

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 1957 (Wilson) – As Amended April 8, 2024

SUBJECT: Public contracts: best value construction contracting for counties.

SUMMARY: Expands a pilot program for specified counties to use best value contracting to include all counties, and extends the sunset date on the authorization to January 1, 2030.

Specifically, **this bill:**

- 1) Expands a pilot program for the Counties of Alameda, Los Angeles, Monterey, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Solano, and Yuba for best value procurement for construction projects in excess of \$1 million to include all counties.
- 2) Extends the sunset date on the authorization for the program from January 1, 2025, to January 1, 2030, and makes conforming changes.
- 3) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this bill creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Bill Summary and Author’s Statement.** This bill expands a pilot program for the Counties of Alameda, Los Angeles, Monterey, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Solano, and Yuba for best value procurement for construction projects in excess of \$1 million to include all counties. This bill also extends the sunset date on the authorization for the program from January 1, 2025, to January 1, 2030.

“Best value contracting was established as a pilot program in 2016 and has continued to expand throughout the years. It has been a highly successful program but is due to sunset. AB 1957 will remove the sunset date of January 1, 2025 and allow all counties to be included in the procurement program. Best-value contracting presents a unique opportunity for local governments to deliver high-quality projects for our residents. Solano County, one of the pilot project counties, has found this contracting method to be an effective tool in delivering projects on time and on budget.”

This bill is sponsored by Solano County.

- 2) **Background.** SB 762 (Wolk), Chapter 627, Statutes of 2015, established a pilot program until January 1, 2020, that allowed the counties of Alameda, Los Angeles, Riverside, San Bernardino, San Diego, Solano, and Yuba to award contracts for construction projects in excess of \$1 million to the bidder representing the best value.

Best value contracting has generally been recognized as a viable alternative for construction projects. Traditionally, construction projects have been bid out and awarded based upon a lowest-cost approach. Best value, a competitive contracting process, allows projects to be awarded to the contractor offering the best combination of price and qualifications, instead of just the lowest bid. In addition to submitting bids for project cost, prospective contractors also submit technical proposals. The technical proposals are evaluated based on objective criteria, and scores are compiled. The scores are then used to weigh or adjust the submitted bid price. The contract is awarded to the contractor that represents the best value to the contracting agency.

Participating counties must satisfy a number of requirements in order to use this authority, including:

- a) Adopting and publishing procedures and required criteria that ensure all selections are conducted in a fair and impartial manner.
- b) Evaluating at a public meeting the alternative of awarding the contract on the basis of the lowest bid price.
- c) Making a written finding that awarding a contract on the basis of best value will reduce project costs, expedite project completion, and/or provide features not achievable via the low-bid method.
- d) Preparing bid solicitations and providing notice as required by the Local Agency Public Construction Act (LAPC Act), and complying with the Subcontracting Fair Practices Act regarding subcontractors identified in a bid.
- e) Establishing prequalification procedures in accordance with the LAPC Act.
- f) Including in bid solicitations the criteria and rating system a county will consider in evaluating bids.
- g) Prequalifying or shortlisting only those contractors who provide an enforceable commitment to use a skilled and trained workforce to perform all work on the project that falls within an apprenticeable occupation, with specified exceptions.
- h) Appointing an evaluation committee, which must evaluate bidders solely upon the criteria in the bid solicitations and assign a qualifications score to each bid.
- i) Determining best value by dividing each bidder's price by its qualifications score, with the lowest cost per quality point representing the best value bid.
- j) Publicly announcing bid awards, including the score of the selected contractor in relation to all other bidders.
- k) Submitting a report to the Legislature, including information about the county's use of the bill's authority, before the pilot program sunsets.

- 3) **Expansions of the Pilot.** SB 793 (Hill) Chapter 627, Statutes of 2017, expanded the pilot program with the following provisions:
- a) Adding San Mateo County to the list of counties authorized to use the pilot program.
 - b) Allowing counties in the pilot program to also use the program’s best value contracting method to award individual annual contracts for repair, remodeling, or other repetitive work to be done according to unit prices – also known as job order contracting or a job order contract. These contracts cannot exceed \$3 million, adjusted for inflation, and must be based on plans and specifications for typical work. They also cannot be for new construction. Best value criteria must be applied to the annual contract for construction services, rather than to an individual, specific project. Annual contracts may be extended or renewed for two subsequent annual terms at a maximum of \$6 million over the subsequent terms. Contract values must be adjusted annually to reflect the percentage change in the California CPI.

SB 128 (Beall) added the Counties of Monterey and Santa Clara to the authorization and extended the sunset date from January 1, 2020, to January 1, 2025.

- 4) **Arguments in Support.** The Solano County Board of Supervisors, sponsor of this bill, writes, “The bill would extend best value contracting to counties, giving them the ability to attract a more qualified bidding pool, reduce the number of bad actors during the contractor selection process and increase the number of skilled craftworkers on County construction projects. Additionally, this legislation would give Counties the ability to select the contractor with the skill set that best matches the applicable requirements to the projects at hand.

“Best value contracting was established as a pilot under SB 762 (Wolk – 2015) and expanded by SB 793 (Hill – 2017) and SB 128 (Beall – 2019). The authority allows counties to award contracts for construction projects in excess of \$1 million to the bidder representing the best value. The participating counties are Alameda, Los Angeles, Monterey, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Solano, and Yuba. Current best value legislation is set to expire on January 1, 2025.

“For Solano County, the ability to participate in the best value process has provided substantial benefits, including improved project control and quality. These projects have started and finished more efficiently and on budget. Further, best value contracting proved to lessen administrative costs and time by increasing contract terms through renewal options, which also helps increase the capacity to deliver more projects in less time. This drives more high-quality construction work into the statewide construction marketplace while reducing administrative burdens.”

- 5) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

County of Solano [SPONSOR]
Associated General Contractors of California
California State Association of Counties
County of Santa Clara
County of Orange
Riverside County Transportation Commission (RCTC)
Rural County Representatives of California (RCRC)
Urban Counties of California (UCC)
Western Electrical Contractors Association

Support If Amended

County of Los Angeles Board of Supervisors
The Gordian Group

Opposition

None on file

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