
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

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SAN DIEGO UNIFIED PORT DISTRICT: JOB ORDER CONTRACTING: PILOT PROGRAM

Authorizes the San Diego Port District to use the Job Order 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, legislators have gradually expanded local agencies' authority to procure construction projects using various alternatives to the design-bid-build project delivery method.

Job order contracting (JOC). A JOC is a competitively bid, fixed price, indefinite quantity contract for the performance of minor construction, as well as the renovation, alteration, painting and repair of existing public facilities. A JOC is generally a multi-year contract that includes a base year and multiple "option years," and is awarded before the awarding agency has identified specific work that it needs the contractor to perform. Instead of bidding each project separately, the agency awards a JOC that identifies specific tasks and covers a range of recurring work, such as roofing, electrical work, plumbing, and painting, across facilities it owns.

A JOC is a fixed price agreement in that it is based upon specified charges contained in a Unit Price Book (UPB), which is prepared by the public agency or by independent commercial sources. The UPB sets forth detailed repair and construction tasks, including task descriptions, specifications, units of measurement, and unit prices for each task ("Unit Price" means the amount paid for a single unit of an item of work). This contracting method is intended to reduce costs and accelerate completion of smaller projects.

The Legislature has authorized multiple agencies to use JOC, some state and some local, including counties, school districts, community college districts, the California State University system, and Caltrans. California counties have had the authority to use JOC since 1983.

San Diego Unified Port District. The San Diego Unified Port District (Port District) was created by the Legislature to manage San Diego Bay and surrounding waterfront land on December 18, 1962. The Port of San Diego is the fourth largest of the 11 ports in California. The Port District

includes five member cities – San Diego, Chula Vista, Coronado, National City, and Imperial Beach. The Port District currently oversees two maritime cargo terminals, two cruise ship terminals, 23 public parks, the Harbor Police Department and the leases of hundreds of tenant and subtenant businesses around San Diego Bay.

Existing law establishes the Port District as the trustee of public lands within San Diego Bay. The Port District was created for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail and water, for the development, operation, maintenance, control, regulation, and management of the harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries, and recreation. A seven-member Board of Port Commissioners governs the Port District: one commissioner each is appointed by the city councils of Chula Vista, Coronado, Imperial Beach and National City, and three commissioners are appointed by the San Diego City Council.

The Port of San Diego states that some repair and maintenance projects can take up to a year to complete under traditional procurement methods and wants the Legislature to grant additional flexibility for repair or remodeling work around the San Diego Bay.

Proposed Law

Senate Bill 983 allows, until January 1, 2037, the Port District to use JOC procurement authority. To use this authority, the Port District must:

- Not contract for work that is protected by any collective bargaining agreements;
- Comply with all collective bargaining agreements; and
- Competitively bid and award to bidders providing qualified responsible bids.

SB 983 limits JOC to repair, remodeling, or other repetitive work according to unit prices while prohibiting the use of JOC for longshore and maritime operations, and no annual contracts may be awarded for any large-scale capital development projects exceeding \$5 million.

Solicitations for a JOC must comply with the following requirements:

- The Port District must prepare a set of solicitation documents for JOC. Documents must include a unit price catalog or other established unit prices;
- An architect, engineer, consultant, or contractor retained by the district to assist in the development of the JOC solicitation documents must not be eligible to bid or participate in the preparation of the JOC bid; and
- The Port District may award multiple JOCs in response to a single JOC solicitation.

The Port District must develop a system for evaluating and awarding JOC bids. To award a contract:

- The Port District must prepare a request for bids for JOC based on the solicitation documents and request sealed bids;
- Each bidder must include in its bid one or more adjustment factors to the established unit prices;
- Each bidder shall agree to identify any subcontractors to be used;

- The district must award the JOC, if any, to a bidder that the district determines is qualified and responsive; and
- A job order contractor must comply with the district's project labor agreements, as applicable.

The Port District may award any job order for repair or renovation work with a value equal to or less than \$250,000 to a job order contractor that is also a certified small business enterprise.

