



**SENATE FINANCE COMMITTEE
HOUSE BILL 96 TESTIMONY
Ohio Facilities Construction Commission Proposals
*Support Retainage Reform; Oppose Integrated Project Delivery***

**Provided on May 28, 2025
Andrea Ashley, Vice President of Government Relations
Associated General Contractors (AGC) of Ohio**

Chair Cirino, Vice Chair Chavez, Ranking Member Hicks-Hudson, and Senators on the Finance Committee:

Thank you for the opportunity to testify on the Ohio Facilities Construction Commission (OFCC) proposals in the budget. AGC of Ohio is a construction association representing large and small, open shop (nonunion) and union, commercial building and industrial contractors across the state. Our members build and renovate hospitals, offices, schools, wastewater treatment plants, warehouses and manufacturing facilities, mixed-use developments, and other vertical structures. They compete for the public construction projects found in the capital bill.

During her testimony to the Education Committee, the OFCC executive director referenced a package of proposals in the budget stemming from “collaborative meetings” with industry groups. My testimony today will focus on the only two proposals where there was a broad industry consensus:

1. Retainage reform is long overdue, and the agreed-upon language belongs in the budget.
2. Integrated project delivery does not belong in the budget; it needs to be vetted first to determine whether it’s a viable public procurement option

RETAINAGE REFORM

Every construction employer association involved in the OFCC meetings supported retainage reform. Retainage is a portion of a contractor's payment withheld until the project is completed and all obligations are met. The proposal simplifies retainage by requiring 4% of labor costs to be withheld throughout the project (instead of the current patchwork of 8% until 50% complete on labor). It ensures the prompt release of retainage, eliminates the

requirement to escrow funds, and prohibits contractors from holding more retainage than what is withheld on them.

An amendment to the retainage reform language further clarifies that a public owner can continue to withhold money for any final outstanding work (aka punch list items) when the retainage is released under the provision. Our association supports that clarification.

We urge your support of retainage reform and the clarifying amendment (SC1477).

INTEGRATED PROJECT DELIVERY

Ohio law provides delivery systems in which public construction can be procured. Under Chapter 153, those procurement systems include multiple prime, single prime (or general contract), construction manager at risk, and design build. The executive version of the budget would add another public procurement delivery option: integrated project delivery

Nearly every construction industry organization with a presence at the statehouse opposes the Integrated Project Delivery procurement proposal. It is an extremely complex project delivery system used sparingly in the private sector. No state authorizes it as a public procurement method, nor does the federal government. No one has seriously considered whether it makes sense for the public sector in Ohio... whether it addresses state needs, availability of Ohio contractors and design professionals who can work on IPD projects, legal frameworks and compliance with Ohio's public procurement laws, insurance and risk, etc.

Public owners, including OFCC, are spread thin and lack resources. Adding a new, untested project delivery system will tax an already stretched system. And, given IPD's risk structure... if mismanaged by public owners, contractors and design professionals on those projects could go out of business.

In addition to AGC, some of the other industry groups opposed include: the Ohio Contractors Association, Affiliated Construction Trades of Ohio, Central Midwest Carpenters, Construction Employers Association, Mechanical Contractors Association of Ohio, chapters of the National Electrical Contractors Association, and Ohio Operating Engineers Local 18.

We urge you to remove the IPD language from the budget (SC_136_0365). AGC of Ohio appreciates your consideration. I'm happy to answer any questions at this time.

Note: Attached to this testimony is a construction coalition's white paper in opposition to IPD for reference.



HOUSE BILL 96: CONSTRUCTION INDUSTRY OPPOSITION TO CODIFYING INTEGRATED PROJECT DELIVERY AS A PUBLIC PROCUREMENT METHOD

The following organizations — Associated General Contractors of Ohio, ACT Ohio, Central Midwest Carpenters, Construction Employers Association, Mechanical Contractors Association of Ohio, chapters of the National Electrical Contractors Association, Ohio Contractors Association, and Ohio Operating Engineers Local 18 — oppose codifying integrated project delivery (IPD) as a procurement method for public building construction. We believe IPD should not be adopted for public projects until it has been thoroughly vetted, and a broad consensus is reached regarding its viability for public procurement.

The proposal is outlined in Chapters 153.65 and 153.695 and referenced throughout H.B. 96. We respectfully urge you to remove this language from the legislation.

What is Integrated Project Delivery (IPD)?

Integrated Project Delivery is a construction delivery method involving a contractual arrangement among a minimum of the owner, constructor, and design professional, seeking to align the business interests of all parties. All IPD stakeholders (owner, contractor, designer) have shared risk that compels collaboration by tying stakeholder success to project success.

IPD is an extremely complex delivery system. It is used sparingly in the private sector with varying results; ***it is not used for public projects in other states or by the federal government.*** On February 24, the Ohio Facilities Construction Commission (OFCC) held its first meeting to learn more about IPD and to educate interested parties. ***Codifying IPD before understanding the delivery method, whether it is feasible in the public sector, and how it would function within Ohio's public procurement laws that protect taxpayer dollars would be irresponsible.***

Concerns with Integrated Project Delivery...

UNTESTED IN THE PUBLIC SECTOR: No state permits IPD as a public procurement method, and the federal government does not use it. While IPD is sometimes used in large private projects with mixed results, some state and federal procurement entities apply its principles with more commonly used delivery methods like design build.

A BLANK CHECK FOR PUBLIC OWNERS: Under IPD contracts, public owners share financial risk with design and contractor partners who lack cost-control incentives. This exposes taxpayer dollars to a greater risk of cost overruns than traditional project delivery methods.

LACK OF PUBLIC TRANSPARENCY AND OVERSIGHT: IPD's integrated approach reduces transparency with financial and contractual decision-making, making public oversight more challenging.

LACK OF ACCOUNTABILITY: The collaborative nature of IPD means all primary stakeholders, including the owner, share the cost of design flaws, project delays, budget excess, construction defects, etc.

BONDING AND INSURANCE DIFFICULTIES: Obtaining bonding and insurance for IPD projects is extremely difficult due to a lack of clear risk assignment, performance bond complications, limited market familiarity, the potential for higher costs, etc.

CONFLICTS WITH COMPETITIVE PROCUREMENT LAWS: Ohio law requires competition to ensure fairness and cost-effectiveness. IPD relies on the early selection of project partners based on collaboration, with little to no consideration of costs.

INCREASED LEGAL COMPLEXITY: IPD's shared-risk, shared-reward contract structure does not align with existing public procurement laws and could introduce legal uncertainties for state agencies and the design and construction project partners.

CHALLENGES WITH PUBLIC AGENCY CULTURE: Public entities' bureaucratic structures hinder the quick decision-making needed for successful IPD. For these reasons, most public owners have not realized the efficiencies in other codified delivery systems like design build and construction management at risk.