

AB 361 Authorizes “Best Value” Procurement for School District Construction Projects Over \$1 Million

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Assembly Bill (AB) 361 allows school districts to use a “best value” procurement method for construction projects exceeding \$1 million.

Background

Under existing law, school districts are required to competitively bid contracts for public projects and award them to the lowest responsible and responsive bidder, unless an exemption applies. Prior to AB 361, only the Los Angeles Unified School District (LAUSD) was authorized, under a limited pilot program, to use a “best value” procurement method for construction projects exceeding \$1 million. This pilot program, originally set to expire on January 1, 2026, allowed LAUSD to select contractors based on a combination of price and qualifications. The “best value” approach was intended to provide an alternative delivery method for public projects.

New Legal Authority under AB 361

Effective January 1, 2026, AB 361 will make the LAUSD authorization permanent and expand the best value procurement authority to **all** school districts statewide through December 31, 2030.

A school district may now choose to award contracts for public projects over \$1 million to the bidder offering the “best value” to the district rather than the lowest price alone. To ensure fairness and transparency before using the new contractor selection method, the school district’s governing board must adopt and publish procedures and guidelines for evaluating bidder qualifications.

“Best value” is determined by a formula in which each bidder’s price is divided by its qualifications score. The bidder with the lowest cost per quality point is considered to provide the best value. Qualification scores must be determined according to “objective criteria” established by the school district’s solicitation documents, which must include at least the bidder’s relevant experience, safety record, financial condition, management competency, and labor compliance record. The solicitation documents must clearly describe the evaluation criteria, the rating or weighting system used, and the relative importance of each factor.

The selection process must be “fair and impartial,” including a requirement that the final evaluation of bidders be done in a manner that prevents the

identity of the bidders and the cost from being revealed in evaluating the qualifications of the bidders prior to completion of qualification scoring.

School districts must prequalify bidders. In addition, they must ensure that all contractors and subcontractors utilize a skilled and trained workforce, as defined under the Labor Code, or operate under a project labor agreement binding them to this requirement.

School districts using the new best value procurement method must submit a report, prepared by an independent third party at the district's expense, to the appropriate legislative committees by January 1, 2030. The report must include detailed information on awarded projects, contract amounts, selected contractors, the prequalification process, bid evaluation criteria, description of any bid protests and their resolutions, and project performance assessments for completed projects. Multiple districts may collaborate on a single report.

Takeaways

AB 361 enhances flexibility in the school construction contracting process by allowing all California school districts to use the best value procurement method on construction projects over \$1 million based on both price and qualifications.

School districts planning to utilize this selection process should start thinking about how to design their procedures and criteria for evaluating bidders.

If you have any questions about using best value procurement for your project, or for any other questions regarding public contracting and project delivery methods, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#) and [LinkedIn](#), or download our [mobile app](#).

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