers at risk or design-build firms, creates an expedited proposal and selection process for projects under \$4 million, adjusted biannually for the rate of inflation by FCC.
- Permits construction managers at risk or design-build firms, for contracts under \$4 million, to submit both an initial qualification proposal or statement along with a pricing proposal, instead of sending them in separate rounds.
- Requires the public authority to have a pre-proposal meeting with any such contractors who desire to jointly submit a statement or proposal and pricing proposal.
- Exempts these contractors from the requirement to submit a sealed bid to self-perform a portion of work before accepting opening any bids for the same work when the public authority requests a guaranteed maximum price proposal due at the time of selection.

School facilities assistance programs

Classroom Facilities Assistance Program

(R.C. 3318.032)

The bill changes the calculation of the portion of the basic project cost a school district must supply for its Classroom Facilities Assistance Program (CFAP) project from the greater of either the required percentage based on its equity ranking or an amount necessary to raise the school district's net bonded indebtedness to a prescribed level, to just the required percentage based on its equity ranking.

It also requires a district that opts to segment its classroom facilities needs the required percentage based on its equity ranking on the date the Controlling Board approves the first segment for both that segment and future segments.

Vocational school facilities assistance program

(R.C. 3318.40 and 3318.12)

The bill changes how the Facilities Construction Commission (FCC) allocates funding for the Vocational School Facilities Assistance Program. Specifically, it eliminates the FCC's authority to annually set aside up to 2% of its aggregate funds to provide school facilities assistance to joint

vocational school districts (JVSDs). Instead, the bill permits the FCC to set aside a portion of its aggregate school facilities assistance funds each biennium to assist at least two JVSDs.

Background

Several programs provide state assistance to school districts and other public schools in constructing classroom facilities. The main program, CFAP, is a graduated, cost-sharing program that provides each city, local, and exempted village school district with partial funding to address all of its classroom facilities needs. Because priority for state funding is based on a district's relative wealth, poorer districts were served first and received a greater amount of state assistance than wealthier districts will receive when it is their turn to be served. Each year, all districts are ranked into percentiles according to the three-year average adjusted tax valuations per pupil. A school district may divide the district's entire classroom facilities project under CFAP into discrete segments.

JVSDs are served by a similar program, the Vocational School Facilities Assistance Program (VFAP). Other programs address the needs of particular types of districts and schools. Generally, they all operate on a cost-sharing basis.

Major sports facilities and youth sports education funding

(R.C. 123.28, 123.281, and 123.282)

The bill creates the Sports Facilities Construction and Sports Education Fund ("fund"), to be administered by FCC, the proceeds of which must be used to support construction and renovation of major sports facilities and minor league sports facilities throughout Ohio, for the economic benefit of the state, and to support youth sports education.

Sports facilities definitions

The bill defines a "major sports facility" as a sports facility that meets the following criteria:

- The facility's primary purpose is to provide a site or venue for the presentation of events of a professional sports franchise that is committed to playing a majority of the franchise's home games at the sports facility for a period of at least 30 years after completion of the construction or renovation of the sports facility.
- The initial total estimated construction cost, excluding any site acquisition cost, is greater than \$1 billion, or \$100 million if the project is for renovation of an existing facility.
- At least 60% of the total project cost has been secured from sources other than state funds.

A "professional sports franchise" is a member of the National Football League, Women's National Football Conference, Women's Football Alliance, Women's Football League Association, National Hockey League, Professional Women's Hockey League, Major League Baseball, Women's Professional Baseball League, Major League Soccer, National Women's Soccer League, National Basketball Association, Women's National Basketball Association, or a successor of such an entity.

A “major sports facility mixed-use project” is a mixed-use project that includes the construction of a major sports facility; integrates some combination of retail, office, hotel, residential, recreation, structured parking, or other similar uses into one or more mixed-use developments; has secured project funding from sources other than state funds of at least 60% of the total project cost; and is expected to generate increased state sales tax revenues.

