

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 948 (Flora) – As Introduced February 20, 2025

SUBJECT: School facilities: task-order procurement contracting

SUMMARY: Authorizes a school district or a county superintendent of schools with an average daily attendance (ADA) of 10,000 or less to award multiple task-order procurement contracts for repair and renovation of buildings and grounds, for a project not exceeding \$3 million, through a single request for bids. Specifically, **this bill:**

- 1) Authorizes a school district or a county superintendent of schools with an ADA of 10,000 or less to award multiple task-order procurement contracts for repair and renovation of buildings and grounds, for a project not exceeding \$3 million, through a single request for bids.
- 2) Authorizes a task-order procurement contract to include, but be limited to, service and repairs, including maintenance, replacement, and reconstruction, and any material, as specified.
- 3) Requires a task-order procurement contract awarded to be paid for with money from the county or school district's general fund, a local construction bond, or federal or state funds.
- 4) Requires the scope of a task-order procurement contract awarded to be limited to the purposes authorized by its funding source.
- 5) Requires a task-order procurement contract to be awarded to the lowest responsible and responsive bidder and to be based primarily upon plans and specifications for typical work.
- 6) Requires, before entering into a contract pursuant to this section, the contracting educational agency to ensure that it is in compliance with existing law related to local educational agency (LEA) employment and contracting; and
- 7) Requires a task-order procurement contract to be awarded only to supplement existing personnel and states the contract not be used to supplant existing classified personnel.

EXISTING LAW:

- 1) Requires the governing board of a school district to competitively bid and award to the lowest bidder contracts involving the following:
 - a) An expenditure of \$50,000 or more for the purchase of equipment, materials, or supplies, services (except for construction services), and repairs; and
 - b) An expenditure of \$15,000 or more for a public contract project defined as construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair, painting

or repainting of any publicly owned, leased, or operated facility. (Public Contract Code (PCC) 20111 and 22002)

- 2) Establishes alternative methods for awarding school construction contracts, including lease-leaseback, design-build, best value, and job order contracting. (Education Code (EC) 17406 and 17250.10, PCC Sections 20119 and 20919.20)
- 3) Authorizes contracting for services customarily performed by classified school employees only based on specified conditions. (EC Section 45103.1)
- 4) Authorizes the governing board of the Los Angeles Unified School District (LAUSD) to award multiple task order procurement contracts for the repair and renovation of school buildings and grounds, each not exceeding \$3 million through a single request for bid. Authorizes task order procurement contracts to include, but not be limited to, services, repairs, including maintenance, and construction, as authorized, paid for with moneys from the LAUSD's general fund. Requires the contracts to be awarded to the lowest responsible bidder, and to be based primarily on plans and specifications for typical work. (EC 20118.6)
- 5) Requires task order procurement contracts to only be awarded to supplement existing personnel and to not be used to supplant existing personnel. (EC 20118.6)
- 6) Authorizes the LAUSD to utilize task order procurement contracting only if the school district has entered into a project labor agreement or agreements, as specified, which meet the requirements of all its public works projects. (EC 20118.6)
- 7) Requires the LAUSD, on or before January 15, 2029, and on or before January 15, 2033, to submit to the appropriate policy and fiscal committees of the Legislature a report on the use of the task order procurement contracting method. Requires the report to be prepared by an independent third party and the school district to pay for the cost of the report. Requires the report to include, but is not limited to, the following information:
 - a) A description of the projects awarded using the task order procurement contracting method;
 - b) The contract award amounts;
 - c) The task order contractors awarded the projects;
 - d) A description of any written protests concerning any aspect of the solicitation, bid, or award of the task order procurement contracts, including the resolution of the protests;
 - e) A description of the prequalification process; and
 - f) If a project awarded task procurement contracting has been completed, an assessment of the project performance, including, but not limited to, a summary of any delays or cost increases. (EC 20118.7)

- 8) Establishes that the task order procurement contracting method is not intended to change any guideline, criterion, procedure, or requirement of the governing board of the LAUSD to let a contract for a project to the lowest responsible bidder or else reject all bids. (EC 20118.8)
- 9) Sunsets the authorization for the LAUSD to utilize task order procurement on January 1, 2034. (EC 20118.9)

FISCAL EFFECT: This bill has been keyed as non-fiscal by the Office of Legislative Counsel.

