

Date of Hearing: April 18, 2017

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1424 (Levine) – As Amended April 6, 2017

SUBJECT: University of California: Best Value Construction Contracting Program

SUMMARY: Eliminates the sunset on the University of California's (UC's) authority to use the best value procurement method for construction contracting, and requires UC, when using best value contracting, to require contractors and all subcontractors to conform with the skilled and trained workforce requirements applicable to alternative construction delivery methods authorized in statute for use by other state or local government entities.

EXISTING LAW:

- 1) Authorizes, until January 1, 2017, a pilot program at the UC to award construction contracts over \$1 million, on a "best value" basis, rather than just to the lowest bidder. (Public Contract Code (PCC) Section 10506.4)
- 2) Defines "best value," for purposes of the UC, as a procurement process whereby, the lowest responsible bidder may be selected on the basis of objective criteria with the resulting selection representing the best combination of price and qualifications. (PCC Sect. 10506.5)
- 3) Requires the UC Regents, on or before January 1, 2016, to submit a report to the appropriate policy committees of the Legislature and the Joint Legislative Budget Committee, regarding the pilot program. (PCC Sect. 10506.8)
- 4) Defines "skilled and trained workforce" as meeting all of the following conditions:
 - a) All the workers performing work in an apprenticeable occupation in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations.
 - b) For work performed on or after January 1, 2017, at least 30% of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation.
 - c) For work performed on or after January 1, 2018, at least 40% of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation.
 - d) For work performed on or after January 1, 2019, at least 50% of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation.

- e) For work performed on or after January 1, 2020, at least 60% of the skilled journeymen employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation.
- f) Defines "apprenticeable occupation" as an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations has approved an apprenticeship program. (PCC Sect. 2601.)

FISCAL EFFECT: According to the Assembly Appropriations Committee's analysis of a 2016 bill extending the sunset on the pilot program, based on the results of UC's use of best value procurement, the university could realize ongoing significant savings in both contract and contract administration costs.

COMMENTS:

Background. Best value procurement is an alternative to the traditional design-bid-build method of public works contracting. Under this program, UC prequalifies bidders, then evaluates the bid and assigns a qualification score based upon five factors, which include the bidder's financial condition, relevant experience, demonstrated management competency, labor compliance, and safety record. UC then divides each bidder's price by its qualification score, and the lowest resulting cost per quality point represents the best value bid.

SB 667 (Migden), Chapter 367, Statutes of 2006, established the five-year Best Value Pilot Program at UC San Francisco. SB 835 (Wolk), Chapter 636, Statutes of 2011, extended the sunset in SB 667 until January 1, 2017, and expanded the best value pilot to encompass all UC campuses and medical centers. In a December 2015 report on the pilot project, UC noted that, since January 2012, it had awarded over 320 construction contracts totaling \$4 billion. Forty of these contracts, or 13%, totaling \$1.2 billion, utilized the best value construction authority. UC reported that these contracts provided numerous benefits, including decreases in bid protests, disputes, change order requests and claims, and reduced administrative oversight and contract/project management staff time.

In 2016, UC sponsored SB 1214 (Allen), which, like this bill, proposed to eliminate the sunset on UC's authority to use best value contracting. Due to concerns raised by the State Building and Construction Trades Council regarding what they believed was the lack of uniformity in UC's best value statute and provisions governing similar contracting practices for other government entities, SB 1214, as enacted, simply extended the pilot program sunset by one year, to January 1, 2018.

Purpose. This bill ends the pilot program and makes permanent UC's authority to undertake best value contracting. In response to the building trades concerns, the bill also conforms UC's best value contracting provisions to similar statutes for other government entities with respect to requirements for use of a skilled and trained workforce.

REGISTERED SUPPORT / OPPOSITION:

Support

University of California (sponsor)

Opposition

None on file.

Analysis Prepared by: Chuck Nicol / HIGHER ED. / (916) 319-3960