A major sports facility mixed-use project also may include:

- Other projects supporting or relating to the major sports facility or the professional sports franchise, including portions of the project located on parcels of property that are noncontiguous with the primary site of the major sports facility mixed-use project, if the property is within Ohio, under the control of the professional sports franchise or the franchise’s affiliated entities or joint venture partners, and is within a ten-mile radius of the major sports facility;
- Any mixed-use project adjacent or relating to practice facilities for the professional sports franchise;
- Conference centers, concert, or other entertainment venues and facilities;
- Retail, food, restaurant, and beverage facilities, whether fixed or mobile;
- Parks and other public open spaces or facilities;
- Related on-site infrastructure necessary or desirable for all these elements for the major sports facility mixed-use project.

A “minor league sports facility” is an Ohio sports facility that meets all of the following requirements:

- The facility’s primary purpose is to provide a site or venue for the presentation of events of a minor league sports franchise that is officially affiliated as a developmental league for a professional sports franchise, or is an independent team that pays players and that meets criteria (to be established by the Ohio Advisory Committee for Sports Facility Construction and Youth Sports Education) and that is committed to playing a majority of home games at the sports facility for 15 years after completion of the construction or renovation of the sports facility.
- The initial total estimated construction cost, excluding any site acquisition cost, is greater than \$50 million, or if the project is for renovation of an existing facility, \$10 million.
- At least 60% of the total project cost has been secured from sources other than state funds.

Ohio Advisory Committee for Sports Facility Construction and Youth Sports Education

The bill creates the Ohio Advisory Committee for Sports Facility Construction and Youth Sports Education (“Committee”) to evaluate and approve projects to be supported by the fund and administered by the FCC.

The Committee has seven members: the FCC Executive Director, two members appointed by the Governor, one member appointed by the Speaker of the House, one member appointed by the House Minority Leader, one member appointed by the Senate President, and one member appointed by the Senate Minority Leader. The legislatively appointed members may be other legislators, or they may be members of the public.

Committee member requirements

The bill entitles Committee members who are members of the public – i.e., the Governor’s appointees, and the legislative appointees if the appointees are not legislators – to a per diem rate of \$500 a day on the days they meet. All members, whether members of the public or not, are entitled to actual and necessary expenses. The members serve at the pleasure of the appointing authority.

The bill places certain ethical constraint on Committee members’ dealings and relationships with professional sports franchises and leagues.

First, the bill prohibits Committee members from having any financial interest in or contracts with, and prohibits them to represent, advise, or be employed by, any professional sports franchise or professional sports league within one year before appointment, during the time of appointment, or for two years after appointment.

Second, the bill requires Committee members to file a disclosure statement with the Ohio Ethics Commission, or with the Joint Legislative Ethics Committee in the case of the legislatively appointed members, before voting on any matter.

Third, the bill permits a Committee member to purchase tickets, season tickets, or engage in another generally available transaction with a professional sports franchise or professional sports league, if the purchase or transaction is at arm’s length and at the same price as generally available to the public.

Committee duties

The bill requires the Committee to recommend policies and procedures for the administration of the fund for review and adoption by the FCC, prioritizing economic development through major sports facilities, major sports facility mixed-use projects, minor league sports facilities, youth sports education, and facilities that enable training in team or individual sports.

Projects must be evaluated and awarded from the fund by a majority vote of the Committee. In awarding these projects, the Committee must prioritize the economic development of Ohio communities through major sports facilities, major sports facility mixed-use projects, and minor league sports facilities; the support of youth sports education to encourage lifelong health, physical readiness, and sports knowledge for students in grades K-12; and facilities and programs that teach or enable training in team or individual sports, including endurance sports, aquatic sports, cold weather sports, or martial arts. Facilities and programs may include publicly accessible indoor and outdoor tracks, year-round aquatic centers, ice arenas, and indoor field houses.

The bill permits the Committee to recommend criteria to the FCC to establish, and permits the FCC to implement, a grant program that facilitates the ability of Ohio communities to secure major sporting events to benefit Ohio economic growth, using moneys from the fund.

The bill also requires the DEW Director, the Director of the Department of Development, the Director of Health, and the Adjutant General to advise the Committee on what skills, facilities, and programs are necessary for youth sports education, and to publish standards for youth sports education for K-12 students, as needed. The bill permits the Committee to recommend to the Tax Commissioner the creation of tax credits to support youth sports education.

