
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 1424 **Hearing Date:** June 28, 2017
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Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: University of California: Best Value Construction Contracting Program

SUMMARY

This bill makes permanent the authority for the University of California (UC) to use best value contracting for construction projects, and conforms UC's best value contracting process related to use of a skilled and trained workforce to those of other state and local government entities.

BACKGROUND

Existing law:

- 1) Establishes, until January 2018, the Best Value Construction Contracting Pilot Program at the UC to award construction contracts over \$1 million on a "best value" basis, rather than just to the lowest bidder.
- 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.
- 3) Required 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.
- 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 Department of Industrial Relations (DIR).
 - b) For work performed on or after January 2017 through 2020 and after, at least 30 percent, increasing by 10 percent each year up to 60 percent, 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.
- 5) Defines "apprenticeable occupation" as an occupation for which the DIR has approved an apprenticeship program.

ANALYSIS

This bill makes permanent the authority for the University of California (UC) to use best value contracting for construction projects, and, when using best value contracting, requires 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.

STAFF COMMENTS

- 1) ***Need for the bill.*** This bill ends the pilot program and makes permanent UC's authority to undertake best value contracting, while also conforming 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.
- 2) ***Best value contracting.*** Best value procurement is an alternative to the traditional design-bid-build method of public works contracting. Under this process, 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.
- 3) ***Report on the pilot program.*** According to UC's January 2016 report on the Best Value Construction Contract Pilot Program, the process has: (1) attracted thorough bids with an appropriate balance of focus on experience, quality, competency, and price; (2) increased the bidding pool of well-qualified and respected contractors, including many who had previously declined to bid on projects; (3) greatly eliminated bid risk to both the UC and contractors; and (4) reduced the number of change orders resulting from contractors underbidding projects.

Since January 1, 2012, UC awarded over 320 construction contracts totaling over \$4 billion. Of these, 40 contracts totaling \$1.2 billion utilized best value contracting. Projects that were completed as of September 2015 have been assessed and have been delivered on time and on budget, with a high level of quality and no claims. Those projects experienced minor change orders, largely limited to owner requested changes and unforeseen conditions. This experience, albeit of limited scope thus far, points to the efficacy of the Best Value selection process.

- 4) ***Prior legislation.***

SB 1214 (Allen, Chapter 788, Statutes of 2016) extended the sunset of the Best Value Construction Contracting Pilot Program by one year, until January 2018.

SB 693 (Hueso, Chapter 774, Statutes of 2016) consolidated the skilled and trained workforce requirements of various provisions of law related to alternative

construction delivery methods, defined the terms of these requirements, and made other conforming changes.

SB 835 (Wolk, Chapter 636, Statutes of 2011) extended the sunset of the Best Value Construction Contracting Pilot Program until January 2017, and expanded the pilot to all University of California campuses and medical centers.

SB 667 (Migden, Chapter 367, Statutes of 2006) established the five-year Best Value Construction Contracting Pilot Program at UC San Francisco.

SUPPORT

University of California (Sponsor)

OPPOSITION

American Fire Sprinkler Association
Associated Builders and Contractors
Independent Roofing Contractors of California, Inc.
Plumbing-Heating-Cooling Contractors Association of California
Western Electrical Contractors Association

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