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Eastern Contractors Association
Budget Report – April 2020
2020-2021 NYS Enacted Budget Summary

SUMMARY

On April 2, 2020, Governor Cuomo and Legislature completed the FY2021 NYS Enacted Budget, which includes \$177 billion in total funding, including \$105 billion for State Operations. (The Governor originally proposed a \$178 billion Budget). Without federal assistance, State Operations funding will be reduced to \$95.8 billion. This Budget, passed in the wake of the COVID-19 pandemic, may face significant alterations over the course of the fiscal year on a quarterly basis if revenues fall below projections. The Budget authorizes the state to issue \$11 billion in debt to address the expected loss of revenue – including \$8 billion in short term debt.

Construction Specific Provisions:

Prevailing Wage

The budget included an expansion of the prevailing wage requirements on certain private projects with total project costs exceeding \$5 million, and that receive more than 30% of their funding from public sources (“covered projects”). To the extent that PILOT savings are able to be determined, they would count toward the threshold. However, tax benefits that are unable to be calculated at the time of work would not count as covered expenses.

There are certain projects specifically exempted from the new prevailing wage statute, such as: affordable housing, small renewable energy, sewer, brownfield remediation, charter schools, Downtown Revitalization Initiative, Restore New York, PLA, and historic renovation.

A complete overview of the prevailing wage statute is available upon request.

Design-Build

The budget included statutory language expanding its design-build program to OGS, the Dormitory Authority, UDC, SUNY Construction Fund, ORDA, and the Battery Park City Authority. The statute added worker protections for state employees by prohibiting the transfer of duties ordinarily performed by state workers to state contractors.

New York Buy American Act

The FY2021 budget included a proposal issued by the Governor to make the New York Buy American Act Permanent. That law mandates State Agencies to purchase American Iron and Steel for construction projects.

Capital Funding:

Regional Economic Development Councils (REDCs)

The FY2021 enacted budget contains \$150 million in REDC capital funding to be awarded pursuant to a plan developed by the chief executive officer of New York State Urban Development Corporation and a competitive process among the Regional Economic Development Councils.

Downtown Revitalization Initiative (DRI)

There is \$100 million for the Downtown Revitalization Initiative in the budget this year to be administered to 10 additional downtown neighborhoods throughout the state. The funding will be administered by the Department of State (DOS) and the Division of Housing and Community Renewal (DHCR) for transformative housing, economic development, transportation, and community projects, including those designed to increase the property tax base.

CDTA Transportation

CDTA State Operating Assistance (STOA) is increased by 4.2% over last year's Budget, an increase of \$1,726,100 for a total of \$44,442,800.

Upstate capital to be divided amongst the upstate public transportation services increased by \$26 Million over last year's Budget. \$20 Million of which was added for the electrification of non-MTA bus fleets.

General Interest: Environmental Conservation:

\$3 Billion Environmental Bond Act

The FY2021 enacted Budget includes a \$3 Billion "Restore Mother Nature" Bond Act. The Bond Act includes: \$1 Billion for Restoration and Flood Risk; \$550 million for Open Space Land Conservation and Recreation; \$700 million for Climate Change Mitigation (not less than \$350 million to be used for Green Buildings); \$550 million (not less than \$200 million used for Water Infrastructure Improvement Act Projects); \$200 ,million for Natural Resources

Preservation/ Reduce Climate Change; and \$300 million for the Environmental Protection Fund (EPF). The Bond Act must be approved on two consecutive statewide ballots before it is used.

Ban on Fracking

Effective immediately, no permits will be issued allowing any individual or entity to drill, deepen, plug back, or convert wells that use high-volume hydraulic fracturing. The ban applies to any well operation that uses more than three hundred thousand gallons of water regardless of whether the well is vertical, horizontal, or diagonal.

Labor:

Sick Leave

Beginning in 2021, all businesses will be required to provide sick leave to their employees. Businesses with four or fewer employees will be required to provide 5-days of unpaid sick leave to their employees, while employers with 5-99 employees will be required to provide their employees with 5-days of paid sick leave, and businesses with 100+ employees will be required to provide 7-days of paid sick leave. These are minimum requirements, so employers already meeting these minimal thresholds may maintain their existing policies.

A full summary of the new Paid Sick Leave legislation can be provided upon request,

- Unemployment Insurance Funding - \$1 Billion**

The NYS Budget also included authority for the Department of Labor to spend an additional \$1 Billion on Unemployment Insurance if Federal Funds are designated for that purpose. (This would only apply if additional Federal Assistance is provided).

- Ban on the “Pink Tax”:**

The FY 2021 Budget bans gender discrimination in pricing if two goods are substantially similar. The ban would apply if there is no substantial difference in materials used in production, intended use of the good, functional design of the good and the brand of the good.

For services, the ban would apply if there is no substantial difference in the amount of time needed to provide the services, the difficulty in providing services, the cost of providing services.

For goods, and a difference in coloring among any good shall not be construed as a substantial difference for pricing purposes (would likely affect ECA suppliers).

If no substantial differences exist, businesses are prohibited from charging a different price for the two sets of goods or services. There is an exemption to allow price differences in goods if the manufacturing process is different between the goods, but businesses are now required to provide customers with a complete written price list upon request. This will take effect 180 days after enactment of the Budget. The new changes also empower the courts/Attorney General to levy fines and penalties against businesses found in violation, even when the person who files the complaint has not themselves been harmed by the violation.

Gubernatorial Spending Reduction Powers:

The FY 2021 Enacted Budget also contains broad authority for the Director of Budget to develop a plan for up to \$10 billion in additional cuts due to economic hardships created by COVID-19.

The FY2021 NYS Budget did not include the following items tracked by ECA:

- A reduction in corporate franchise tax rates and increase the business income exemption for small businesses.
- Revenue enhancements (tax increase) to the state fiscal coffers, including cannabis taxes; sports wagering revenue; and, the implementation of a ‘millionaires’ tax.
- Protections for gig economy workers.
- The legalization of recreational cannabis
- Access to affordable healthcare.
- Cancellation of rent due to the COVID 19 pandemic’s impact on the economy, although a 90-day moratorium on both residential and commercial rent was initiated by the Governor.

As always, please let us know if you have any questions:

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