

Date of Hearing: April 16, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2996 (Fong) – As Introduced February 16, 2018

SUBJECT: Department of Transportation: Job order contracting

SUMMARY: Creates a pilot program enabling the California Department of Transportation (Caltrans) to examine and evaluate an alternative procedure, called Job Order Contracting (JOC), for procurement of contracts related to transportation maintenance projects. Specifically, **this bill:**

- 1) Enables Caltrans, until July 1, 2022, to use JOC for constructing transportation maintenance projects when it is anticipated that it will reduce procurement costs or expedite project completion in a manner that is not achievable through the design-bid-build method.
- 2) Requires Caltrans to establish a procedure to prequalify contractors for the following types of highway maintenance projects:
 - a) Routine bridge maintenance and preservation;
 - b) Pavement repair, replacement, and seals;
 - c) Clearing and grubbing;
 - d) Traffic and detection system installation, replacement, and repair;
 - e) Improvements to, and repairs of, maintenance facilities;
 - f) Routine culvert maintenance and preservation;
 - g) Tree mortality mitigation;
 - h) Water conservation mitigation;
 - i) Stormwater mitigation; and,
 - j) Improvements to, removal of, and installation of facilities, systems, and traffic control devices needed to comply with the Americans with Disabilities Act of 1990.
- 3) Requires Caltrans to prepare documents for each job order contract, including a unit price book of construction tasks with pre-established unit prices, job order contract specifications, and any other information deemed necessary to adequately describe the department's needs.
- 4) Requires Caltrans to invite prequalified contractors to submit competitive sealed bids based on the documents Caltrans prepares for each job order contract.
- 5) Limits each job order contract to up to 12 months, with the option of extending or renewing the contract for two 12-month periods.

- 6) Requires each selected contractor to possess or obtain sufficient bonding to cover the contract amount for construction services and risk and liability insurance as Caltrans may require.
- 7) Require Caltrans to report to the Legislature, on or before July 1 of each year, information related to the JOC pilot program including, but not limited to:
 - a) A list of all projects completed under each contract;
 - b) The name of each contractor awarded a contract;
 - c) The estimated and actual project costs;
 - d) The estimated procurement time savings;
 - e) A description of any written contract protests and the resolution of those protests;
 - f) An assessment of the prequalification process and criteria;
 - g) A summary of small business utilization; and,
 - h) Recommendations regarding the most appropriate uses for JOC.

EXISTING LAW:

- 1) Sets forth provisions governing public works contracting. These provisions generally require public agencies to seek bids from contractors and administer a thorough, transparent selection process for every project.
- 2) Generally requires public works construction contracts to be awarded to the lowest responsible bidder.
- 3) Enables certain state entities limited access to alternative procurement procedures to evaluate the efficacy of these alternatives in various situations.

FISCAL EFFECT: Unknown

COMMENTS: For decades, Caltrans and other state entities have traditionally used the design-bid-build process for procuring public works projects. This process relies on the project owner: 1) preparing, or causing to be prepared, complete project design specifications and estimates; 2) putting the complete package out to bid for construction; and 3) awarding the construction contract to the lowest responsible bidder. The design-bid-build process was developed to protect taxpayers from extravagance, corruption, and other improper practices by public officials as well as to secure a fair and reasonable price for public works construction by injecting competition amongst bidders into the process.

Although design-bid-build generally results in the award of the lowest cost construction contract, it is not without its drawbacks. Among those drawbacks is the fact that the process for

developing the solicitation and awarding the contract can take some time, even for smaller, repetitive, more routine-types of projects.

The Basics of Job Order Contracting: JOC is a way of getting small, simple, and commonly encountered construction projects done easily and quickly. According to experts, the JOC delivery method is particularly well suited to repetitive jobs and situations in which owners know that many small tasks will arise, but the timing, type of work, and quantity of work are unknown at the time the contract is signed. Many diverse tasks such as routine maintenance, upgrades and renovations, alterations, and minor construction for a site can be efficiently handled using a single JOC contract. These jobs usually have minimal design requirements. Recently, legislation has authorized the use of JOC for public construction in many states.

Prior to the passage of the Road Repair and Accountability Act of 2017, SB 1 (Beall), Chapter 5, Statutes of 2017, the Brown Administration proposed a transportation funding and reform package in the 2017-18 Governor's Budget. The transportation package included a number of reforms and efficiencies at Caltrans to streamline project delivery and advance projects more quickly. One reform was a JOC pilot project for procuring routine highway, bridge, and applicable culvert projects using the job order contracting method. According to the Administration, this pilot would allow the state to complete a large number of routine maintenance activities in a given area with a single, competitively-bid contract while eliminating much of the time and expense of the current process of separately bidding each project contract.

According to the author, JOC has been used for other public works projects in California and has been shown to reduce costs. Specifically, the Legislature authorized a JOC program for the Los Angeles Unified School District. The school district's report showed costs were 9.3% lower than estimated. Due to its success, the pilot was permanently expanded to all school districts. By utilizing this procurement model, the author contends that JOC will enable Caltrans to deliver public works projects faster through reduced completion times and lower costs.

Committee Comment: There are several important advantages provided by JOC. For example, projects done under JOC contracts are often completed faster and cost less because it is not necessary to write separate contracts for each job. Since procurement procedures are major contributors to overhead and require significant staff resources, bypassing the usual bid process saves time and money. In addition, the JOC contract establishes prices for each unit of work or materials, so it is fast and easy to arrive at a fixed price for each job. This means there are no price negotiations involved in implementing a JOC contract, saving time and money.

The Legislature required in SB 1 that Caltrans identify \$100 million in savings each year. Given this new requirement, it seems reasonable for Caltrans to consider new procurement strategies that could lead to savings.

REGISTERED SUPPORT / OPPOSITION:

Support

Associated Builders and Contractors of Northern California

Opposition

None on file

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