

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2249 (Cooley) – As Introduced February 13, 2018

SUBJECT: Public contracts: local agencies: alternative procedure.

SUMMARY: Increases project cost limits specified in the Uniform Public Construction Cost Accounting Act (UPCCAA). Specifically, **this bill:**

- 1) Increases the dollar amount of projects that may be performed pursuant to the UPCCAA by the employees of a public agency by force account, by negotiated contract, or by purchase order from \$45,000 to \$60,000.
- 2) Increases the dollar amount of projects that are subject to the UPCCAA's informal bidding procedures from \$175,000 to \$200,000.
- 3) Increases the dollar amount of projects that are subject to the UPCCAA's formal bidding requirements from \$175,000 to \$200,000.

EXISTING LAW:

- 1) Establishes the UPCCAA, which is a voluntary program that allows public agencies to perform projects costing \$45,000 or less with the public agency's force account, by negotiated contract, or by purchase order, and to use an informal bidding procedure for projects costing \$175,000 or less. Projects costing more than \$175,000 are subject to formal bidding procedures.
- 2) Allows, pursuant to the informal bidding procedures established by the UPCCAA, if all informal bids received exceed \$175,000, the governing body of the public agency to award the contract at \$187,500 or less to the lowest responsible bidder, as long as the governing body adopts a resolution by a 4/5 vote and determines the cost estimate was reasonable.
- 3) Establishes the California Uniform Construction Cost Accounting Commission (Commission) to administer the UPCCAA and requires the Commission to make recommendations to the State Controller (Controller) every five years regarding adjustments in the UPCCAA's project cost limits.

FISCAL EFFECT: None

COMMENTS:

- 1) **Bill Summary.** This bill increases project cost limits specified in the UPCCAA by:
 - a) Increasing the dollar amount of projects that may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order from \$45,000 to \$60,000;
 - b) Increasing the informal bidding threshold from \$175,000 to \$200,000; and,

- c) Increasing the formal bidding threshold from \$175,000 to \$200,000.

This bill is sponsored by State Controller Betty T. Yee.

- 2) **Author's Statement.** According to the author, "The UPCCAA was created in 1983 to permit local agencies to use informal bidding procedures for some public works contracts, up to a certain dollar amount and if the local agency uses specified accounting procedures. Every five years, the Commission reviews the current bid limits, and if they recommend adjusting the bid limit, the State Controller may then decide to accept or reject the recommendation. If the Controller accepts the recommendation, it is then up to the Legislature to amend the UPCCAA. This bill codifies the Commission's recommendation from its September, 2017 meeting."
- 3) **Background.** The Public Contract Code specifies the procedures that public agencies must follow when they build public works projects, including limits on project costs. The UPCCAA was enacted in 1983 as an alternative to these general requirements by allowing increased bid limits as long as participating agencies follow uniform accounting standards and bidding procedures. A voluntary program that is available to all public entities in the State, the UPCCAA allows public projects costing \$45,000 or less to be performed by the public agency's force account, by negotiated contract, or by purchase order. Projects costing \$175,000 or less can use informal bidding procedures set forth in the UPCCAA. Projects that cost more than \$175,000 must be put out to bid under formal bidding procedures.

The Commission administers the UPCCAA and provides technical support to public agencies by prescribing uniform construction cost accounting procedures for agencies that opt into the UPCCAA. The Commission also reviews public complaints and recommends audits when the criteria of the UPCCAA are not fulfilled. In addition, the Commission conducts meetings open to the public, provides a manual for use by public agencies signatory to the UPCCAA and maintains a Commission web page on the Controller's website. Commissioners also facilitate and participate in outreach and training to participating agencies, candidate agencies, and professional organizations.

The UPCCAA requires the Commission to review the Act's force account and bid limits every five years to account changes in public construction costs. If the Commission recommends higher limits, the Controller promulgates the new limits and the Legislature amends the UPCCAA to reflect the adjusted amounts. This last occurred via AB 720 (Hall). The Commission on September 28, 2017, passed a resolution recommending that the Controller increase the UPCCAA bid limits to the amounts contained in this bill.

- 4) **Technical Amendment.** As noted above, the UPCCAA specifies the procedures a public agency must follow for informal bidding, including a project cost limit of \$175,000. However, the UPCCAA provides an alternative cost cap in the event that all informal bids exceed \$175,000. In this case, a local agency can award a contract at \$187,500 or less to the lowest responsible bidder if the governing body determines that the public agency's cost estimate was reasonable and it adopts a resolution by a 4/5 vote. This bill codifies the increased force account and bid limits that the Commission recently adopted, but it does not increase the amounts specified in this exception. The Committee may wish to adopt a technical, conforming amendment to this exception to ensure consistency within the UPCCAA.

- 5) **Arguments in Support.** State Controller Betty T. Yee, sponsor of this measure, states, "The UPCCAA promotes consistency in accounting and bidding for construction work performed by or contracted for public entities in the state. This is a voluntary opt-in program for public agencies...(The UPCCAA) requires the Commission to review the current bid limits to account for higher costs...If the Controller accepts the recommendation, he or she must request the Legislature to amend the UPCCAA to reflect the adjusted bid limits in statute."
- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:**Support**

State Controller Betty T. Yee [SPONSOR]
Coalition for Adequate School Housing (CASH)
Community College Facility Coalition
Rural County Representatives of California
San Luis Obispo County

Opposition

None on file

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