



**HOUSE EDUCATION COMMITTEE  
INTERESTED PARTY TESTIMONY ON H.B. 96**

**Provided on February 18, 2025 by  
Daniel F. Edwards, Chief Executive Officer  
Associated General Contractors (AGC) of Ohio**

Chair Fowler Arthur, Vice Chair Odioso, Ranking Member Robinson and Representatives on the House Education Committee:

Thank you for the opportunity to share the AGC of Ohio's interested party testimony on House Bill 96, and more specifically on the policy proposals included in the budget and relating to public building construction.

My name is Dan Edwards, and I am the CEO of the Associated General Contractors of Ohio. AGC of Ohio is the construction industry association that represents a diverse group of contractors – large and small, union and open shop (non-union), commercial building and industrial – from across the entire state. Our members construct schools, university dormitories, classrooms and hospitals, public libraries, fire stations, and rec centers, and also the communities that they serve. We work closely with public agencies and private sector partners to develop policies that protect taxpayers and ensure a strong and competitive construction industry.

Before assuming this role, I spent over 30 years as a construction attorney with the United States Air Force and in private practice at large Ohio law firms. I represented contractors, subcontractors, and public and private owners in negotiating fair contracts and resolving disputes. That experience and my work at AGC of Ohio has given me a deep understanding of the challenges that arise in public construction and the importance of well-crafted policies that balance the needs of all stakeholders.

I want to begin by commending the Ohio Facilities Construction Commission (OFCC) for their collaborative work in developing some key proposals included in this budget. These provisions reflect a significant effort by both the administration and the construction industry to address important issues, and we fully support the inclusion of some proposals in the bill. These, and only proposals that were developed through candid discussions aimed at balancing the needs of public owners with the industry's need for fair competition among qualified contractors.

Among the most important is the Retainage Reform proposal. This measure seeks to eliminate administrative challenges while ensuring that retainage—funds earned by contractors but withheld until project completion—is released more efficiently. The reform ensures that contractors receive these funds more quickly and earn interest on withheld amounts, rather than having their capital tied up for extended periods. This change benefits both public owners and contractors.



We also support other construction-related proposals in the bill and will submit testimony before the next hearing to elaborate more completely. These include proposals relating to Building Information Modeling (or BIM), Indefinite Delivery/Indefinite Quantity contracts, and broadening the ability of design-builders and construction managers to self-perform under certain, limited circumstances

At the same time, the proposed budget also includes provisions that we discussed with OFCC, and AGC and others in the cooperative meetings advised that they were **not** ready for legislative action. We were surprised to see that those were nonetheless submitted in this budget, and we oppose those proposed changes.

Most surprising was the inclusion of a new project delivery method known as Integrated Project Delivery or IPD. This project delivery system is still very new and used in only a small number of highly complex projects – mostly involving large health care – by very sophisticated owners like the Cleveland Clinic. There are no other States that permit public owners to use this delivery system. Our very first conversation with OFCC to explore whether IPD can be reconciled with Ohio's needs, the availability of Ohio based contractors, reconciliation with other laws is scheduled for Monday, February 24. This proposal is very premature. Today, Ohio is not ready for IPD, and no other state has attempted to implement it in public construction.

For context, it has been 14 years since Ohio enacted construction reform in 2011 and while we have come a long way, we have a long way to go – and we can only continue to improve our public construction contracts working together. Under construction reform, existing project delivery contracts were to be reviewed and updated every five years, but that has not been done. In fact, some of the key contract forms have not been updated in 8 – 10 years. This is not for lack of effort at OFCC, but it is a product of limited resources and limited time.

As industry partners, we began working with OFCC last fall to update existing project delivery methods, improve competition, and reduce administrative burdens on both OFCC and industry. Until those existing methods are fully refined and mastered, it would be reckless to introduce a new delivery system and impose it on OFCC and all other public owners. Now is not the time for IPD.

The second OFCC proposal not yet ready for legislative change involves modifying the Best Value selection process to let public owners combine qualifications and pricing proposals. This raises two issues: 1. The \$4.0 million threshold is arbitrary and doesn't account for project complexity. A qualitative assessment should determine if a one-step process is appropriate since smaller projects can be more complex than larger ones. 2. If qualifications and pricing are submitted together, pricing should remain sealed until qualifications are reviewed and ranked. This aligns with federal best value practices to prevent bias in qualification rankings.

In closing, we appreciate the opportunity to share our perspective on House Bill 96 and commend OFCC for their hard work in advancing meaningful construction policy. We urge the committee to move forward with Retainage Reform and the other well-developed proposals we will highlight next week. However, we strongly urge the committee to reject the addition of Integrated Project Delivery at this time and the uncertainties it would introduce.

Thank you for your time and consideration. I would be happy to answer any questions.