
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 1981 **Hearing Date:** July 29, 2020
Author: Nazarian
Version: May 11, 2020
Urgency: No **Fiscal:** No
Consultant: Ian Johnson

Subject: Los Angeles Unified School District: best value procurement

SUMMARY

This bill extends the authority for the Los Angeles Unified School District (LAUSD) to use the best value procurement method by five years, from January 1, 2021, to January 1, 2026.

BACKGROUND

Existing law:

- 1) Requires the governing board of a school district to competitively bid and award to the lowest bidder contracts involving the following:
 - a) An expenditure of \$50,000 or more for the purchase of equipment, materials, or supplies, services (except for construction services), and repairs.
 - b) An expenditure of \$15,000 or more for a public contract project defined as construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair, painting or repainting of any publicly owned, leased, or operated facility. (Public Contract Code § 20111 and 22002)
- 2) Authorizes, until January 1, 2021, the LAUSD to use the best value procurement method. (PCC § 20119.1)
- 3) Requires the LAUSD to submit an interim report by July 1, 2018, and a final report by January 1, 2020, prepared by an independent third party, to the appropriate policy and fiscal committees of the Legislature with specified information on the district's use of the best value procurement method. (PCC § 20119.5)
- 4) Establishes a process, until January 1, 2025, for school district governing boards to enter into a design-build contract for both the design and construction of education facility projects over \$1 million. (Education Code § 17250.20)
- 5) Specifies the elements required to be included in a design-build request for proposal (including significant factors, subfactors, methodology, rating and weighting schemes for evaluating proposals) and establishes, among others,

prequalification, bonding and labor compliance program requirements. (EC § 17250.10 – 17250.55)

- 6) Requires a school district with an average daily attendance of more than 2,500 using state school facility bond funds for a public project with an expenditure of \$1 million or more to require prospective bidders, and if utilized, all electrical, mechanical, and plumbing subcontractors, to complete and submit a standardized prequalification questionnaire and financial statement. (PCC § 20111.6)
- 7) Authorizes the University of California (UC) to utilize the best value method to award contracts for projects over \$1 million. (PCC § 10506.4)

ANALYSIS

This bill:

- 1) Extends the authority for the LAUSD to use the best value procurement method by five years, from January 1, 2021, to January 1, 2026.
- 2) Updates the date by which the district has extended or renewed a project labor agreement from January 1, 2017 to January 1, 2020, in order to be exempt from the requirement to use a skilled and trained workforce.
- 3) Requires the LAUSD to submit a report, paid for by the school district and conducted by an independent entity, to the appropriate policy and fiscal committees of the Legislature by January 1, 2025.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “AB 1981 simply extends the sunset on LAUSD’s ability to use this [best value procurement] method by five years so the state can continue to evaluate this model for other school districts. It also modifies the reporting dates to reflect this extension.”
- 2) ***What is the best value method?*** The best value method is defined as a procurement process whereby a bidder may be selected on the basis of objective evaluation criteria representing the best combination of price and qualifications. This method allows the district to consider “values” in addition to cost in awarding construction contracts, such as relevant experience and safety record. The authorization only applies to projects over \$1 million. Expected benefits of best value include reduction in contract delays, change orders, and claims, resulting in contracting and administrative savings.

AB 1185 (Ridley-Thomas), Chapter 786, Statutes of 2015, established a pilot program, until January 1, 2021, authorizing LAUSD to use the best value procurement method. LAUSD’s authority to use design build was modeled after authorization given to the UC. LAUSD is required to adopt procedures and guidelines for evaluating the qualifications of bidders to ensure that the process is fair and impartial, and procedures for protesting and resolving a contract

award. A prequalification process based on a questionnaire and a rating scale is required. The solicitation for bids invites prequalified bidders to submit sealed bids. The district evaluates the bids based on answers to a separate best value questionnaire and assigns a qualification score. The bidder's price is then divided by its qualification score. The lowest resulting cost per quality point represents the best value bid.

- 3) ***Most recent report to the Legislature.*** LAUSD was required to complete an interim report by July 1, 2018, and a final report by January 1, 2020, conducted by an independent entity. The final report, completed in November, 2019, concluded that the LAUSD complied with the statutory requirements for implementation of the best value procurement method and the “completed projects generally realized expected benefits.” Some of the highlights from the report include the following:
- a) The district awarded 16 best value contracts, two of which were later terminated. The 14 remaining contracts represents 5 percent of the total number of contracts awarded and 19 percent of the total dollar value awarded for all construction contracts between January 1, 2016, and October 31, 2019.
 - b) As of the date of the report, four of the 14 projects had been completed and four were near completion.
 - c) In comparison with non-best value projects, best value projects received minimal scheduling delays. One best value project that received more significant delays was due to design errors and not the contracting process.
 - d) The district received four award protests and generally resolved the protests in a timely manner. Three of the protests were deemed to be without merit. One was found to have merit and the project was subsequently re-scoped and rebid.
 - e) Change orders were below general industry standard of 10 percent of total awarded costs.

SUPPORT

California Legislative Conference of Plumbing, Heating & Piping Industry
Los Angeles Unified School District
National Electrical Contractors Association
Northern California Allied Trades
Southern California Glass Management Association
State Building & Construction Trades Council of California

OPPOSITION

None received

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