Public improvements contracts

Electronic notices, advertisements, and filings

(R.C. 9.312, 9.331, 153.07, 153.09, 153.54, and 1311.252)

The bill requires certain notices, advertisements, and filings to be made via electronic media, rather than through various physical media like newspapers.

Competitive bidding notices

For contracts let by competitive bidding, when a state agency or political subdivision finds that a low bidder is not responsive or responsible, the bill requires the state agency or political subdivision to send the bidder a notice in writing by an internet identifier of record associated with the bidder (such as an email address), and by certified mail only if an electronic method is not available. Current law permits either method.

Public improvements notices and advertisements

For contracts to employ a construction manager or a construction manager at risk, the bill requires a public authority to advertise its intended contract by electronic means, and permits advertising in news media available in the county. Current law requires advertisement in a newspaper of general circulation, and permits electronic advertisement.

The bill requires the notice to be published at least 14 calendar days in advance, rather than 30 days.

For public improvements contracts, the bill requires the public authority to give notice of the time and place where bids will be received by electronic means at least 14 days in advance, and permits the authority to publish the notice in other news media in the county where the work is to occur. Current law requires publication in a newspaper at least eight days in advance.

The bill also requires plans, details, estimates of cost, and specifications to be available electronically.

When the public authority rejects all bids and re-advertises, the bill requires the advertisement to be in electronic media, rather than newspaper, as the FCC directs.

Notices of commencement

The bill removes the requirement that the notice of commencement be in affidavit form.

Under current law, before work on a public improvement contract may begin, the public authority must file a notice of commencement of the work in affidavit form, with details about the work to be performed, the contractor, the public authority, and the bid guaranty.

Bid guaranties

The bill permits a bidder for most contracts with the state or a political subdivision to file a bid guaranty in the form of an electronic verification through an electronic verification and security system, if the state or political subdivision accepts bids electronically. Continuing law also permits the bidder to file it in the form of a bond, certified check, cashier's check, or letter of credit. Under continuing law, this requirement does not apply to contracts with construction managers at risk and design build firms.

Certificates of compliance with affirmative action programs

(R.C. 9.47 and 153.08)

Under continuing law, any person desiring to bid on public improvements contracts or contracts with the Department of Transportation may apply to the Department of Development (DEV) for a certificate of compliance with affirmative action programs. If the DEV Director determines that the person has complied with all applicable state and federal affirmative action programs, and has not violated any programs within the last five years, the person may receive the certificate.

Under current law, the certificate must be no more than 180 days old to be valid, and a person may receive an updated certificate once every 180 days. The bill changes this from 180 days to two years. Under the bill, a person may receive an updated certificate every two years, and the certificate must be no more than two years old to be valid.

Declaration of exigency

(R.C. 123.10)

The bill requires the director of a state agency, when the FCC Executive Director issues a declaration of public exigency at the request of the state agency, and at the determination of the FCC Executive Director, to enter into a contract with the proper persons to address the exigency.

Continuing law permits the FCC Executive Director, upon the Director's own initiative or at the request of the director of a state agency, state institution of higher education, or state instrumentality, to issue a declaration of public exigency in the event of one of the following:

- An injury or obstruction that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it;
- An immediate danger of such an injury or obstruction; or
- An injury or obstruction, or an immediate danger of an injury or obstruction, that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it.

Current law requires the FCC Executive Director to enter into contracts with proper persons to alleviate or respond to the exigency.

The bill continues to require the FCC Executive Director to enter into these contracts when the FCC Executive Director issued the declaration of exigency at the Executive Director's own initiative. But the bill permits the FCC Executive Director, when the Executive Director issued the declaration at the request of one of the state bodies listed above, to require the state body to enter into the contract instead.

Building information modeling systems

(R.C. 153.01)

The bill permits a public authority, for public improvements contracts worth \$200,000 or more, to require an architect or engineer, in preparing plans, details, specifications, estimates, analyses, or other data, to use a building information model system, if the system is based on a nationally recognized standard for building information models.

The bill defines a "building information model" as a digital representation of physical and functional characteristics of a facility, and electronic files used to design and coordinate the project, whether it is a single model or multiple models used in the aggregate.

