

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2192 (Juan Carrillo) – As Amended March 18, 2024

SUBJECT: Public agencies: cost accounting standards

SUMMARY: Increases project cost limits specified in the Uniform Public Construction Cost Accounting Act (UPCCAA) and separates the negotiated contracts and purchase order limits from the force account limits. 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 order from \$60,000 to \$70,000.
- 2) Separates the negotiated contracts and purchase order limits from the force account limits while setting the new limit for these procurements at \$100,000;
- 3) Increases the dollar amount of projects that are subject to the UPCCAA's informal bidding procedures from \$200,000 to \$220,000.
- 4) Increases the dollar amount of projects that are subject to the UPCCAA's formal bidding requirements from \$200,000 to \$220,000.
- 5) Requires the California Uniform Construction Cost Accounting Commission (Commission) to review the accounting procedures of any participating public agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following added categories in addition to existing categories:
 - a) Has been split or separated into smaller work orders or projects, in violation of specified existing law;
 - b) Has exceeded the limits or otherwise not met the requirements, for negotiated contracts, purchase orders, and the informal or formal procedures of the UPCCAA.
- 6) Makes a number of technical, clarifying, and conforming changes.

EXISTING LAW:

- 1) Establishes the UPCCAA, which is a voluntary program that allows public agencies to perform projects costing \$60,000 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 \$200,000 or less. Projects costing more than \$200,000 are subject to formal bidding procedures. [Public Contract Code (PCC) § 22000-22045]
- 2) Establishes the Commission to administer the UPCCAA and requires the commission to do all of the following:
 - a) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in Section 22032.

- b) The commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.
- 3) Requires the Commission to make recommendations to the State Controller (Controller) every five years regarding adjustments in the UPCCAA's project cost limits. [PCC § 22020]
- 4) In accordance with procedures and standards adopted pursuant to Section 22017, every five years the commission shall consider whether there have been material changes in public construction costs and make recommendations to the Controller regarding adjustments in the monetary limits prescribed by Section 22032, but in no case shall the amount, as adjusted, be less than fifteen thousand dollars (\$15,000). The Controller shall notify all participating public agencies of the adjustment prior to the effective date. That notification shall also describe the provisions of this chapter and the benefits of using its provisions. [PCC § 22020]
- 5) The commission shall review the accounting procedures of any participating public agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following categories: [PCC § 22042]
 - a) Is to be performed by a public agency after rejection of all bids, claiming work can be done less expensively by the public agency;
 - b) Exceeded the force account limits;
 - c) Has been improperly classified as maintenance.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill increases and separates 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 from \$60,000 to \$70,000;
 - b) Separating the negotiated contracts and purchase order limits from the force account limits while setting the new limit at \$100,000;
 - c) Increasing the informal bidding threshold from \$200,000 to \$220,000; and,
 - d) Increasing the formal bidding threshold from \$200,000 to \$220,000.

This bill also refines the oversight authority of the Commission by requiring it to review the accounting procedures of any participating public agency when there is evidence of the public project being split or separated into smaller projects in violation of existing law or exceeding the dollar thresholds or other requirements described above for negotiated contracts, purchase orders, and informal or formal procedures.

This bill is sponsored by the Construction Industry Force Account Council and the California State Building & Construction Trades Council.

- 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 \$60,000 or less to be performed by the public agency's force account, by negotiated contract, or by purchase order. Projects costing \$200,000 or less can use informal bidding procedures set forth in the UPCCAA. Projects that cost more than \$200,000 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 for 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 2249 (Cooley), Chapter 169, Statutes 2018. The Commission on December 8, 2023, passed a motion recommending that the Controller increase the UPCCAA bid limits to the amounts contained in this bill.

- 4) **Arguments in Support.** The State Building and Construction Trades Council, co-sponsor of this measure, states, "The provisions in the bill accurately reflect the Commission's formal recommendations that were voted on and unanimously passed and then approved by the State Controller. The approved proposal recommended that the limit for which work can be performed directly by a public agency by force account be increased from \$60,000 to \$70,000 and that the negotiated contract, or purchase order limits should be separated from the force account limit and set at \$100,000. And finally, the commission recommended that the current bid limit for public projects of \$200,000 or less that can be contracted through the informal procedures of the Act, be increased to \$220,000."

“The approved recommendations to increase the limits were based on increased construction costs and the Commission’s ongoing goal to attract all public agencies in California that perform public works to voluntarily opt into the Act by making the Act as appealing as possible. Additionally, the measure includes the Commission’s recommended technical updates to ensure proper oversight and implementation. While the SBCTC advocates primarily for our 450,000 members we understand that the costs of construction have increased since the last legislative effort several years ago and that increases are warranted. However, we also want to make the Act more attractive to join so that our members know that they will be treated fairly on jobs done by public agencies. The extra layer of oversight provided by the Act helps ensure that fewer low-road contractors are employing our members and getting a chance to treat them poorly while also wasting taxpayer dollars.”

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

REGISTERED SUPPORT / OPPOSITION:

Support

Construction Industry Force Account Council (SPONSOR)
State Building & Construction Trades Council of California (SPONSOR)
Air Conditioning Sheet Metal Association
California Legislative Conference of Plumbing, Heating, & Piping Industry
Finishing Contractors Association of Southern California
International Union of Operating Engineers, Cal-Nevada Conference
National Electrical Contractors Association
Northern California Allied Trades
Northern California Floor Covering Association
Southern California Glass Management Association
United Contractors
Wall and Ceiling Alliance
Western Painting and Coating Contractors Association
Western Wall and Ceiling Contractors Association

Opposition

None on file.

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