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Joint Committee on Finance

Paper #237

Building Project Threshold Increases (Building Program)

[LFB Building Program Summary Memorandum (April 17, 2023): Page 10, #9]

CURRENT LAW

State law establishes various cost thresholds at which state building program projects must meet certain requirements. These requirements are as follows.

Any construction project having a total project budget exceeding \$1.0 million is considered to be a major project and must be enumerated by the Legislature in the state building program or be exempted from enumeration by session law prior to Building Commission approval for construction.

Any construction project having a total project budget of \$1.0 million or less, regardless of the funding source, is considered a minor project. The Building Commission may authorize or delete any project costing \$1.0 million or less in accordance with the priorities established by the Commission. In general, no agency may enter into a contract for construction, reconstruction, remodeling or additions to any building, structure or facility which involves a cost exceeding \$300,000 without completion of final plans, arrangement for supervision of construction, and prior approval of the Building Commission. Projects with an estimated budget of less than \$300,000 and that are proposed for funding from the building trust fund, general fund supported borrowing, or program revenue supported borrowing must also be approved by the Commission.

For projects with estimated costs between \$50,000 and \$300,000, in most instances, DOA is required to contract with the lowest qualified responsible bidder. Whenever the estimated construction cost of a project exceeds \$50,000, or if less and in the best interest of the state, DOA is required to advertise for proposals by publication of a Class 1 notice. Any project with an estimated cost in excess of \$300,000 must be let using the single prime contractor process, under which a single prime contractor has a contractual relationship with the state. DOA may let any single prime construction project to a single trade contractor (a contractor whose primary business

is mechanical, electrical, plumbing, or fire protection work) if at least 85% of the estimated construction cost is for work involving the contractor's primary business trade. If the estimated cost of a construction project is \$7.4 million or more, the selection committee must use a request-for-proposal process to select an architect or engineer.

DISCUSSION POINTS

1. The Governor's 2023-25 capital budget recommendations would adjust building project thresholds as follows:

a. increase the threshold at which a project would be required to be enumerated in the state building program from \$1,000,000 to \$2,000,000;

b. increase the threshold at which the Building Commission may authorize a project for any state agency in accordance with priorities established by the Commission and may adjust the priorities by deleting, substituting, or adding new projects as needed to reflect changing program needs and unforeseen circumstances from \$1,000,000 to \$2,000,000;

c. increase the threshold at which small projects do not require Building Commission approval and can follow simplified bidding procedures from not more than \$300,000 to not more than \$600,000;

d. increase the threshold at which DOA is allowed to let construction projects to a single trade contractor for all work on the project if at least 85% of the estimated construction cost of the project is for work that involves the trade that is the primary business of the single trade contractor from \$300,000 to \$600,000;

e. increase the threshold on the size of contract for construction, reconstruction, remodeling of, or addition to state facilities that would require Building Commission approval of final plans for the project from \$300,000 to \$600,000. As under current law, State Fair Park Board projects require Building Commission approval, even if the total cost is under this threshold;

f. increase the threshold at which projects are required to utilize single prime bidding and contracting from \$300,000 to \$600,000;

g. increase the threshold at which the contracts and change orders for engineering architectural services and work on construction projects require the Governor's approval from \$300,000 to \$600,000;

h. increase the threshold on the size of contract for which DOA would be required to seek bids from the lowest responsible qualified bidder and meet the requirements for soliciting those bids from \$50,000 to \$100,000; and

i. increase the threshold at which the selection committee must use a request-for-proposal process to select an architect or engineer for a project based on qualifications from \$7,400,000 to \$15,000,000.

2. The above mentioned thresholds were last increased by 2017 Act 237, with the exception of the threshold at which contracts are large enough that DOA must meet certain bidding requirements, which was last updated by 2011 Act 32.

3. Over time, inflation can result in the same project taking significantly more funding to complete, as the cost of labor inputs and materials increase. The Governor's recommendations attempt to recognize the impact that inflation has had on the building project thresholds set in statute. According to DOA, the cost of even less complex systems and maintenance work has increased such that required approvals and process steps may slow down necessary maintenance work on state facilities.

4. The Governor's recommendations would increase each building project threshold by 100%. If the Committee agrees with these proposed thresholds, it could increase the thresholds in statute to the amounts described above [Alternative 1].

5. However, the Committee may wish to consider whether a 100% increase reflects the cost increases seen since 2017. Based on data published by Engineering News-Record (ENR), the monthly building cost index has increased 38% from May, 2017, to May, 2023. From 2011 through 2023, the building cost index increased by 60%. Likewise, the Mortenson construction cost index for Milwaukee increased 45% from 2017 to 2022 and 69% from 2011 to 2022. The Governor's recommendations indicate that the indexing of thresholds is based on inflation measures through 2025. Therefore, assuming annual inflation of 2.5% from 2023 to 2025, the total increase in cost since 2017 would be around 45% to 50%.

