

Date of Hearing: June 23, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 333 (Eggman) – As Amended March 22, 2021

**SENATE VOTE:** 37-0

**SUBJECT:** San Joaquin Regional Transit District: procurement.

**SUMMARY:** Increases the bid threshold for the San Joaquin Regional Transit District's (RTD) purchase of supplies, equipment, and materials, and allows RTD to use best value procurement for these contracts. Specifically, **this bill:**

- 1) Increases, from \$50,000 to \$150,000, the bid threshold for RTD's purchase of supplies, equipment, and materials, and allows RTD to let these contracts to a responsible bidder that submits a proposal that provides the best value to RTD.
- 2) Requires, for the purchase of supplies, equipment, or materials that exceeds \$5,000, but does not exceed \$150,000, RTD to obtain, to the extent practicable, a minimum of three written or oral quotes that permit RTD to compare the prices and terms for the purchase.
- 3) Defines "best value" to mean the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit relative to the requirements described in the solicitation requirements.

**EXISTING LAW:**

- 1) Authorizes the formation of RTD, with specified powers and duties related to the operation of public transit services serving the Stockton Metropolitan area.
- 2) Requires RTD's purchases of all supplies, equipment, and materials exceeding \$50,000 to be by contract let to the lowest responsible bidder.

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

**COMMENTS:**

- 1) **Bill Summary and Author's Statement.** This bill increases, from \$50,000 to \$150,000, the bid threshold for RTD's purchase of supplies, equipment, and materials, and allows RTD to use best value procurement for these contracts. RTD must obtain at least three quotes for best value contracts over \$5,000. This bill is sponsored by RTD.

According to the author, "This bill acts as a needed update to the procurement methods and thresholds for the San Joaquin Regional Transit District. These bills are necessary every so often to raise statutory thresholds to keep pace with changing technology and economic circumstances, and it has been 17 years since the last update for SJRTD. This will allow the transit district additional flexibility for smaller purchases, and save time and resources for staff to attend to the more complex needs of ridership and taxpayers. Transit and transportation projects connect our community and can provide environmental, economic,

and social benefits to constituents. Streamlining some of the routine purchases as allowed by this bill will provide more time to focus on the projects that will benefit the public.”

- 2) **Background.** RTD is the regional transit provider for San Joaquin County. Established in 1963 as the Stockton Metropolitan Transit District (SMTD), SMTD began providing service in 1965. In 1994, with the expansion of its service area to the entire county, SMTD became RTD. RTD operates 32 routes in the Stockton Metropolitan Area, including five Bus Rapid Transit routes, five countywide routes, seven Metro Hopper deviated fixed routes throughout the county, and four commuter routes to the Bay Area and Sacramento. RTD’s Van Go! service provides service options for county residents with seamless connections within the county. RTD also provides Dial-A-Ride service for persons who, due to their disability, are unable to use fixed-route service. In fiscal year 2020, RTD provided 3.03 million passenger trips. RTD’s bid threshold for the purchase of supplies, equipment and materials was last adjusted in 2004.
- 3) **Federal Acquisition Thresholds.** The Simplified Acquisition Threshold (SAT) is set by the federal government for its Simplified Acquisition Procedures (SAP), which are designed to reduce the administrative burden of awarding smaller procurements. SAPs employ streamlined contracting procedures, such as allowing quotations (including oral quotations) instead of requiring full-blown bids, requiring less stringent reporting, and setting simpler rules for subcontracting. Federal acquisition thresholds are adjusted every five years and published in the Federal Register. The adjustment in 2015 raised the micro-purchase threshold to \$3,500 and retained the SAT ceiling at \$150,000. These purchasing limits apply to federal grants awarded to transit agencies, such as RTD.

The National Defense Authorization Acts (NDAA) for Fiscal Years 2017 and 2018 raised the threshold for micro-purchases under Federal financial assistance awards to \$10,000, and increased the SAT to \$250,000. However, the increase in the SAT to \$250,000 does not apply for purposes of the Federal Transit Administration’s (FTA) Buy America program, as the small purchase amount is established at \$150,000 in FTA’s statute and is no longer tied to the SAT. FTA’s Buy America program prevents FTA from obligating monies that may be appropriated to carry out its program for a project unless the steel, iron, and manufactured goods used in the project are produced in the United States. FTA’s Buy America requirements apply to third-party procurements by FTA grant recipients.

