



SB 1376 (Gonzalez) Local Contracting Transparency Act

SUMMARY

Senate Bill (SB) 1376 would create a pilot program to implement best practices for transparency in public contracting.

EXISTING LAW

Public Contracts Code §10111 requires state departments to submit annual reports about their contracting activity, which are then published by the Department of General Services.

BACKGROUND/PROBLEM

Public procurement is a powerful economic driver, accounting for an average 13% of gross domestic product among Organizations for Economic Co-Operation and Development (OECD) countries.¹ Public procurement is also a government's most prominent corruption risk, because large public projects often have unique features that make it harder to compare costs and easier to conceal bribes and inflated charges. Data on prosecutions tracked by the OECD Anti-Bribery Convention shows that 57% of bribes provided to local officials were paid to win public contracts.²

In California, local officials have significant authority over contracting and procurement on behalf of the people they serve. This has left room for instances of collusion to push through no-bid contracts, often for personal gain.³

¹<https://www.imf.org/en/Publications/fandd/issues/2019/09/the-true-cost-of-global-corruption-mauro>
² <https://www.oecd.org/newsroom/scale-of-international-bribery-laid-bare-by-new-oecd-report.htm>
³ <https://www.latimes.com/california/story/2022-04-25/former-dwp-general-manager-david-wright-sentencing>

In other instances, officials have accepted lavish bribes, gifts, and kickbacks in exchange for supporting bids by certain contractors.^{4,5} In recent reports on the subject, the California State Auditor found that many cities and special districts failed to comply with best practices for procuring and monitoring services and contracts.^{6,7,8}

The United Nations (UN) Guidebook on Anti-Corruption in Public Procurement and the Management of Public Finances emphasizes the important role that transparency plays in reducing corruption.⁹ Additionally, the federal Department of Justice recommends soliciting as many bids as possible, to decrease the risk of collusion.¹⁰

Globally, more than 50 governments have introduced open contracting principles, and major institutions like the Group of 7 (G7), UN, OECD, World Bank, and International Monetary Fund have endorsed the principle of open contracting.¹¹ Open contracting helps governments and the public understand what they're buying, who they're doing business with, and how their spending shapes the economic and social landscape. Open contracting also provides better linked data to track red flags and follow the money.

⁴ <https://www.justice.gov/usao-ndca/pr/former-san-francisco-public-works-director-sentenced-seven-years-federal-prison>

⁵ <https://www.justice.gov/usao-cdca/pr/mark-ridley-thomas-charged-along-former-university-dean-federal-grand-jury-indictment>

⁶ <https://www.auditor.ca.gov/reports/2021-807/index.html>

⁷ <https://www.auditor.ca.gov/reports/summary/2015-102>

⁸ <https://auditor.ca.gov/reports/2023-133/index.html>

⁹ https://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf

¹⁰ <https://www.justice.gov/atr/preventing-and-detecting-bid-rigging-price-fixing-and-market-allocation-post-disaster-rebuilding>

¹¹ <https://www.open-contracting.org/impact/evidence/>

In recent years, California has seen repeated instances of contractors and local government officials subverting best practices for contracting and procurement, which indicates the need for additional public transparency requirements at the local level.

SOLUTION

SB 1376 would establish a pilot program, with up to three local governments that will voluntarily submit specified information about their contracts to the Governor's Office of Planning and Research (OPR).

This bill will task the OPR with creating and maintaining a public database of information on local agency contracts. Following best practices, this data would comply with open contracting principles, including being publicly accessible, in an open format, and machine readable. These standards will allow for increased public insight into local government contracting practices.

SB 1376 will require OPR, in coordination with the California State Auditor, and the participating local entities, to review the published data and make annual recommendations to the legislature.

SUPPORT

None at this time

CONTACT

Aurora Schunemann, (916) 651-4033
Senate Majority Leader Lena Gonzalez
Aurora.Schunemann@sen.ca.gov

