
CONSENT

Bill No: SB 935
Author: Choi (R), et al.
Introduced: 1/29/26
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 3/18/26
AYES: Durazo, Choi, Arreguín, Ashby, Cervantes, Laird, Seyarto

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Local agency design-build projects: authorization

SOURCE: Author

DIGEST: This bill repeals the sunset date of January 1, 2031, on provisions of law authorizing local agencies to use the design-build contracting method.

ANALYSIS:

Existing law:

- 1) Requires, pursuant to the Local Agency Public Construction Act (LAPC Act), local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder under the traditional design-bid-build project delivery system
- 2) Authorizes, until January 1, 2031, cities, counties, and specified special districts and transit agencies to use design-build for specified public works contracts in excess of \$1 million using either a low bid or best value process

This bill repeals the sunset date of January 1, 2031, on provisions of law authorizing local agencies to use the design-build contracting method.

Background

Contracting. The Local Agency Public Construction Act generally requires local

agencies to invite bids for construction projects and award contracts to the lowest responsible bidder. Local agencies typically use the traditional design-bid-build method for constructing public works. This approach splits construction projects into two distinct phases: design and construction. During the design phase, the local agency prepares detailed project plans and specifications using its own employees or by hiring outside architects and engineers. Once project designs are complete, local agencies invite bids from the construction community and award the contract to the lowest responsible bidder. Over the last couple of decades, the Legislature has gradually expanded local agencies' authority to procure construction projects using various alternatives to the design-bid-build project delivery method.

Design-build. California's Legislature began granting design-build authority in the early 1990's, and has typically done so with specified parameters, such as the duration of the authority, the types of agencies allowed to use it, the types of projects for which it can be used, cost thresholds, and specified procedures that must be followed in preparing and awarding contracts. State law allows state and local officials, until January 1, 2031, to use the design-build method for contracts in excess of \$1 million to procure both design and construction services from a single company before developing complete plans and specifications. Under design-build, the public agency contracts with a single entity—which can be a single firm, a consortium, or a joint venture—to design and construct a project. Before inviting bids, the owner prepares documents that describe the basic concept of the project, as opposed to a complete set of drawings and specifications of the final product that is usually required for the construction phase of a project procured through design-bid-build. In the bidding phase, the owner typically evaluates bids on a best-value basis, incorporating technical factors, such as qualifications and design quality, in addition to price. The Department of General Services, the California Department of Corrections and Rehabilitation, cities, counties, transit districts (including joint powers authorities formed to provide transit service), special districts operating wastewater, water recycling, or solid waste management facilities, and certain health care districts may use design-build.

Originally, the authorizations for state agencies and local governments to use design-build were dispersed throughout state law in separate code sections. In 2014, the Legislature consolidated these provisions into consistent, generally-applicable statutes (SB 785, Wolk, 2014). SB 785 outlines a standardized design-build procurement process in which the awarding authority may prepare a list of qualified or short-listed entities, based on specified criteria. Once a list of qualified or short-listed entities is complete, the awarding authority may prepare a request

for proposals (RFP) inviting prequalified or short-listed entities to submit competitive sealed proposals in the manner the awarding authority prescribes.

For projects utilizing low bid as the selection method, the competitive bidding process must involve lump-sum bids by the prequalified or short-listed design-build entities. Local agencies must award contracts to the design-build entity that is the lowest responsible bidder.

For those projects utilizing best value as a selection method, local agencies must evaluate proposals using only the criteria and selection procedures specifically identified in the RFP. The awarding authority may reserve the right to request revisions and conduct negotiations with responsive proposers, if the authority specifies in the RFP how it will ensure negotiations are conducted in good faith. The authority may hold discussions or negotiations with responsive bidders using the process the RFP specifies. The awarding authority ranks responsive bidders on value provided. The awarding authority must award the contract to the responsible design-build entity whose proposal is determined by the authority to have offered the best value to the public. Upon issuance of a contract award, the awarding authority must publicly announce its award, identifying the design-build entity it has awarded the contract to, along with a written decision supporting its contract award and stating the basis of the award.

The state's design-build statutes also impose requirements for the use of skilled labor, the issuance of payment and performance bonds, insurance coverage, and identification of subcontractors that will complete at least one-half of 1% of the value of a contract.

Comments

- 1) According to the author, "California's design-build authority has helped local agencies deliver public infrastructure projects more efficiently by integrating design and construction under a single contract. This bill removes the January 1, 2031 sunset date to allow local agencies to continue using this effective project delivery method for critical public works."
- 2) Premature? After the enactment of SB 785 (Wolk), the Legislature authorized different local governments to use design-build with sunset dates, allowing periodic reassessment of the authority's effectiveness. In 2023, the Legislature extended the sunset, giving local governments until January 1, 2031, to continue using design-build authority. This bill repeals that sunset. This could limit the Legislature's opportunity to review the policy's outcomes. However,

local governments have consistently demonstrated the benefits of using design-build since the Legislature first granted the authority in the 1990s. A 2014 report by the Legislative Analyst's Office found that design-build can serve as a useful alternative delivery method for local governments stating, "the design-build delivery method was faster and therefore well suited to time sensitive projects, while others indicated that it can be valuable for a variety of types of projects if managed appropriately." Continuing to rely on temporary authorizations creates uncertainty for local governments, contractors, and financing partners who must plan projects years in advance. The Committee may wish to consider whether the benefits of repealing the sunset outweigh the lost potential for evaluating the authority in the future.

- 3) Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because this bill expands the definition of a crime, Legislative Counsel says that the bill imposes a new state mandate. This bill disclaims the state's responsibility for providing reimbursement because the costs are due to expanding a crime.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 4/13/26)

American Council of Engineering Companies of California
 Association of California Cities - Orange County
 Cal Cities
 California Chapters of the American Public Works Association
 California State Association of Counties
 California State Association of Counties
 City of Ventura
 Design Build Institute of America Western Pacific Chapter
 League of California Cities
 Orange County Fire Authority
 Rural County Representatives of California

OPPOSITION: (Verified 4/13/26)

None received

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**** END ****