- 4) **Best Value Contracting.** Best value contracting has generally been recognized as a viable alternative to low-bid contracting. 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.
- 5) **Policy Consideration and Committee Amendment.** The Committee may wish to consider the following:

Public bidding and low-bid awarding requirements are intended as safeguards against public agencies that might spend taxpayer dollars imprudently or use unethical practices when contracting. Higher bid thresholds mean fewer procurements receive these protections. Generally speaking, this Committee has limited bid threshold increases to an inflationary adjustment as means of retaining these protections while recognizing the need for local

agencies to maximize resources with today's dollars. This bill proposes to raise RTD's bid threshold for the purchase of supplies, equipment, and materials from \$50,000 to \$150,000. An inflationary adjustment would amount to approximately \$71,000. The Committee may wish to consider amending this bill to allow the bid threshold to be increased to \$75,000, which is closer to an inflationary adjustment in keeping with this Committee's practice on related bills.

- 6) **Related Legislation.** AB 1592 (Committee on Local Government) increases Fresno Metropolitan Flood Control District's contract bid threshold for the purchase of materials or supplies. AB 1592 is pending in Engrossing and Enrolling.

AB 577 (Gallagher) establishes or increases bid thresholds for construction contracts for county drainage districts, levee districts, and reclamation districts. AB 577 is pending in this Committee.

- 7) **Previous Legislation.** AB 2711 (Eggman) of 2020 was similar to this bill. AB 2711 was held in this Committee.

AB 1089 (Stone), Chapter 107, Statutes of 2019, increased the bid threshold for the purchase of supplies, equipment, and materials by the Santa Cruz Metropolitan Transit District and allowed the use of best value for these contracts, and altered appointments and reimbursements for the district's board of directors.

AB 2030 (Mullin), Chapter 143, Statutes of 2016, changed specified bidding requirements for the San Francisco Bay Area Rapid Transit District and the San Mateo County Transit District, including bid threshold increases for the for the purchase of supplies, equipment, and materials.

AB 2522 (Nakanishi) of 2004 would have allowed RTD to purchase supplies, equipment and materials or construct facilities or works in amounts below the level established in federal guidelines without being required to undergo the low-bid procurement process. AB 2522 was held in the Assembly Transportation Committee.

AB 3050 (Committee on Transportation), Chapter 651, Statutes of 2004, increased RTD's bid threshold for the purchase of supplies, equipment, and materials from \$15,000 to \$50,000.

- 8) **Arguments in Support.** The San Joaquin Regional Transit District, sponsor of this bill, writes, "Under Section 20251 of the Public Contract Code, RTD is required to purchase all supplies, equipment, and materials by contract, let to the lowest responsible bidder, through a formal solicitation when the expenditure required exceeds \$50,000. This allows for small, routine purchases below that threshold to be carried out expeditiously without the necessity of going through a formal bid process; in turn, such expedited procurements allow RTD to conserve time and resources. However, the costs for supplies, equipment, and materials have risen significantly while RTD's procurement limits have remained constant. This means that minor repairs, projects or supply purchases (such as bus parts and facilities equipment) increasingly exceed the limits which require a formal bid process, adding more time and requiring more resources to conduct routine procurements.

“This bill will increase from \$50,000 to \$150,000 the point at which purchases of supplies, equipment, and materials are required to go through a formal bid process. This threshold is in-line with Federal law and the Federal Transit Administration’s (FTA) procurement standards, and mirrors similar provisions in other transit districts’ procurement statutes. While updating the limits for supplies, equipment, and materials purchases eligible for streamlined procurement the bill continues to require that construction of facilities and works, when the expenditure required exceeds \$3,000, shall be by contract let to the lowest responsive and responsible bidder. The bill also clarifies how RTD must confirm price quotes below the new threshold.

“Additionally, the bill adds a ‘best value’ procurement option whereby RTD can award contracts based on the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit relative to the requirements described in the bid documents. This option is preferred by transit agencies for such technology-dependent purchases as computers or software, or, for today’s zero-emission buses, which are complex vehicles not regularly available in the usual transit marketplace. We firmly believe that modernizing RTD’s procurement practices will ensure that those procedures provide the maximum value for the district’s users and the wider taxpaying community for whom we provide transit services.”

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

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

San Joaquin Regional Transit District

**Opposition**

None on file

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