

Senate Bill No. 1214

CHAPTER 788

An act to amend Sections 10506.4 and 10506.5 of, to amend the heading of Article 1.5 (commencing with Section 10506.4) of Chapter 2.1 of Part 2 of Division 2 of, and to repeal Sections 10506.8 and 10506.9 of, the Public Contract Code, relating to public contracts.

[Approved by Governor September 28, 2016. Filed with
Secretary of State September 28, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1214, Allen. University of California: Best Value Construction Contracting Pilot Program.

(1) Existing law authorizes, through January 1, 2017, a pilot program for the Regents of the University of California to contract for certain types of projects on the university of the University of California based on the best value procedures, as specified. Existing law defines the term "university" to mean the campuses of the University of California, including the medical centers. The law requires, on or before January 1, 2016, the Regents of the University of California to report to specific committees of the Legislature regarding the pilot program, including, among other information, a description of the projects awarded using the best value procedures.

This bill would extend the provisions of the pilot program until January 1, 2018, and would repeal the reporting requirement. This bill would modify the definition of the term "university" to mean all locations of the University of California.

(2) By extending the requirement that bidders verify specified information under oath, this bill would impose a state-mandated local program by expanding the scope of an existing crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. The heading of Article 1.5 (commencing with Section 10506.4) of Chapter 2.1 of Part 2 of Division 2 of the Public Contract Code is amended to read:

Article 1.5. Best Value Construction Contracting Pilot Program

SEC. 2. Section 10506.4 of the Public Contract Code is amended to read:

10506.4. (a) This article provides the Best Value Construction Contracting Pilot Program for the Regents of the University of California for projects over one million dollars (\$1,000,000).

(b) The Regents of the University of California shall let any contract for a project pursuant to this article to the lowest responsible bidder or else reject all bids.

(c) The lowest responsible bidder may be selected on the basis of the best value to the university, as defined in Section 10506.5. In order to implement this method of selection, the Regents of the University of California shall adopt and publish procedures and required guidelines for evaluating the qualifications of the bidders that ensure that best value selections by the university are conducted in a fair and impartial manner. These procedures and guidelines shall conform to the requirements of Sections 10506.6 and 10506.7 and shall be mandatory for the university when using best value selection.

(d) If one or more of the bids is substantially equal to the lowest bid, and at least one of those bidders is a disadvantaged business enterprise, a women business enterprise, or a disabled veteran business enterprise, the regents may award the contract in accordance with the policies and procedures adopted pursuant to Section 10500.5.

(e) If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for a project to execute a tendered contract, award it to the second lowest responsible bidder. If the second lowest bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder.

SEC. 3. Section 10506.5 of the Public Contract Code is amended to read:

10506.5. For purposes of this article, the following definitions apply:

(a) “Best value” means a procurement process whereby the lowest responsible bidder may be selected on the basis of objective criteria for evaluating the qualifications of bidders with the resulting selection representing the best combination of price and qualifications.

(b) “Best value contract” means a contract entered into pursuant to the provisions of this article.

(c) “Best value contractor” means a properly licensed person, firm, or corporation that submits a bid for, or is awarded, a best value contract.

(d) “Demonstrated management competency” means the experience, competency, capability, and capacity of the proposed management staffing to complete projects of similar size, scope, or complexity.

(e) “Financial condition” means the financial resources needed to perform the contract. The criteria used to evaluate a bidder’s financial condition shall include, at a minimum, capacity to obtain all required payment bonds, performance bonds, and liability insurance.

(f) “Labor compliance” means the ability to comply with, and past performance with, contract and statutory requirements for the payment of wages and qualifications of the workforce. The criteria used to evaluate a bidder’s labor compliance shall include, as a minimum, the bidder’s ability to comply with the apprenticeship requirements of the California Apprenticeship Council and the Department of Industrial Relations, its past conformance with such requirements, and its past conformance with requirements to pay prevailing wages on public works projects.

(g) “Qualifications” means financial condition, relevant experience, demonstrated management competency, labor compliance, the safety record of the bidder, and, if required by the bidding documents, some or all of the preceding qualifications as they pertain to subcontractors proposed to be used by the bidder for designated portions of the work.

(h) “Relevant experience” means the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity.

(i) “Safety record” means the prior history concerning the safe performance of construction contracts. The criteria used to evaluate a bidder’s safety record shall include, as a minimum, its experience modification rate for the most recent three-year period, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period.

(j) “University” means all locations of the University of California.

SEC. 4. Section 10506.8 of the Public Contract Code is repealed.

SEC. 5. Section 10506.9 of the Public Contract Code is amended to read:

10506.9. This article shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.