6. To reflect actual and estimated price increases from 2017 through 2025, the Committee could increase the above mentioned thresholds by 50%, rather than 100% [Alternative 2]. The Committee could make an exception for the threshold that has not been increased since 2011, and instead increase that threshold by 100%.

7. Beyond statutory requirements, the Building Commission has developed the following enumeration guidelines, which are included in each biennium's capital budget instructions, to assist the agencies in determining when a renovation or remodeling project requires enumeration versus being eligible for funding through the all agency program. Under these guidelines, a renovation or remodeling project requires enumeration if the project constructs new facility space and the total project cost exceeds \$1.0 million. Also, the guidelines indicate that a project would have to be enumerated if any of the following apply: (a) the project adds more than 500 square feet; (b) the project cost exceeds \$3.0 million (\$5.0 million for utility improvements); (c) the projected operational costs for the renovated space are significantly higher than under the existing use and configuration; or (d) a utility repair or renovation project adds significant capacity to, or is a major expansion of, an institution's utility system. The Commission may choose to increase the dollar amounts (perhaps to \$5.0 million and \$7.0 million for utility improvements.)

ALTERNATIVES

1. Adjust building project thresholds as follows (100% increase):
 - a. increase the threshold at which a project would be required to be enumerated in the state building program from \$1,000,000 to \$2,000,000;
 - b. increase the threshold at which the Building Commission may authorize a project for any state agency in accordance with priorities established by the Commission and may adjust the priorities by deleting, substituting, or adding new projects as needed to reflect changing program needs and unforeseen circumstances from \$1,000,000 to \$2,000,000;
 - c. increase the threshold at which small projects do not require Building Commission approval and can follow simplified bidding procedures from not more than \$300,000 to not more than \$600,000;
 - d. increase the threshold at which DOA is allowed to let construction projects to a single trade contractor for all work on the project if at least 85% of the estimated construction cost of the project is for work that involves the trade that is the primary business of the single trade contractor from \$300,000 to \$600,000;
 - e. increase the threshold on the size of contract for construction, reconstruction, remodeling of, or addition to state facilities that would require Building Commission approval of final plans for the project from \$300,000 to \$600,000. As under current law, State Fair Park Board projects require Building Commission approval, even if the total cost is under this threshold;
 - f. increase the threshold at which projects are required to utilize single prime bidding and contracting from \$300,000 to \$600,000;
 - g. increase the threshold at which the contracts and change orders for engineering architectural services and work on construction projects require the Governor's approval from \$300,000 to \$600,000;
 - h. increase the threshold on the size of contract for which DOA would be required to seek bids from the lowest responsible qualified bidder and meet the requirements for soliciting those bids from \$50,000 to \$100,000; and
 - i. increase the threshold at which the selection committee must use a request-for-proposal process to select an architect or engineer for a project based on qualifications from \$7,400,000 to \$15,000,000.
2. Adjust building project thresholds as follows (50% increase):
 - a. increase the threshold at which a project would be required to be enumerated in the state building program from \$1,000,000 to \$1,500,000;
 - b. increase the threshold at which the Building Commission may authorize a project for

any state agency in accordance with priorities established by the Commission and may adjust the priorities by deleting, substituting, or adding new projects as needed to reflect changing program needs and unforeseen circumstances from \$1,000,000 to \$1,500,000;

c. increase the threshold at which small projects do not require Building Commission approval and can follow simplified bidding procedures from not more than \$300,000 to not more than \$450,000;

d. increase the threshold at which DOA is allowed to let construction projects to a single trade contractor for all work on the project if at least 85% of the estimated construction cost of the project is for work that involves the trade that is the primary business of the single trade contractor from \$300,000 to \$450,000;

e. increase the threshold on the size of contract for construction, reconstruction, remodeling of, or addition to state facilities that would require Building Commission approval of final plans for the project from \$300,000 to \$450,000. As under current law, State Fair Park Board projects require Building Commission approval, even if the total cost is under this threshold;

f. increase the threshold at which projects are required to utilize single prime bidding and contracting from \$300,000 to \$450,000;

g. increase the threshold at which the contracts and change orders for engineering architectural services and work on construction projects require the Governor's approval from \$300,000 to \$450,000;

h. increase the threshold on the size of contract for which DOA would be required to seek bids from the lowest responsible qualified bidder and meet the requirements for soliciting those bids from \$50,000 to \$100,000; and

i. increase the threshold at which the selection committee must use a request-for-proposal process to select an architect or engineer for a project based on qualifications from \$7,400,000 to \$11,000,000.

3. Take no action.

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