

## Assembly Bill No. 2156

### CHAPTER 690

An act to add Section 10129 to the Public Contract Code, relating to public contracts.

[Approved by Governor September 25, 2000. Filed with Secretary of State September 27, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2156, Pescetti. Public contracts: bidding requirements.

Existing law provides that no state agency, municipal corporation, district, nor public officer responsible for letting public work contracts shall limit the bidding to any one concern or product, except as provided. Specification of a certain product is allowed in those instances where the product is designated to match others in use on a particular public improvement, unless the specification lists at least 2 brands or trade names of comparable quality and is followed by the words "or equal" so that bidders may furnish any equal products. Existing law requires specifications to provide a period of time prior to the award of the contract for submission of data substantiating a request for a substitution of "an equal" item.

This bill instead would require, with respect to state agencies, specifications to provide a period of time for submission of data prior to or after the award of the contract. The bill would provide that if no time period is specified, data may be submitted for 35 days after the award of the contract.

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

SECTION 1. Section 10129 is added to the Public Contract Code, to read:

10129. (a) Notwithstanding Section 3400, no agency of the state charged with the letting of contracts for the construction, alteration, or repair of public works may draft or cause to be drafted specifications for bids, in connection with the construction, alteration, or repair of public works, (1) in a manner as to limit the bidding, directly or indirectly, to any one specific concern, or (2) calling for a designated material, product, thing, or service by specific brand or trade name unless the specification lists at least two brands or trade names of comparable quality or utility and is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service. In applying this section, the awarding authority shall, if aware of an equal product manufactured in this state, name that product in the specification. In those cases involving



a unique or novel product application required to be used in the public interest, or where only one brand or trade name is known to the awarding authority, it may list only one. Specifications shall provide a period of time prior to or after the award of the contract for submission of data substantiating a request for a substitution of “an equal” item. If no time period is specified, data may be submitted any time within 35 days after the award of the contract.

(b) Subdivision (a) is not applicable if the awarding authority makes a finding that is described in the specifications that a particular material, product, thing, or service is designated by specific brand or trade name for either of the following purposes:

(1) In order that a field test or experiment may be made to determine the product’s suitability for future use.

(2) In order to match other products in use on a particular public improvement either completed or in the course of completion.

