

California State Assembly



Agenda

Assembly Budget Subcommittee No. 7 on Accountability and Oversight

Assemblymember Avelino Valencia, Chair

Wednesday, August 7, 2024

10:00 A.M. – State Capitol, Room 447

Oversight Hearing

Greater Efficiencies in Government Operations

I. Welcome and Opening Remarks

- Assemblymember Valencia, Chair
- Members of the Committee

II. Proposal to Improvement Greater Efficiencies in Government Operations

- Danielle M. Brandon, Department of Finance
- Luke Koushmaro, Legislative Analyst's Office

III. Member Questions and Comments

IV. Public Comment

V. Adjournment

Background

The 2024 Budget includes an assumed over \$2.7 billion in savings from a 7.95 percent across-the-board reduction to state operations to most departments. The Administration included a trailer bill proposal associated with this proposal. During the June budget conversation, the Assembly asked to defer consideration of this trailer bill until after the Summer Recess, so that this Subcommittee could publically hear this proposal. The initial draft of this trailer bill included a number of provisions that have been removed from the version being considered by the Committee today.

Current Proposal Summary. This proposal would allow the Department of General Services (DGS) to more efficiently fulfill its duties related to public works projects and contract oversight. More specifically, the Administration is proposing four amendments to the California Public Contract Code (PCC) that would:

- Provide Broader Authority to Delegate Public Works Projects (PCC 1018.6)
- Authorize Job Order Contracting for Public Works Contracts (PCC 10113)
- Encourage Departments to Seek \$150,000 Service Contract Exemptions (PCC 10351)
- Eliminate DGS Review of Low Dollar Value Expert Witness Contracts (PCC 10371)

(See attached language)

Broader Authority to Delegate Public Works Projects.

According to the Department of Finance (DOF), this proposal would allow for speedier delivery of public works projects, while allowing DGS to focus on those public works projects that are more difficult to address.

The State Contract Act governs contracting between state agencies and private contractors, and sets forth requirements for the bidding, awarding, and overseeing of contracts for projects, which is defined to include the construction or other improvement to a state structure or building with a total cost threshold equal to \$250,000 for calendar year 2010, as adjusted upward or downward every two years by DOF to reflect the percentage change in the annual California Construction Index as used by DGS.

According to DOF, most state departments lack authority to contract for public works projects, necessitating DGS to undertake projects on their behalf. This proposal would expand DGS' authority to delegate projects to departments with the capabilities of executing those projects successfully, while still requiring DGS supervision and inspection. This proposal would require DOF approval for project delegation where the total project costs exceed \$3 million.

Authorize Job Order Contracting

According to DOF, authorizing DGS to utilize Job Order Contracting (JOC) would allow DGS to rapidly address small, important, but non-emergency projects that are necessary to keep state buildings functional, or to address rapid changes in state office needs, reducing deferred maintenance and emergency work.

Generally, a JOC is a competitively bid, fixed price, indefinite quantity contract for the performance of minor construction, as well as the renovation, alteration, painting, and repair of existing public facilities. A JOC is generally a multi-year contract that includes a base year and multiple option years, and is awarded before the awarding agency has identified specific work that it needs the contractor to perform. A typical JOC involves a variety of tasks such as roofing, electrical work, plumbing, and painting that are required for all of a public agency's buildings for a period of years.

A JOC is a fixed price agreement in that it is based upon specified charges contained in a Unit Price Book (UPB), which is prepared by the public agency or by independent commercial sources. In this proposal the UPB is referred to as "unit price catalog." The UPB sets forth detailed repair and construction tasks, including task descriptions, specifications, units of measurement, and unit prices for each task. Unit price refers to the amount paid for a single unit of an item of work. A contractor's bid is expressed in terms of a percentage of the specified UPB charges. The UPB is then used to determine the costs of each proposed project during the term of the contract. As an example, if a procuring agency's per unit catalog price for an HVAC installation is \$1,000, and a contractor submits a bid to do that work with an adjustment factor of 1.13, the contractor is agreeing to install the HVAC for \$1,130.

The award of annual contracts on a unit price basis enables what would otherwise be multiple separately-bid projects to be combined into one bid. This contracting method is intended to reduce costs and accelerate completion of smaller projects. It is not generally viewed as an appropriate method of contracting for large, complex construction projects that require extensive or innovative design or are likely to encounter changes and revisions during construction. JOCs are typically used for well-defined, recurring or repetitive work where quick execution is essential, not for single larger projects.

Job Order Contracting is an established construction delivery method that is already in use by other state agencies and public entities. The Legislature has previously authorized multiple agencies to use job order contracting, some state and some local, including counties, school districts, community college districts, and the California State University system. And last year, the Legislature authorized the Los Angeles County Metropolitan Transportation Authority to enter into JOCs (Chapter 87, Statutes of 2023), and expanded the use of JOCs at Caltrans as part of last year's state infrastructure investment plan (Chapter 58, Statutes of 2023).

This proposal is only intended to streamline the delivery of public works. It is not intended to “displace work presently performed by state employees, nor to expand the types of public works performed by contractors.”

Encourage Departments to Seek \$150,000 Service Contract Exemption

Existing law authorizes DGS to provide contract review exemptions to departments for service contracts under \$150,000, if certain conditions are met. To receive an exemption, departments must conduct audits every two years, and DGS’ Office of Audit Services (OAS) must perform quality assurance reviews of those audits. The purpose of this proposal is to encourage departments to seek this exemption.

This proposal would increase the current two-year audit requirement to every three years. OAS would issue six-year exemptions instead of four and perform the quality assurance reviews every three years, instead of two. This would align with three-year cycle for other audit workload and would enable OAS to continue to conduct these quality assurance reviews within existing resources.

This proposal would reduce the contract review workload for DGS’ Office of Legal Services which would enable DGS to focus greater contract review resources on higher-dollar, higher-risk contracts.

Eliminate DGS Review of Low Dollar Value Expert Witness Contracts.

Existing law requires departments to submit very low dollar value consultant contracts to DGS for review and approval, many of which are for expert witnesses for litigation. Yet, these contracts are already exempt from advertising and bidding.

According to DOF, eliminating the requirement for DGS review of these low dollar value, low-risk consulting service contracts would streamline the contract review process. This primarily impacts departments who retain successive expert witnesses for litigation, such as Caltrans and the Department of Justice. The enactment of this proposal would still require DGS to review consulting services contracts of \$50,000 or more, unless the department has been approved for a higher exemption.

Staff Comments

1. This proposal is intended to help generate over \$2.7 billion in savings from the 7.95 percent across-the-board reduction. How much anticipated savings will result from the adoption of this proposal?
2. What progress has the Administration made in achieving the entire \$2.7 billion in savings in state operations?