COMMENTS:

Need for the bill. According to the author, “AB 948 provides a practical, efficient, and fiscally responsible option for school districts to efficiently complete maintenance and repair projects and urge its passage to modernize the procurement processes and enhance school operations across California. This bill provides a procurement option, allowing school districts the flexibility to get needed repairs, maintenance, and restoration in an efficient, cost-effective manner. The bill does not replace other public works contracting methodologies currently codified in law. The bill applies only to repair, maintenance, replacement, and restoration—not new construction—ensuring it targets urgent facility needs are met without replacing traditional construction contracting processes.”

Public project competitive bidding. Under current law, school districts are required to competitively bid any public works contract over \$15,000 and award the contract to the lowest responsible bidder. Alternative methods for awarding contracts include: 1) design-build, with a school district issuing a request for proposal for both the design and construction of projects over \$10 million; 2) best value, allowing school districts to consider factors other than cost; and 3) job order contracting (JOC), based on prices for specific construction tasks.

Awarding contracts prior to when services are needed. A unique aspect of JOC is that the contracts are awarded prior to when the services are needed. JOC is not based on bids for a specific project, but rather based on prices for specific construction tasks. A contractor who has been prequalified submits bids using an adjustment factor. The unit price, multiplied by the adjustment factor, equals the price the contractor is willing to accept for work for those tasks. Selection of the contractors is based on the lowest responsible bidder; however, a school district may select more than one contractor. When the school district has a project that requires the tasks for which a contractor has been awarded, the school district will provide a job order with the details of the job. JOC allows a school district to identify contractors for specific tasks and locks in the price for up to \$5 million worth of work.

The LAUSD was granted the authorization to utilize task order procurement in 2019 through a pilot program. The LAUSD pilot authorization resembles JOC, but whereas JOC issued for capital infrastructure – new construction and modernization projects that are funded with state or local bonds, developer fees or other types of property assessments – task order procurement provides the LAUSD with the option to award multiple contracts through a single request for bid for services, maintenance and repair work that are funded by the district’s general funds, a local school construction bond, or federal or state funds. This bill would authorize school districts with an ADA of 10,000 students or fewer to use task order procurement for projects under \$3 million. ***The Committee may wish to consider*** that the LAUSD is utilizing this authorization

through a pilot that will sunset on January 1, 2034 this bill would grant permanent authorization to school districts with an ADA of 10,000 or fewer students.

Current law allows contracting for work customarily performed by classified employees only to achieve cost savings and only if specified conditions are met, including, in part, the following: the contractor's wages are at the industry's level and do not undercut school district pay rates, the contract does not cause the displacement of school district employees, the services contracted are not available within the district, the services are needed for emergency appointments, and the contractor has equipment, materials or support services that could not feasibly be provided by the school district in the location where services are to be performed. The existing LAUSD task order procurement pilot and this bill reiterate requirements to comply with this provision.

This bill does not change the bidding process or the requirement to accept the lowest responsible bidder, but allows school districts with an ADA of 10,000 or fewer students to issue multiple contracts for a specific service through a single request for bid. School districts with an ADA of 10,000 or fewer students would be required to adhere to all existing public procurement laws. When services are required, the contractors will complete one or more service repairs based on the pre-determined price up to a maximum amount of \$3 million.

The Committee may wish to consider that of 989 school districts in California, 843 school districts have an enrollment of 10,000 or fewer.

Need for competitive bidding process. The following provides an illustrative example of contracting prior to the LAUSD task order procurement pilot authorization in 2019. In 2015, the LAUSD received nearly 2,600 service calls for heating, ventilation, and air conditioning (HVAC) systems repair. With a service staff of 39 HVAC repair personnel, the district had to contract out for services due to the high volume. It took several weeks to complete the procurement process and award contracts as each location where work was needed required a separate bid request. Initiating the procurement process after systems malfunction causes delay in repairs, which can negatively affect a teacher's ability to provide instruction and can distract a student from learning. Allowing the district to conduct a competitive bidding process for HVAC and other services earlier has three benefits: 1) it allows the district to respond to service requests when they are needed; 2) it allows the district to secure prices during non-peak periods, thereby saving district general fund dollars for other needs; and 3) it prevents the district from having to issue a specific bid request for each project requiring service.

