



A Brave New World In State Government

Department of Public Works gives way to Department of Construction Services

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On July 1, 2011, with little fanfare, but significant mystery, the Department of Public Works (DPW) was dissolved. Public Act No. 11-51, "An Act Implementing the Provisions of the Budget concerning the Judicial Branch, Child Protection, Criminal Justice, Weigh Stations and Certain State Agency Consolidations," ultimately signed by Gov. Dannel Malloy on June 30, is a critical piece of the governor's initiative to streamline Connecticut's state government, and it will have an immediate impact upon the administration of vertical construction projects in the state.

This is not the first time the legislature has tinkered with which agency has responsibility for state construction project administration. DPW was originally established in 1937 and then abolished six years later in 1943. It was revived again in 1951, but was folded into the Department of Administrative Services as the Bureau of Public Works in 1977. An independent DPW was re-established in 1987. And, now, the legislature has once again abolished DPW and has established the Department of Construction Services (DCS) to retain most of the former responsibilities of the DPW and to assume some new ones.

The Act establishes DCS as an independent executive branch agency which, like the former DPW, is responsible for non-highway public works construction and construction management including administering most state capital improvement projects and se-

lecting consultants to assist on those projects. Significantly, the new law shifts responsibility for Fire Safety Code and State Building Code enforcement from the Department of Public Safety to DCS. This consolidation should help to avoid many of the code compliance headaches that public contractors have encountered in Connecticut over the past decade.

The Act also divides between the State Department of Education and DCS the responsibility for the School Construction Grant Program under which school construction grant applications are reviewed to ensure compliance with the myriad laws and regulations impacting the Program and ultimately approved. Previously, DPW had no responsibilities under this program. The state Department of Education was responsible for the entire process, including approval of the grant applications from regional and municipal boards of education, as well as approval of payments and project auditing.

Under the Act, DCS now plays a significant role in project management while deferring to the Department of Education commissioner on evaluating compliance with educational requirements, building priority and compliance with the 2008 settlement of *Sheff v. O'Neill*.

The Act requires the DCS commissioner to review grant applications for compliance with



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school construction standards to be adopted by DCS in conjunction with the Department of Education with a focus on remedying construction issues including code violations, portable classrooms, air quality emergencies and fire and catastrophe damage.

The commissioner is required to submit a plan by Jan. 2, 2012 for replacement or purchase of heating, ventilation or air conditioning systems eligible for school construction grants if the new construction increases energy efficiency or reduce heating fuel costs for a municipality or regional school district. The plan must include criteria and conditions for state reimbursement, an estimate of costs and savings for municipalities and districts and a methodology for sharing savings of the increased efficiency of the new heating, ventilation or air conditioning systems between towns, districts and the state.

Shifting Functions

While DCS assumed responsibility for Fire Safety Code and the State Building Code enforcement and will play a significant role in school construction project manage-

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ment, some former-DPW functions have been shifted to other state agencies. In particular, the Department of Administrative Services will now assume the responsibility for sales, lease and acquisition of property for state agencies, and the supervision, security and maintenance of state buildings and grounds. However, DCS will continue to assist the Department of Administrative Services with these former-DPW functions. For example, when a lessor of state property proposes alterations or additions in excess of \$500,000, the Department of Administrative Services commissioner must consult with the DCS commissioner. The DCS commissioner will also assist the attorney general's office in negotiating construction contracts.

Other than outlining realignment of responsibilities, what this consolidation means for day-to-day operations of DCS remains unknown at this time. A message on the DPW web site offered little information, simply stating: "As of July 1, 2011, the Department of Public Works is involved in

an agency consolidation with the Department of Administrative Services and the newly-created Department of Construction Services. While the transition is taking place, please continue to check back here for up-to-date information." Much of the uncertainty hinges on the governor's appointment of the first DCS commissioner, which, at the time of publication of this article, had not yet taken place.

The Connecticut Construction Industry Association and the Associated General Contractors of Connecticut, trade associations representing commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the construction industry, have stated their intent to stand ready to assist in this brave new world. "CCIA and AGC of Connecticut look forward to working with the new Commissioner of Construction Services," said John W. Butts, Executive Director of AGC of Connecticut. "Our staff and members stand ready to work

with the Commissioner and agency personnel, to the extent possible, to facilitate a smooth transition to a new agency that we hope will continue to deliver the necessary funding and provide the expertise and guidance to deliver quality state and school construction projects that the public expects and deserves. We also appreciate the Governor's vision to consolidate state agencies and conserve limited resources in this challenging economic environment. We share his objective of helping to get the economy moving again by getting the construction industry back to work."

This significant shake-up and restructuring of Connecticut's state agencies will hopefully facilitate the administration of vertical public works in Connecticut. Construction firms looking to bid public works projects in Connecticut in the coming months need to be prepared for potential changes once the new DCS embarks on its mission. ■