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AB-811 Los Angeles County Metropolitan Transportation Authority: contracting. (2021-2022)

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Assembly Bill No. 811

CHAPTER 414

An act to amend Section 130242 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 30, 2021. Filed with Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 811, Luz Rivas. Los Angeles County Metropolitan Transportation Authority: contracting.

Existing law creates the Los Angeles County Metropolitan Transportation Authority, with specified powers and duties with respect to transportation planning, programming, construction, and operations. Existing law authorizes the authority to enter into contracts with private entities that combine into a single contract all or some of the planning, design, permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of some or all components of transit systems and certain facilities. Existing law authorizes the authority to award a contract under these provisions after a finding, by a $\frac{2}{3}$ vote of the members of the authority, that awarding the contract will achieve for the authority, among other things, certain private sector efficiencies in the integration of design, project work, and components. Under existing law, a contract awarded pursuant to these provisions may include operation and maintenance elements if the inclusion of those elements meets certain requirements.

This bill would eliminate the requirement to make the above-described finding by a $\frac{2}{3}$ vote of the members of the authority in order to award contracts under these provisions. The bill would instead authorize the authority to award these contracts that include operation and maintenance elements after a finding, by a $\frac{2}{3}$ vote of the members of the authority, that awarding the contract will achieve for the authority a more competitive solicitation process with respect to quality, timeliness, price, and other private sector efficiencies, relevant to the integration of design, project work, and components.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 130242 of the Public Utilities Code is amended to read:

130242. (a) In addition to the other powers it possesses, the Los Angeles County Metropolitan Transportation Authority may enter into contracts with private entities, the scope of which may combine within a single contract all or some of the planning, design, permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of all or components of (1) transit systems, including, without limitation, passenger loading or intermodal station facilities, and (2) facilities on real property owned or to be owned by the authority. The authority may solicit or award contracts pursuant to this subdivision after a majority vote of the members of the authority.

(b) A contract awarded pursuant to this section may include operation and maintenance elements, if the inclusion of those elements (1) is necessary, in the reasonable judgment of the authority, to assess vendor representations and warranties, performance guarantees, or life-cycle efficiencies, and (2) does not conflict with collective bargaining agreements to which the authority is a party. The authority may award contracts pursuant to this subdivision after a finding, by a two-thirds vote of the members of the authority, that awarding the contract will achieve for the authority a more competitive solicitation process with respect to quality, timeliness, price, and other private sector efficiencies, relevant to the integration of design, project work, and components.

(c) Any construction, alteration, demolition, repairs, or other works of improvement performed under a contract awarded pursuant to this section shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and shall be enforced by the Department of Industrial Relations in the same way it carries out this responsibility under the Labor Code.

(d) A contract under this section shall be let to the lowest responsible bidder whose bid is responsive to the criteria set forth in the invitation for bids, or, at the authority's discretion, to a contractor chosen by a competitive bidding process that employs objective selection criteria that may include, but are not limited to, the proposed design approach, features, functions, life-cycle costs, and other criteria deemed appropriate by the authority, in addition to price. Notice requesting bids or proposals shall be published at least once in a newspaper of general circulation. For contracts estimated to exceed ten million dollars (\$10,000,000), publication shall be made at least 60 days before the receipt of the bids or price proposals. For contracts estimated not to exceed ten million dollars (\$10,000,000), publication shall be made at least 30 days before the receipt of the bids or price proposals. The authority, at its discretion, may reject any and all bids and proposals, and may readvertise. All bids and price proposals submitted pursuant to this section shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder security: (1) cash, (2) a cashier's check made payable to the authority, (3) a certified check made payable to the authority, or (4) a bidder's bond executed by an admitted surety insurer, made payable to the authority. Upon an award, the security of each unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the authority beyond 60 days from the time the award is made.

(e) When the design of portions of the project permits the selection of subcontractors, the contractor shall competitively bid those portions. The contractor shall provide to the authority a list of subcontractors whose work is in excess of one-half of 1 percent of the total project cost as soon as the subcontractors are identified. Once listed, the subcontractors shall have the rights provided in the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code).