



THE OFFICE OF SENATE MAJORITY WHIP
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SB 458 (Gonzalez) Local Government Contracting Transparency and Accountability

SUMMARY

Senate Bill (SB) 458 would add requirements for local agencies to increase transparency and accountability in their public contracting and procurement processes.

EXISTING LAW

Public Contracts Code §10111 requires that state departments submit annual reports about their contracting activity. These reports include breakdowns of contracting activity from the previous year and are published by the Department of General Services (DGS).

BACKGROUND/PROBLEM

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.

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

¹<https://www.imf.org/en/Publications/fandd/issues/2019/09/the-true-cost-of-global-corruption-mauro>

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 practices 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 Other 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 has cited examples of cities and special districts that failed to comply with best practices for procuring services and contracts.^{6,7}

Research has shown that transparency in contracting activity can reduce corruption.⁸ Specifically, 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

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>

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 <http://digiwhist.eu/publications/lights-on-the-shadows-of-public-procurement-transparency-in-government-contracting-as-an-antidote-to-corruption/>

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

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 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.

SOLUTION

SB 458 would add transparency requirements for local agency contracting and procurement by mirroring the current requirements for state agencies to publish publically available information about their contracting activity and applying them to local governments.

Following global best practices, this data would follow current open contracting principles, including being publicly accessible, in an open format, and machine readable. These standards will enable journalists, scholars, and government accountability groups to analyze who is awarded contracts and when competitive bidding is not followed. SB 458 would also require the California State Auditor to review the published data and make recommendations to the legislature on actions to reduce instances of corruption.

Finally, SB 458 would also require local governments to advertise for bids online, in addition to a newspaper of general circulation. This will further transparency and accessibility across all levels of government, help promote visibility into the contracting process, and promote competitive bidding. Advertising for bids online, in addition to a physical newspaper, will increase the visibility of available opportunities and expand the number of bidders who compete.

SUPPORT

Los Angeles County District Attorney
Open Contracting Partnership

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/>

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