

AMENDED IN ASSEMBLY AUGUST 12, 2010

AMENDED IN ASSEMBLY JUNE 15, 2010

AMENDED IN SENATE MAY 11, 2010

AMENDED IN SENATE APRIL 21, 2010

SENATE BILL

No. 1341

Introduced by Senator Price

February 19, 2010

An act to amend Section 130232 of the Public Utilities Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1341, as amended, Price. Los Angeles County Metropolitan Transportation Authority: contracting.

The County Transportation Commissions Act creates county transportation commissions or authorities in Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties, with specified powers and duties. Existing law, with respect to those agencies, generally requires purchase of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure exceeds \$25,000, to be by contract let to the lowest responsible bidder, or, in certain cases, to the best value proposer. Existing law contains various alternative provisions applicable solely to the Los Angeles County Metropolitan Transportation Authority.

This bill would enact additional provisions applicable to the Los Angeles County Metropolitan Transportation Authority relative to preferences in contracting for small business enterprises, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 130232 of the Public Utilities Code is
2 amended to read:

3 130232. (a) Except as provided in subdivision (f), purchase
4 of all supplies, equipment, and materials, and the construction of
5 all facilities and works, when the expenditure required exceeds
6 twenty-five thousand dollars (\$25,000), shall be by contract let to
7 the lowest responsible bidder. Notice requesting bids shall be
8 published at least once in a newspaper of general circulation. The
9 publication shall be made at least 10 days before the date for the
10 receipt of the bids. The commission, at its discretion, may reject
11 any and all bids and readvertise.

12 (b) Except as provided for in subdivision (f), whenever the
13 expected expenditure required exceeds one thousand dollars
14 (\$1,000), but not twenty-five thousand dollars (\$25,000), the
15 commission shall obtain a minimum of three quotations, either
16 written or oral, that permit prices and terms to be compared.

17 (c) Where the expenditure required by the bid price is less than
18 fifty thousand dollars (\$50,000), the executive director may act
19 for the commission.

20 (d) All bids for construction work submitted pursuant to this
21 section shall be presented under sealed cover and shall be
22 accompanied by one of the following forms of bidder’s security:

- 23 (1) Cash.
- 24 (2) A cashier’s check made payable to the commission.
- 25 (3) A certified check made payable to the commission.
- 26 (4) A bidder’s bond executed by an admitted surety insurer,
27 made payable to the commission.

28 (e) Upon an award to the lowest bidder, the security of an
29 unsuccessful bidder shall be returned in a reasonable period of
30 time, but in no event shall that security be held by the commission
31 beyond 60 days from the date that the award was made.

32 (f) The following provisions apply only to the Los Angeles
33 County Metropolitan Transportation Authority:

- 34 (1) The contract shall be let to the lowest responsible bidder or,
35 in the authority’s discretion, to the person who submitted a proposal
36 that provides the best value to the commission on the basis of the
37 factors identified in the solicitation when the purchase price of all
38 supplies, equipment, and materials exceeds one hundred thousand

1 dollars (\$100,000). “Best value” means the overall combination
2 of quality, price, and other elements of a proposal that, when
3 considered together, provide the greatest overall benefit in response
4 to requirements described in the solicitation documents. The
5 contract shall be let to the lowest responsible bidder when the
6 purchase price of the construction of all facilities exceeds
7 twenty-five thousand dollars (\$25,000).

8 (2) The authority shall obtain a minimum of three quotations,
9 either written or oral, that permit prices and terms to be compared
10 whenever the expected expenditure required exceeds three thousand
11 dollars (\$3,000), but not one hundred thousand dollars (\$100,000).

12 (3) The authority may purchase supplies, equipment, and
13 materials from a public auction sale, including public auctions
14 held via the Internet, using the procedures established for all other
15 participants in the public auction.

16 (4) The authority may participate in a procurement agreement
17 involving other public entities that is identified by a procuring
18 public entity or entities as a cooperative procuring agreement from
19 which other public entities may make purchases or enter into
20 contracts, and the authority may procure, and enter into contracts
21 for, items purchased pursuant to that procurement agreement,
22 notwithstanding that the authority may not be the procuring public
23 entity, provided the procurement agreement is awarded or entered
24 into by either of the following:

25 (A) One or more public entities or an organization of public
26 entities, which may include the authority.