Public improvements contracts retainage and escrow

(R.C. 153.12, 153.13, 153.14, and 153.63)

The bill makes changes to the process by which contractors are paid for completing public improvements contracts.

Under current law, the public authority must pay 92% of the contract price for labor performed before and up to the point when the job is 50% completed. After it is 50% completed, the public entity must pay 100% of the contract price during the remaining 50% of the project, and deposit the 8% that had been collected into an escrow account. When the major portion of the project is substantially completed and occupied, or in use, or otherwise accepted, the retained amount, with accumulated interest, is released from escrow and paid to the contractor within 30 days of completion of the contract.

The bill changes this process in the following ways: first, instead of 8% being retained for the first half of the contract, 4% or less is retained for the entirety of the contract. The total amount being retained is the same, and perhaps less if the public authority so chooses.

Second, the bill removes the escrow account provisions, instead merely specifying that the public authority must release the amount to the contractor upon, and within 30 days of, substantial completion of the work. The bill clarifies that the retained funds and the accrued interest are the property of the contractor.

Finally, the bill prohibits contractors from paying subcontractors at a retainage rate lower than the rate paid to the contractor by the public authority. For instance, if the FCC is paying a contractor at a retainage rate of 97% (withholding 3%), the contractor is not permitted to pay a subcontractor at a retainage rate of 96% (withholding 4%). In other words, the contractor may not retain more from a subcontract than is being retained from the contractor's contract.

Indefinite delivery indefinite quantity contracts

(R.C. 153.013)

The bill permits a public authority to enter into an indefinite delivery indefinite quantity (IDIQ) contract without Controlling Board approval if the contract meets all of the following requirements:

- The contract is with a prequalified vendor from a list established by the FCC;
- The contract is awarded through a competitive bidding process in which the public authority identifies at least three prequalified vendors to bid on the contract and solicits proposals from those prequalified vendors, unless the public authority establishes that there are fewer than three prequalified vendors available;
- The contract value does not exceed \$1 million, which may include an increase of up to 10% of the advertised contract value.

The bill defines “public authority” as the state, a state institution of higher education, or any public agency, authority, board, commission, or instrumentality of the state.

The bill requires the FCC to establish a list of prequalified vendors, and to adopt rules to establish objective prequalification criteria, a process for public authorities to use the list, and the form, terms, and conditions of IDIQ contracts.

Integrated project delivery contracts

(R.C. 123.21, 153.01, 153.50, 153.502, 153.503, 153.65, and 153.695)

The bill permits public authorities to enter into integrated project delivery contracts with integrated project contractors for capital projects, using selection and evaluation processes similar to existing design-build firm and professional design services contracts.

Integrated project delivery definitions

An integrated project contract is a contract for integrated project delivery, which the bill defines as a method to deliver a capital project through a multi-party agreement, executed by at least three parties, among a team comprised of a public authority, a professional design firm, and an integrated project contractor, commencing at early design and continuing through to project completion.

An integrated project contractor is a person with the ability to plan, coordinate, manage, direct, and execute all phases of a capital project through integrated project delivery, including the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement.

Application and evaluation

The bill requires public authorities to evaluate the statements of qualifications submitted by integrated project contractors, and select at least three of the most qualified firms, unless the public authority determines in writing that fewer than three qualified firms are available.

Then, the public authority must provide each selected contractor with each of the following:

- A description of the project and project delivery;
- A preliminary project schedule;
- A description of any preconstruction services;
- A description of a target price, including the estimated level of design on which such target price is based;
- The form of the integrated project delivery contract, which must define target price, schedule, and quality of the project, establish collaboration and decision making processes, and share risk by linking compensation and incentives to project outcomes;
- A request for a pricing proposal that must be divided into a preconstruction and integrated project delivery services fee, must include at least a list of key personnel and consultants for the project, and must include a preliminary project schedule.

The public authority then must evaluate the pricing proposal submitted by each firm, and may hold discussions with each firm about the scope and nature of the proposed services and potential technical approaches.

The public authority then ranks the selected firms based on the public authority's evaluation, considering the proposed costs and the firm's qualifications, and enters contract negotiations with the contractor whose pricing proposal is ranked highest.