The maximum total amount that the district may award under a single JOC must not exceed \$5 million in the initial contract term, and any single job order must not exceed one million dollars. The initial contract term is to be no more than 12 months, and the Port District may extend or renew the contract for up to three years with a maximum of \$10 million. SB 983 does not allow for work to be split or separated into smaller job orders for the purpose of evading the cost limits the bill establishes. However, the district may award phased job orders when necessary to comply with environmental regulations, permitting requirements, tidal or seasonal construction windows, or other operational constraints. The Port District may adjust bid limits annually to reflect the percentage change in the California Consumer Price Index.

SB 983 specifies that if a job order contractor chooses to use a subcontractor, the job order contractor needs to verify that the subcontractor possesses and maintains the appropriate licenses and credentials required. If the Port District, after conducting an administrative due process review, determines that there has been a violation of the Subletting and Subcontracting Fair Practices Act, including, but not limited to, bid shopping by the job order contractor, the Port District may terminate the job order contract, declare the contractor ineligible for future job order contracts for a period of time to be determined by Port District, or withdraw authorization for the contractor to proceed with awarded work.

SB 983 specifies that prevailing wage requirements apply to all work ordered under the JOC and requires the contract to specify who is responsible for ensuring compliance with the requirements of prevailing wages on public works projects. The Port District must also designate one individual to act as a monitor to inspect job sites for labor compliance violations at the request of the designated labor representative in its PLA. A JOC must be subject to a project labor agreement (PLA) between the district and the San Diego County Building and Construction Trades Council.

In order to prevent fraud, waste, and abuse, the Port District must prepare an independent cost estimate for each individual job order developed under a JOC. The estimate shall be prepared prior to the receipt of any job order contractor's estimate for the work and shall be compared to the job order contractor's estimate to determine the reasonableness of that estimate before issuance of any job order. If the Port District finds the job order contractor's estimate to perform work for a given job order to be unreasonable, not cost effective, or undesirable, the Port District may elect not to issue the job order to the job order contractor.

Lastly, SB 983 requires the Port District to submit to the appropriate policy and fiscal committees of the Legislature, on or before January 1, 2035, a report on the use of JOC. The report must include:

- A description of the Port District’s system for evaluating JOC bids for award of JOCs, including, but not limited to, the criteria used by the Port District to determine a qualified and responsive job order contractor;
- A description of each JOC the Port District awarded, and the contractor awarded the contract; and
- An assessment of the use of job order contracting under this bill.

SB 983 defines its terms.

Comments

1. Purpose of the bill. According to the author, “SB 983 authorizes the Port of San Diego to utilize job-order-contracting (“JOC”) for their repair, remodeling, and repetitive work. The ability to utilize this contracting method will promote efficiency and flexibility in completing necessary maintenance projects.

Currently, when maintenance is needed on the Port’s property, the Port must go out for competitive bidding for each individual project. This can result in major delays and can interrupt Port operations. This bill establishes a pilot program allowing the Port of San Diego to use the JOC procurement method, and sunsets the program in January 2037.”

2. Scope of work. Ports are unique in the local government world because of their geographic position—they are the interface between seafaring vessels and the land transportation modes that deliver goods to the rest of the state and the country. Ports are also significant infrastructure assets and create significant employment opportunities in the maritime industry. SB 983 allows for the use of JOC for certain repairs and maintenance, as long as they are subject to a PLA, which requires the use of a unionized labor force comprising various construction trades. Crucially, the International Longshore and Warehouse Union (ILWU) does not operate under PLAs, so requiring the use of PLAs means they would not be eligible for this type of work. To protect the scope of work of ILWU, the bill excludes from JOC specified maritime and longshore activities, which means that those activities could not be performed by the construction trades. The Legislature may wish to consider how to balance these competing interests.

3. Special legislation. Section 16 of Article IV of the California Constitution prohibits special legislation when a general law can apply. SB 983 contains findings and declarations explaining the need for legislation that applies only to the Port of San Diego because of the unique and special circumstances surrounding the port.

Support and Opposition (4/24/26)

Support: None submitted.

Opposition: Western Electrical Contractors Association

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