



# CLIENT NEWS BRIEF

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## NEW LAWS ADDRESS MANY PHASES OF CONSTRUCTION AND MODERNIZATION PROJECTS

As this year's legislative season came to a close, the Governor signed bills that will affect the design, bidding and final payment on construction and modernization projects by school districts, community college districts and other public agencies. Following is a summary of the new laws.

### Roofing Projects.

Assembly Bill (AB) 635 follows recent publicity related to roofing projects. Currently, Public Contract Code section 3400, known as the sole source statute, authorizes bid documents to require a particular brand or product manufacturer under specified circumstances. Alternatively, bid documents are to permit the bidding of an "equal" product. AB 635, which applies only to school districts with an average-daily attendance greater than 2,500 and community college districts, sets out criteria that a product must meet to be considered "equal".

This legislation also requires specified design professionals to complete a financial disclosure certification prior to being engaged for a roofing project. A materials manufacturer, contractor or vender involved in a bid or proposal for a roofing project must also complete the certification. A sample certification is set out in the statute.

AB 635 was signed as urgency legislation and went into effect on September 29, 2010. The provisions are found at Public Contract Code section 3000-3010. These sections do not apply when a school district covered by the statute (with an ADA over 2,500) or a community college district finds it necessary to award an emergency contract. Also, under AB 635, "roof projects" do not include projects for repair of 25% or less of the roof, or projects that have a total cost of \$21,000 or less.

### Classroom Security Locks.

In response to increasing school violence, the Legislature passed AB 211 (Ed. Code, § 17075.5) which requires all new construction projects to include locks that allow the doors to be locked from the inside. The requirement applies to classrooms and any other room with an occupancy of 5 or more persons, but does not include doors that

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are locked from the outside at all times or pupil restrooms. The locks must be included in new construction projects submitted to the Division of the State Architect beginning on July 1, 2011.

## Electronic Copy of Contract Documents.

AB 2036 adds sections 10111.2 and 20103.7 to the Public Contract Code. These provisions require a state department or a local agency, such as a school district, to provide, upon request, an electronic copy of a project's contract documents to a contractor plan room, which is a place provided by a regional builder's exchange that makes plans and specifications available to potential bidders. The legislation also provides that a school district be reimbursed for the costs if the Commission on State Mandates determines that the costs are mandated; therefore, districts should track any costs for possible reimbursement.

## Uniform Cost Accounting.

Senate Bill ("SB") 694 amends section 22043 of the Public Contract Code, a portion of the California Uniform Public Construction Cost Accounting Act ("Act"). The Act authorizes an interested party to request the California Uniform Cost Accounting Commission ("Commission") to review a public agency's accounting procedures upon evidence that work has exceeded force account limits, has been improperly classified as maintenance, or is to be done by the public agency after rejecting bids and determining the work can be done less expensively by the public agency. These amendments extend the time for an interested third party to request review of a public agency's accounting procedures and for the Commission to complete its review. As a reminder, districts that have opted to utilize uniform cost accounting procedures must publish their annual notice in the trade journals in November.

## Mechanics' Lien Law Reorganization.

SB 189 revises and recasts the provisions in the Business and Professional Code, Civil Code and related statutes (collectively known as the "Mechanics' Lien Law") which provide procedural mechanisms for enforcing claims for payment related to construction projects. Although mechanics' liens are not available against public agencies, including school districts and community college districts, the Mechanics' Lien law includes provisions relating to public works, including stop notices and claims against payment bonds. SB 189 will add statutes to the Civil Code differentiating public

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works from those relating to private works, update archaic terminology, and make other, mostly technical changes. Most of the provisions of the bill will become effective on July 1, 2012. We will provide a reminder and a more detailed analysis prior to the effective date of the bill's provisions.

If you have any questions regarding these new laws, or construction issues in general, please do not hesitate to contact one of our [seven offices](#) located statewide or consult our [website](#).



Click the webinar icon to register for our upcoming **FREE** webinar covering bidding and contracting issues.

**OCTOBER 28, 2010 ■ 10:00 AM - 11:00 AM**

**THE FRUGAL CBO: A SCHOOL DISTRICT'S GUIDE TO FISCALLY CONSERVATIVE BIDDING AND CONTRACTING**

This session will provide a discussion of alternatives to competitive bidding for public works projects including Lease-Leaseback and Design-Build. We will explore the potential advantages of these alternative methods: efficiency, cost savings and a superior end project. This webinar will also review the types of projects that must be formally bid and whether an alternative bidding method may be available.

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