Selection and negotiations

During negotiations, the public authority must ensure that the contractor and the public authority mutually understand the essential requirements involved in providing the required integrated project delivery construction services, the provisions for the use of contingency funds, and the terms of the contract, including terms related to the possible distribution of savings in the final costs of the project. The public authority must also ensure that the contractor will be able to provide the necessary personnel, equipment, and facilities to perform the integrated project services within the time required by the contract.

The public authority must use an open book pricing method to attempt to agree upon a procedure and schedule for determining a target price for the project, which must include the cost of all work, the cost of its general conditions, the contingency, and the fee payable to the contractor.

If the public authority fails to negotiate a contract with the highest ranked contractor, it must terminate the negotiations and inform the contractor in writing, and move on to the second highest ranked contractor, and if that fails, the third, and so forth. If these subsequent negotiations fail, the public authority may select additional integrated project contractors to provide pricing proposals, or select an alternative delivery method for the project.

Public authorities may accept or reject any proposals in whole or in part.

Project requirements

Before construction begins, the integrated project contractor must provide a surety bond to the public authority in accordance with rules adopted by the FCC Executive Director.

The FCC must adopt rules setting procedures and criteria for determining the best value selection of an integrated project contractor, standards the contractor must follow, and the form of the contract, including multi-party contracts with a professional design firm, and subcontracts.

Additionally, the bill exempts integrated project delivery contracts from certain existing processes and requirements for capital contracts, replacing them with the bill's procedures.

Under continuing law, public authorities entering into public works contracts must prepare full and accurate plans, details to scale and full-sized, definite and complete specifications of the work to be performed, a full and accurate estimate of each item of expense and the aggregate cost of those items of expense, a life-cycle cost analysis, and further data as may be required by the FCC. They also are required to post separate bids for plumbing and gas fitting; steam and hot-water heating, ventilating apparatus, and steam-power plant; and electrical equipment. And under continuing law, contracts with construction managers at risk and design-build firms are exempted from these requirements.

Subcontractors

The bill requires integrated project contractors to establish criteria to prequalify prospective bidders on subcontracts, subject to the approval of the public authority and consistent with the rules adopted by the FCC.

For subcontracts, the integrated project contractor must identify at least three prospective prequalified bidders (unless less than three exist), verified by the public authority, then solicit proposals from each bidder, under an open book pricing method. An integrated project contractor is not required to award a subcontract to a low bidder.

This mirrors existing provisions for construction managers at risk and design-build firms.

Controlling Board exemptions

The bill exempts from Controlling Board approval competitively bid contracts made by the FCC for the following services: construction management services, professional design services, criteria architect or engineer services, design-build services, and integrated project delivery services.

Expedited processes for design-build firms and managers at risk

(R.C. 9.334, 153.501, and 153.693)

The bill creates an expedited proposal and selection process for contracts between public authorities and construction managers at risk or design-build firms, for projects under \$4 million, adjusted biannually for inflation by the FCC, which number the FCC must post on its website.

Under the expedited process, the construction managers at risk or design-build firms may submit both an initial qualification proposal or statement, respectively, and a pricing proposal in the same submission. Current law (and continuing law, in the case of contracts worth more than

\$4 million), requires the manager or firm to submit a proposal or statement, then for the public authority to rank and select at least three firms from the submissions, who then must submit a pricing proposal. After the proposal is submitted, the public authority must hold discussions with each applicant before making a final selection.

The bill permits these contractors to submit both at once for contracts under \$4 million, and also requires a public authority to provide each such contractor using the expedited process with a pre-proposal meeting to explore the proposals further, in which the public authority provides the manager or firm with a description of the project, including the scope and nature of the proposed services and potential technical approaches.

Under the normal process, the manager or firm submits a proposal or statement of qualifications, is selected to move on, has a meeting with the public authority, and then submits a pricing proposal for final approval.

Under the expedited process, an interested manager or firm has a pre-proposal meeting with the public authority, submits a proposal or statement of qualifications along with a pricing proposal, and then the public authority makes a selection.

The bill also exempts these contractors from the requirement to submit a sealed bid to self-perform a portion of the work if the public authority requests a guaranteed maximum price proposal due at the time of selection. This essentially means that a manager or firm may more easily subcontract with themselves as long as they have agreed to a certain price cap.