

73-10-27 Definitions -- Project priorities -- Considerations -- Determinations of feasibility -- Bids and contracts -- Definitions -- Retainage.

- (1) As used in this section:
 - (a) "Board" means the Board of Water Resources created in Section 73-10-1.5.
 - (b) "Estimated cost" means the cost of the labor, material, and equipment necessary for construction of the contemplated project.
 - (c) "Lowest responsible bidder" means a licensed contractor:
 - (i) who:
 - (A) submits the lowest bid; and
 - (B) furnishes a payment bond and a performance bond under Sections 14-1-18 and 63G-6a-1103; and
 - (ii) whose bid:
 - (A) is in compliance with the invitation for a bid; and
 - (B) meets the plans and specifications.
- (2) In considering the priority for a project to be built or financed with funds made available under Section 73-10-24, the board shall give preference to a project that:
 - (a) is sponsored by, or for the benefit of, the state or a political subdivision of the state;
 - (b) meets a critical local need;
 - (c) has greater economic feasibility;
 - (d) will yield revenue to the state within a reasonable time or will return a reasonable rate of interest, based on financial feasibility; and
 - (e) meets other considerations deemed necessary by the board, including wildlife management and recreational needs.
- (3)
 - (a) In determining the economic feasibility, the board shall establish a benefit-to-cost ratio for each project, using a uniform standard of procedure for all projects.
 - (b) In considering whether a project should be built, the benefit-to-cost ratio for each project shall be weighted based on the relative cost of the project.
 - (c) A project, when considered in total with all other projects constructed under this chapter and still the subject of a repayment contract, may not cause the accumulative benefit-to-cost ratio of the projects to be less than one to one.
- (4) A project may not be built if the project is not:
 - (a) in the public interest, as determined by the board; or
 - (b) adequately designed based on sound engineering and geologic considerations.
- (5) In preparing a project constructed by the board, the board shall:
 - (a) based on a competitive bid, award a contract for:
 - (i) a flood control project:
 - (A) involving a city or county; and
 - (B) costing in excess of \$35,000;
 - (ii) the construction of a storage reservoir in excess of 100 acre-feet; or
 - (iii) the construction of a hydroelectric generating facility;
 - (b) publish an advertisement for a competitive bid:
 - (i) at least once a week for three consecutive weeks in a newspaper with general circulation in the state, with the last date of publication appearing at least five days before the schedule bid opening; and
 - (ii) indicating that the board:
 - (A) will award the contract to the lowest responsible bidder; and
 - (B) reserves the right to reject any and all bids;

- (c) readvertise the project in the manner specified in Subsection (5)(b) if the board rejects all of the initial bids on the project; and
 - (d) keep an accurate record of all facts and representations relied upon in preparing the board's estimated cost for a project that is subject to the competitive bidding requirements of this section.
- (6) If no satisfactory bid is received by the board upon the readvertisement of the project in accordance with Subsection (5), the board may proceed to construct the project in accordance with the plan and specifications used to calculate the estimated cost of the project.
- (7) If a payment on a contract with a private contractor for construction of a project under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 347, 2012 General Session