



- 3) Defines the district agricultural associations and their locations (*FAC Section 3102*).
- 4) Defines the county fairs and their locations (*FAC Section 3103*).
- 5) Defines the citrus fruit fairs and their locations (*FAC Section 3104*).
- 6) States the board must establish and publish competitive bidding procedures for the award of a procurement or contract involving an expenditure of more than \$100,000.
- 7) States the competitive bidding procedures shall include, but not be limited to:
  - a. Requirements for submission of bids and accompanying documentation
  - b. Guidelines for the use of requests for proposals (RFP), invitations to bid, or other methods of bidding
  - c. A bid protest procedure (*FAC Section 4051(b)(1)*).
- 8) Mandates that any change of the RFP rules must be communicated to all vendors (*California Public Contract Code Section 12104.5*).
- 9) Prohibits a state agency from drafting an RFP on a public contract for services to be rendered to the state in a way that directly or indirectly limits bidding to any one bidder. Any contract awarded in violation of subdivision (a) shall be void (*Public Contract Code Section 10339(a) and (b)*).
- 10) The Department of General Services (DGS) shall prescribe the following:
  - a. The conditions under which a contract may be awarded without competition, and the methods and criteria which shall be used in determining the reasonableness of contract costs when a contract is awarded without competition.
  - b. Any special requirements for evaluating multiple-year contracts which the department deems necessary to protect the financial interest of the state.
  - c. For contracts of less than twenty thousand dollars (\$20,000), the conditions under which some or all of the provisions of this article may be waived in order to assist agencies in obtaining services and consultant services in a efficient and timely manner (*Public Contract Code Section 10348*).
- 11) The California Department of General Services State Administrative Manual (SAM) exempts from competitive bidding public entertainment contracts for state-sponsored fairs and expositions (*SAM Section 1233, Management Memo 03-10*).

**PROPOSED LAW:**

This bill:

- 1) Adds Section 3107 to the Food and Agricultural Code to state:
  - a. A fair shall not issue any invitation to bid or request for proposal, in connection with the awarding of a contract, for services to any person or entity, in a manner that limits the bidding directly or indirectly to any one bidder.
  - b. Any contract awarded in violation of subdivision (a) shall be void.

**ARGUMENTS IN SUPPORT:**

According to the author:

“California’s fairs are a tradition that brings communities together each year to celebrate and enjoy local agriculture, food, and entertainment. In order for these fairs to operate, they manage millions of dollars in contracts each year to provide rides, food vendors, and other services. Recent investigations have revealed that competitive bidding requirements do not apply to state fairs. Bids are being written in a way that applies only to a single contractor, opening the door to favoritism and corruption. SB 1223 would prohibit a fair from issuing a request for proposal or invitation to bid that is written in a way that applies only to one party, helping to protect competitive bidding in fair contracts.”

**ARGUMENTS IN OPPOSITION:**

None received.

**COMMENTS:**

County fairs in California are vital, year-round economic drivers while also serving as hubs for agricultural education and innovation. Fairs serve as essential gathering places for community and display local agriculture, from livestock to cornstalk, encouraging people to learn where their food comes from and to buy locally.

California county fairs, often operating as District Agricultural Associations (DAAs), are generally required to use Request for Proposals (RFP) processes for vendor contracts over certain thresholds, typically following California Public

Contract Code Section 10300 et seq. and state contracting policies, often overseen by the California Department of Food & Agriculture (CDFA). These procurement rules ensure competitive bidding for services and goods.

**CDFA Fairs & Expositions (F&E) Branch:** The Department of Food and Agriculture (CDFA) Fairs & Expositions (F&E) Branch within the CDFA's Division of Marketing Services provides fiscal and policy oversight of the network of California fairs. The Branch oversees 77 fairs (54 DAAs and county-owned fairs), which must follow state procurement regulations.

The author's office has referenced two lawsuits filed by Talley Amusements, Incorporated (Talley Amusements) vs The 22<sup>nd</sup> DAA, located in San Diego as examples of why the bill is needed. Below is a brief summary of both suits:

**Lawsuit #1: Del Mar Fairgrounds:** On July 28, 2021, Talley Amusements, a Texas-based carnival midway company that provides rides, games, and food for fairs filed a complaint alleging the Del Mar Fair in San Diego provided intentional interference with a contract.

Talley Amusements filed a complaint against the fair, run by the 22<sup>nd</sup> DAA. The complaint alleged the DAA violated the Federal Civil Rights Act (42 USC Section 1983). The complaint alleged the DAA intentionally and negligently interfered with the economic relationship between Talley Amusements, Incorporated and the Del Mar Fair by changing scores, which is the process of adjusting a bidder's numerical evaluation score based on revisions to information, pricing, or to non-cost factors.

In 2024, Del Mar Fairgrounds settled the case by providing \$500,000 settlement to Talley Amusements and guaranteeing Talley Amusements will have a spot at the San Diego County Fair for the next five years (until 2029).

**Lawsuit #2: Orange County Fairgrounds: Talley Amusements, Incorporated vs the 32<sup>nd</sup> DAA:** On June 18, 2024, Talley Amusements, filed a complaint against the 32<sup>nd</sup> DAA that oversees the Orange County Fair, where the master contract for the fair was awarded to Ray Cammack Shows (RCS). Talley Amusements, Incorporated alleged "corruption, favoritism, and bid-rigging" during the Fair's selection process of a master carnival operator for the 2021 county fair, stating fairground executives changed scores in the 2021 bid process, resulting in their losing the master contract to RCS. Talley Amusements requested a temporary injunction pursuant to a violation of Public Contract Code 10339 and the Superior Court of Orange County denied the injunction, stating Public Contract Code 10339

did not apply to this particular contract. Talley Amusements appealed to the State's Fourth Appellate District Division Three. The Court upheld the lower court's decision, stating that section 10339 did not apply to the contract at issue because it was not a contract for services to be rendered to the state.

**RELATED LEGISLATION:**

N/A

**SUPPORT:**

None received.

**OPPOSITION:**

None received

**-- END --**