

Contact: Andy Baumert

LEGISLATIVE UPDATE

Actions Requested:

Consider approval of the universities' request to pursue legislation which would provide for integrated project delivery options for Regent capital projects, as outlined in this memorandum.

Receive a report on Fiscal Year 2009 Governor's budget proposal.

Receive a report on student government organizations' activities related to student debt and consider supporting the student organizations as they pursue legislative initiatives related to student debt.

Integrated Project Delivery Legislation

Executive Summary: A legislative update was provided to the Board at its December 2007 meeting at which time it was asked to consider including issues related to best practices and accountability in the Board's 2008 legislative agenda. It was noted that during the three previous years, the Board was successful in securing legislative flexibility for its institutions by working to eliminate statutory obstacles that impede the utilization of best practices and hinder continual improvement. During the December discussion, Board members requested that any legislative initiatives regarding Regent construction projects be brought to the Board for its consideration. Information on a proposed initiative follows:

The only method currently allowed by Iowa Code for Board of Regents institutions to procure construction services over \$100,000 is the design-bid-build method, a three-phase serial process. However, this method does not always provide the best value for the citizens of Iowa since the following are essential for this method to be successful:

- The project schedule must be sufficient to permit the three-phase process to occur;
- Contract documents must be well defined and complete to allow for accurate bid prices and maximum competition in all areas of the work; and
- There must be multiple contractors with the ability, desire, experience and qualifications to provide bids for the work offered.

There has been a significant shift over the last several years in Iowa and across the country in the manner in which private and public building projects are constructed from the traditional design-bid-build process to integrated delivery methods such as design-build and construction manager-at-risk. Most industry professionals agree that a team of design and construction professionals working together as an integrated team with the owner from the earliest inception adds value to a project. This concept is marketed aggressively by many contractors and the American Institute of Architects is highlighting integrated project delivery in its policies.

Board of Regents institutions compete for students, research money and top quality personnel with other higher education institutions across the country and private entities. Attracting and

retaining these programs and personnel are critical to the success of the Regent institutions and ultimately impact the economic development of the State of Iowa. Providing top quality facilities is critical to this initiative and it is imperative that the Regent institutions be able to compete nationally on a level playing field; to do so, they need access to the same tools as their competitors. Iowa is one of only four states that does not provide for the use of alternative delivery systems in public construction work.¹

There are several instances in which the use of delivery systems other than lump-sum competitive bidding is warranted by the size, complexity, specialized nature, or aggressive schedule of the project. Successfully delivering major capital projects requires properly matching the project delivery system to the key project criteria and characteristics. Objectives for the use of integrated delivery systems include some or all of the following, depending upon the project:

- Participation of construction professionals in the pre-construction phases to take advantage of their knowledge of construction means and methods, current material and labor costs, material availability, industry workload, etc., during the preparation of contract documents, with the goal of optimizing construction cost, quality, and schedule;
- Continuity of management when the use of a fast-track approach is necessary because schedule constraints do not allow the design to be completed and a complete set of construction documents to be produced for bid before the start of construction. Separating the work into multiple packages allows the work to be bid on a priority basis; some construction can commence before the design is complete, thereby compressing the project schedule;
- Procurement of construction services on a qualification basis when specialized knowledge or expertise is required; and
- Maximization of the participation of Iowa based contractors by packaging the work appropriately on large or specialized projects where participation by Iowa contractors might otherwise be limited.

The Regent institutions request legislation permitting the use of alternative delivery systems for Regent construction projects be enacted. The institutions are committed to maintaining open and objective selection processes for construction services while providing best project value. Key recommendations, which have been discussed with construction contractors who are members of Master Builders of Iowa, Design Build Institute of America – Iowa Chapter, and the Iowa Competitive Bidding Alliance as well as members of the American Institute of Architects – Iowa Chapter, include:

- Allowing the use of design-build and construction manager-at-risk as alternative project delivery methods on a project by project basis by the Board of Regents;
- Alternative project delivery methods would not be used for designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structures, or stand-alone parking lots.
- Factors to be considered for the use of an alternative delivery method include whether:
 - Estimated cost of construction is \$10 million or more;

¹ Source: Design Build Institute of America. The other states without state public procurement design-build laws are Michigan, Alabama and Rhode Island.

- Likelihood that the alternative project delivery method selected will serve the public interest by providing substantial savings of time or money over the design-bid-build method;
 - Ability to overlap design and construction phases is required to meet the needs of the end user;
 - Use of an accelerated schedule is required to make repairs resulting from an emergency situation;
 - Significant phasing or technical complexities, or both, are present, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase; and
 - Use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.
- The selection process will be an open and objective process with the Request for Qualifications for a project publicly advertised and the names of all proposers and their scores available for public review after award of the contract. Firms submitting a statement of qualifications are to be capable of providing a bond for the project.

FY 2009 Governor's Budget Proposal

On January 15, 2008 Governor Chet Culver presented his fiscal year 2009 state budget proposal as part of his Condition of the State address. Highlights of the Governor's proposed appropriations related to the Regents institutions are as follows:

Base Budget: Continuation of base budget.

Salary Funding: A total of \$41.9 million for incremental salary funding at Regents institutions for FY 09. This compares to \$40.9 million which was appropriated in FY 08 and compares to the Regents request of \$44 million.

Deferred Maintenance and Fire Safety: A total of \$10 million for deferred maintenance and fire safety projects at the Regents institutions. This compares to the request of \$50 million.

Math and Science Initiative: A total of \$4.7 million for a collaborative math and science initiative by the three Regents universities. This compares to the request of \$5.5 million.

Special Schools: A total of \$606,000 in allowable growth funding for the Iowa School for the Deaf and the Iowa Braille and Sight Saving School. This compares to the request of \$606,000.

Economic Development Programs: No increase in funding was proposed. This compares to a request of \$4.4 million.

Student Legislative Initiatives

The elected student leaders of the University of Iowa, Iowa State University and the University of Northern Iowa are actively pursuing legislative support for initiatives that will address student debt and retention of university graduates in the state. The recently released report of the Generation Iowa Commission revealed that Iowa is among the top ten states nationally in attracting students for a college education, resulting in a net gain of thousands of young people. However, many students leave the state following graduation, most often citing the need for

higher-paying employment to repay substantial student loan debt. It is estimated that more than 150,000 Iowa workers will retire from highly skilled jobs during the next five years emphasizing the need for initiatives to retain more university graduates within the state.

Among the initiatives the student organizations will be supporting this legislative session are:

- full funding of the Regents general fund operating budget request, including full funding of salary needs;
- full funding of the Regents request for restoration of economic development programs;
- additional state funding of work study programs;
- exploring innovative and creative solutions to rising student debt.

The student organizations request the support of the Board of Regents and legislative staff as they pursue these initiatives.