

MEMORANDUM

April 28, 2017

Re: Design Build 2017 NYS Budget

To: Anthony Fasano, P.E., Executive Director NYSSPE
From: Mark C. Kriss, Legislative and Legal Counsel

As previously discussed in my report regarding the March meeting of the State Board for Engineering and Land Surveying, the Governor’s Budget proposal contained proposed changes to current public sector design build law (known as the “Infrastructure Investment Act”) last enacted via the 2015 Budget (Chapter 20 Laws 2015 – Part F).

The Governor’s original budget proposal would have dramatically increased the use of design build by authorizing its use by all state agencies, SUNY, CUNY and permitted the use of design build by all counties, excluding the five counties comprising New York City. [Under the 2015 law only five designated agencies (i.e. NYS Thruway Authority, NYS Department of Transportation Office of Parks, Recreation and Historic Preservation, Department of Environmental Conservation and NYS Bridge Authority) were authorized to use design build.] The new executive proposal would have permitted the broad use of design build for both vertical and horizontal construction and would have left in place the 1.2 million dollar threshold.

In contrast with the Governor’s bill the proposals put forth by the legislature during the budget process did not include the proposed expanded use of design build.

I am pleased to report that the final budget bill (S2009C / A3009C – Part RRR), which passed the Senate on Sunday April 9th and was signed by Governor Cuomo on April 10th , contains modest changes to the law pertaining to public sector design build projects first approved during the next two years. Firstly, while all five originally designated agencies are reauthorized, the general project threshold has been increased from 1.2 million dollars to 10 million dollars. Secondly, the final bill authorizes design build for eight specific identified projects, each subject to a new 5 million dollar threshold, to wit:

Authorized Projects

Authorized State Entity

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| 1. Frontier Town | Urban Development Corporation |
| 2. Life Sciences Laboratory | Dormitory Authority & Urban Development Corporation |
| 3. Whiteface Transformative Projects | New York State Olympic Regional Development Authority |
| 4. Gore Transformative Projects | New York State Olympic Regional Development Authority |
| 5. Belleayre Transformative Projects | New York State Olympic Regional Development Authority |
| 6. Mt. Van Hoevenberg Transformative Projects | New York State Olympic Regional Development Authority |
| 7. State Fair Revitalization Projects | Office of General Services |
| 8. State Police Forensic Laboratory | Office of General Services |

With the exception of these eight projects the new law does not expand the use of design bill for vertical construction.

Finally the bill provides that all proposals submitted shall be scored according to the criteria listed in the RFP and final scores shall be published on the authorized entity's website.