27 (B) A federal, state, or local public entity.

28 (5) (A) Notwithstanding any other provision of law requiring
29 the authority to award contracts to the lowest responsible bidder,
30 on contracts above one hundred thousand dollars (\$100,000), the
31 authority may, except as to contracts for professional services
32 involving private architectural, landscape architectural, engineering,
33 environmental, land surveying, or construction management as
34 defined in Sections 4525 and 4529.10 of the Government Code,
35 do any of the following in facilitating contract awards to small
36 businesses:

37 (i) Provide for a small business preference in construction, the
38 construction component of a design-build team, the procurement
39 of goods, or the delivery of services. The preference to a small

1 business shall be 5 percent of the lowest responsible bidder meeting
2 specifications that provide for small business participation.
3 (ii) Establish a subcontracting participation goal for small
4 businesses on contracts financed with nonfederal funds and grant
5 a preference of 5 percent to the lowest responsible bidders who
6 meet the goal.
7 (iii) Require bidders to make a good faith effort, in accordance
8 with the criteria established pursuant to subparagraph (B), prior
9 to the time bids are opened, to comply with the goals and
10 requirements established by the authority relating to participation
11 in the contract by small businesses.
12 (B) The following shall apply to bidders under this paragraph:
13 (i) The bidder attended any presolicitation or prebid meetings
14 that were scheduled by the authority to inform all bidders of the
15 small business enterprise program requirements for the project for
16 which the contract will be awarded. The authority may waive this
17 requirement if it determines that the bidder is informed as to those
18 program requirements.
19 (ii) The bidder identified and selected specific items of the
20 project for which the contract will be awarded to be performed by
21 small business enterprises to provide an opportunity for
22 participation by those enterprises.
23 (iii) The bidder advertised, not less than 10 calendar days before
24 the date the bids are opened, in one or more daily or weekly
25 newspapers, trade association publications or trade-oriented
26 publications, trade journals, or other media, specified by the
27 authority for small business enterprises that are interested in
28 participating in the project. This clause applies only if the authority
29 gave public notice of the project not less than 15 calendar days
30 prior to the date the bids are opened.
31 (iv) The bidder provided written notice of his or her interest in
32 bidding on the contract to the number of small business enterprises
33 required to be notified by the project specifications not less than
34 10 calendar days prior to the opening of bids. The authority shall
35 make available to the bidder not less than 15 calendar days prior
36 to the date the bids are opened a list or a source of lists of
37 enterprises which are certified by the authority as small business
38 enterprises.
39 (v) The bidder followed up initial solicitations of interest by
40 contacting the enterprises to determine with certainty whether the

1 enterprises were interested in performing specific items of the
2 project.

3 (vi) The bidder provided interested small business enterprises
4 with information about the plans, specifications, and requirements
5 for the selected subcontracting or material supply work.

6 (vii) The bidder requested assistance from small business
7 community organizations; small business contractor groups; local,
8 state, or small business assistance offices; or other organizations
9 that provide assistance in the recruitment and placement of small
10 business enterprises, if any are available.

11 (viii) The bidder negotiated in good faith with the small business
12 enterprises, and did not unjustifiably reject as unsatisfactory bids
13 prepared by any small business enterprises, as determined by the
14 authority.

15 (ix) Where applicable, the bidder advised and made efforts to
16 assist interested small business enterprises in obtaining bonds,
17 lines of credit, or insurance required by the authority or contractor.

18 (x) The bidder's efforts to obtain small business enterprise
19 participation could reasonably be expected by the authority to
20 produce a level of participation sufficient to meet the goals and
21 requirements of the authority.

22 (C) "Small business enterprise" as used in this paragraph, means
23 a business enterprise that is classified as a small business under
24 United States Small Business Administration rules and meets the
25 current small business enterprise size standards found in 13 CFR
26 Part 121 appropriate to the type of work the enterprise seeks to
27 perform. *The authority may establish limitations regarding the*
28 *average annual gross receipts of a small business over the previous*
29 *three fiscal years and establish limitations regarding the personal*
30 *net worth of the owner of the small business, exclusive of the value*
31 *of the owner's personal residence.*

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