

Assemblymember Wants Audit of Non-Competitive State Bids

BY SAMANTHA YOUNG | MAY 10, 2016



Assemblymember Brian Jones, R-Santee is sworn in for his second term in the Assembly in 2013. Photo courtesy Assm. Jones.

When the state of California needs a vendor, it often asks private entities and individuals to bid for the contract to get a good price. But exemptions in state law allow the state to award very large contracts without competition in certain circumstances.

Just how often such transactions occur and why is unknown, and they are the heart of a new audit request to the Joint Legislative Audit Committee.

“The use of non-competitive bid contracts has the effect of inflating the costs of goods and services utilized by state entities,” Assemblymember Brian Jones, R-Santee, wrote to the audit committee. “Their use should be minimized and avoided wherever possible.”

In a May 3 letter, Jones requested the California State Auditor conduct an audit of the California Department of General Services and the California Department of Technology “to evaluate the breadth and extent of the use of non-competitively bid contracts,” in the last five years.

His audit request came after he agreed to hold back a bill that would have required all

state agencies notify the Legislature when contemplating a non-competitive bid award of a \$1 million or greater.

Jones introduced AB 1991 earlier this year after he discovered one company had secured 34 contracts totaling \$75.3 million in two years, with each contract exempt from competitive bid requirements. That same unnamed company also won a single \$37.5 million competitive bid.

The contracts fell under one of the following categories of exemptions: Exempt by statute, Western States Contracting Alliance/Coop, Fair and Reasonable, Non-Competitive Bid (NCB), "Services are specifically exempt by policy," and Special Category Request.

State agencies are allowed to award NCB contracts when only one supplier or entity can provide a product or service or when additional work is needed under an already executed contract. Forms must be filled out that specify the need for the NCB, how the purchase conforms to Public Contract Code, the consequences of not making the purchase, how the price offered was determined to be fair and reasonable, and other information, according to an analysis of the bill.

In 2015, the Department of General Services reported 62 NCB contracts for \$1 million or more, the analysis said. The department tracks contract activity by those agencies required to register purchases, including the vendor's name, item category, purchase amount and other key data that are public record.

During an April hearing of the Assembly Accountability and Administrative Review Committee, lawmakers said they needed to know more about the extent of non-competitive bids. Jones agreed to request an audit in lieu of his bill.

Specifically, Jones would like the auditor to evaluate the following:

- What is the total number of contracts valued at \$1 million or more awarded?
- Of that total, how many were awarded without competitive bids?
- What legal authority (statute, regulation, policy) allowed the contracts to be awarded without competition?

- Using a representative sample of the no bid contracts: Was there a clear justification for why the contract should be non-competitive? Are the state laws being consistently applied throughout the sample?

The Joint Legislative Audit Committee is scheduled to meet May 25 to consider new audit requests.