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EFFECTIVENESS & ACCOUNTABILITY INITIATIVE



Senate Select Committee on Infrastructure Streamlining and Workforce Equity

Thursday, June 29, 2023

Issue:

Progressive Design-Build Authority for the California Department of Transportation (Caltrans) and the California Department of Water Resources (DWR) as reflected in SB 146 (Gonzalez and Friedman).

Summary

SB 146 authorizes the use of the progressive design-build project delivery method for Caltrans and DWR for public works projects. Both departments are authorized to utilize progressive design-build for eight projects with an estimated contract price that exceeds \$25 million. SB 146 defines the procurement process for progressive design-build projects. The bill also includes provisions contained in current authorizations for the use of regular design-build contracting including language prohibiting Caltrans and DWR from including the authority to perform inspection services for projects, as specified. The bill also prohibits DWR from using progressive design-build for the design or construction of Delta conveyance facilities or seawater desalination projects. Additionally, SB 146 requires the departments to submit a report to the Legislature by January 1, 2034 if they utilize progressive design-build, and contains a sunset date of January 1, 2034.

Comments

Traditional design-build refers to a procurement and project delivery method in which both the design and construction of a project are procured from a single entity. Design-build differs from the traditional design-bid-build contracting method whereby work on a project is divided into two separate phases: design and construction. Design-build is used to minimize risks for

the project sponsor and to reduce the delivery schedule by overlapping the design phase and construction phase of a project. Both Caltrans and DWR have had the ability to utilize the design-build procurement method, with some restrictions.

Progressive design-build is a more recent variant on traditional design-build contracting. The progressive design-build model generally includes two phases. In the first phase, the sponsoring government agency uses a best value process to select a design-build entity who completes preliminary plans and preconstruction services necessary to provide a cost estimate and final design proposal. The project then “progresses” to the second phase of the project, where the sponsoring agency and the design-build entity agree to a final design, project cost, and schedule. If they cannot agree, there is an “off ramp” between the two phases where the sponsoring agency can pursue other options, but still benefit from having the first phase work complete. This is different from traditional design-build where the sponsoring agency contracts with a single entity to design and construct a project at a set price before design work begins, and without a similar off ramp.

As part of the 2021-22 State Budget, the Legislature authorized some state agencies, not including Caltrans or DWR, to use progressive design-build with Department of Finance and the State Public Works Board approval. Additionally, last year, the Legislature authorized the use of progressive design-build for certain local agencies, specifically for the delivery of water projects, limiting the authority to 15 projects valued at over \$5 million.

SB 146 authorizes Caltrans and DWR to utilize progressive design-build for eight projects with an estimated contract price that exceeds \$25 million. The bill also defines terms and conditions for the procurement of a progressive design-build contract, which are similar to those for local agencies. Finally, if the department utilizes progressive design-build it must report to Legislature by January 1, 2034 with specific data including the cost and status of a project, and an assessment of the effectiveness of the progressive design-build project delivery method relative to project cost and time savings. The authorization sunsets on December 31, 2033.