Other contracting pilot a success. AB 14 (Horton), Chapter 889, Statutes of 2003, first authorized job order contracting on a pilot basis at the LAUSD from January 1, 2004, until December 1, 2007. In subsequent extensions of the pilot program, procedures were established to review and penalize violations of the program, require notifications of the scope of work, and require reports to the Legislature.

In its November 2011 report, the LAUSD reported that, since the inception of job order contracting in 2005, the district executed 138 master contracts with 44 different contracting firms. As of November 1, 2011, the district issued master contracts valued at up to \$791 million, with total contract receipts ranging from \$200,000 to \$10 million per contractor. For job orders completed through November 1, 2011, the district reported that actual project costs were reduced by an average of 9.3% as compared to the estimates and the procurement time. The district reported that the procurement time savings varied among projects, but overall, job order

contracting produced significant time savings and provided the district with a valuable procurement tool.

Due to the success of the LAUSD pilot, AB 1431 (Gomez) Chapter 753, Statutes of 2015, authorized all school districts that have entered into a project labor agreement to utilize job order contracting.

Arguments in support. The Nevada County Superintendent of Schools writes, “Under current procurement practices, many school districts face unnecessary delays for projects related to the repair, maintenance, and restoration of critical school facility assets. By implementing a task-order contracting framework, as outlined in the bill, school districts would be able to:

- Utilize pre-competed unit-cost pricing for projects under \$3 million, ensuring cost efficiency and budget certainty.
- Leverage the authority of Government Code 6502 to allow County Superintendents of Schools or individual school districts to create master contracts that expedite procurement processes.
- Ensure all public works contracts awarded under this legislation comply with prevailing wage and licensing standards, ensuring fair compensation and high-quality work.

This legislation builds upon best practices already in place for other public entities and provides a streamlined, competitive, and transparent procurement approach that reduces administrative burdens while maintaining fiscal responsibility. By enabling more efficient project execution, the bill will ultimately improve the quality and safety of school facilities for students and staff across the state.”

Recommended Committee Amendments. *Staff recommends that the bill be amended* as follows:

- Apply the authorization to school districts with an ADA of fewer than 2,500 students, rather than an ADA of 10,000, and COEs.
- Require, by January 1, 2030, a report to the Legislature on the use of the task order procurement contracting method. Require the report to be prepared by an independent third party and require the school district or COE to pay for the cost of the report. Authorize multiple school districts and COEs to work together to submit a single report reflecting each of the participating school districts and COEs.
- State that, except as otherwise provided, the task order procurement contracting method is not intended to change any guideline, criterion, procedure, or requirement of the governing board of the school district to let a contract for a project to the lowest responsible bidder or else reject all bids. This is aligned with the authorization for the LAUSD.
- Establish a sunset of the task order procurement method of five years, to January 1, 2031.

Related legislation. AB 439 (Wendy Carrillo), Chapter 523, Statutes of 2023, extends the pilot program authorizing the LAUSD to award multiple annual task order procurement contracts for the purposes that include services, repairs, and construction until January 1, 2034.

AB 2488 (O'Donnell), Chapter 129, Statutes of 2018, creates a five-year pilot program through January 1, 2024, to allow the LAUSD to award multiple task order procurement contracts through a single bid request for repairing and renovating school facilities.

AB 1431 (Gomez), Chapter 753, Statutes of 2015, extends the authority to utilize JOC to all school districts.

AB 14 (Horton), Chapter 889, Statutes of 2003, authorizes the LAUSD to engage in JOC as an alternative to traditional competitive bidding for smaller modernization and maintenance contracts.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Western Employers
Cal Save
Fieldturf
Gilroy Unified School District
Nevada County Superintendent of Schools
Small School Districts Association
Weatherproofing Technologies INC

Opposition

None on file

Analysis Prepared by: Marguerite Ries / ED. / (916) 319-2087