

CLIENT NEWS BRIEF

Job Order Contracting for School District Public Works Projects

As of January 1, California school districts have been authorized to use job order contracts for public works projects greater than \$25,000. Approved by Governor Jerry Brown in October of last year, Assembly Bill No. 1431 modified the Local Agency Public Construction Act to authorize job order contracting for school districts until January 1, 2022. This bill comes after a decade-long pilot program of the job order contract project delivery method at Los Angeles Unified School District. At the same time, the new law requires prequalification and project labor agreements, echoing other recent laws.

Job order contracting is an alternative to the traditional lump-sum competitive bidding process used by school districts, and allows a district to assemble a stable of approved "on call" contractors from which the district may select to perform a clearly defined task for a pre-established unit price. This time-and-material contracting procedure is intended to minimize project costs, expedite project completion and reduce construction contracting complexity for school districts. (See Public Contract Code sections 20919.20 et seq. for the entire statutory scheme.)

If a school district wants to utilize job order contracting, it may do so by preparing a set of documents for job order contracts, including a price catalog with various tasks and proposed unit prices for those tasks, job order contract technical specifications, and any other necessary information to describe the school's needs. The school district's proposed unit prices must be based on local prevailing wages, but may not include overhead and profit. The school district may prepare a request for bid that invites prequalified job order contractors to submit competitive sealed bids that include "adjustment factors." In their adjustment factors, bidding contractors increase or decrease the school district's unit prices in the catalog as part of their bid. The statutes do not provide any specifics regarding the permitted bases for a bidding contractor's adjustment factors. Awards are then made to the prequalified bidders that the school district determines to be the most qualified based upon criteria established by the school district.

This process enables school districts to enter into "master" contracts with contractors where each contractor may perform multiple projects (or "job orders") on a time-and-material basis. Each job order may only include work covered by the district's price catalog; any other work not listed in the catalog must be competitively bid, unless a legal exception to competitive bidding applies. Contractors are also given incentive to provide responsive services, quality work, and accurate proposals because their contracts may be renewed or extended after their initial term.

There are, however, limitations to a school district's ability to use job order contracts. To take advantage of this process, a school district must prequalify the contractors, and also must have entered into a project labor agreement or agreements that will apply to all public works in excess of \$25,000. Additionally, the maximum total dollar amount that may be awarded under a

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single job order contract may not exceed \$5 million for the first term of the job order contract and, if extended or renewed, a maximum of \$10 million over the subsequent two terms of the job order contract.

If you have any questions regarding job order contracting, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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