



construction industry force account council

D. A. McCosker, President

Steve Harris, Vice President

Dave Thomas, Secretary

Mike Hester, Treasurer

February 1, 2013

Supervisor Vito Chiesa, Chairman
and members of the Board
Stanislaus County Board of Supervisors
1010 10th Street, Suite 6800
Modesto, CA 95354

RE: New rules for County Road Commissioners

Dear Supervisor Chiesa and members of the Board,

On January 1, 2013 a new law went into effect (AB 720 CHAPTER 683) that amends certain sections of the California Public Contract Code (PCC) and creates new requirements to the way that certain counties can use County Road Commissioner provisions.

With this letter, we are providing you and the members of your Board, with a copy of the letter and packet we sent to your Public Works Director to clarify the changes that will apply to your County. The packet includes the letter, a chart showing the amount your county can perform using county forces or day labor for new road construction or road reconstruction under the provisions of Road Commissioner, and a copy of the new law. This does not change your ability to use informal bidding or perform work under the \$45,000 limits you already use.

There are two new provisions of special interest to your Board:

- SECTION 1. Section 22031 (b)(2) that limits the total annual value of new road construction and road reconstruction to 30 percent of the total value of all work, except maintenance, performed by force account as reported by your staff and included in the Controller's Streets and Roads Annual Report as of January 1 of each year, and
- SECTION 1. Section 22031 (e) that requires that the Board of Supervisors or County Road Commissioner "shall declare its intention to use this authority prior to commencing work."

More details may be found in the attachment. The Construction Industry Force Account Council (CIFAC) would be happy to answer any questions you may have and serve the County as a resource.

Sincerely,

Cathryn A. Hilliard, Executive Director

cc: Richard Robinson, Chief Executive Officer

Attachments: 3

BOARD OF SUPERVISORS
2013 FEB - 5 A 10:45



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February 1, 2013

Matt Machado, Public Works Director
Stanislaus County
1716 Morgan Road
Modesto, CA 95358

RE: Public Contract Code Section 22031 Implementation

Dear Mr. Machado,

The Construction Industry Force Account Council (CIFAC) is a non-profit organization that monitors public entities for compliance with state bidding and contracting laws. Our goal is to assist public agencies in understanding and complying with California's Public Contract Code and related statutes. The purpose of this letter is to provide you with information you need to be in compliance with the changes that took place on January 1, 2013, in reference to the passage of AB 720 (2011 Statutes, Chapter 683).

AB 720 amended Public Contract Code (PCC) § 22031. This section of law now limits the amount of work that can be done under PCC § 20395 (c) for all counties who are signatory to the California Uniform Construction Cost Accounting Act and that have a population greater than 50,000. The attached chart shows the relevant numbers for the affected counties. The numbers used to establish the limits on the use of PCC § 20395 (c) were provided by the counties to the State Controller's Office and reported in the 2009 – 2010 Streets and Roads Report.

In addition, AB 720 required that all work performed under the procedures set forth in subdivision (c) of PCC § 20395 shall be declared prior to commencing work. This declaration is an integral part of the law, and will be the emphasis of CIFAC's monitoring process in the coming years. We remind you of this so your county can avoid any legal difficulties moving forward.

Please feel free to communicate with us if you have questions or concerns. It is our objective to ensure that these new requirements work well for both the counties and the construction industry. You can contact either our main office or the field representative for your geographical area, by using our website links at www.cifac.org.

Sincerely,

Cathryn Hilliard
CIFAC Executive Director

✓ cc: Board of Supervisors
Attachment: Chart, 2011 Statutes Chapter 683

AB 720 Compliance – 2013 Road Commissioner Limits

Pursuant to Public Contract Code Section 22031, effective January 1, 2013, all counties with a population over 50,000 who have voluntarily chosen to be subject to the California Uniform Public Construction Cost Accounting Act (CUPCCA) are subject to a cap on the value of new road construction and reconstruction that can be performed under the procedures set forth in subdivision (c) of PCC Section 20395. The cap on work performed under the procedures set forth in subdivision (c) of PCC Section 20395 is set at 30 percent of the total value of all work performed by force account other than maintenance as reported in the State Controller's Streets and Roads Annual Report as of January 1 of each year.

Pursuant to subdivision (e) of Public Contract Code Section 22031, all work performed under the procedures set forth in subdivision (c) of Section 20395 shall be declared prior to commencing work.

The value of work that can be performed under the procedures set forth in subdivision (c) of PCC Section 20395 for each CUPCCA member county with a population greater than 50,000 is as follows for calendar year 2013:

County	Force account work reported in State Controller's Streets and Roads Annual Report	30% Cap: Amount of work that can be performed under the procedures set forth in subdivision (c) of Section 20395 in calendar year 2013
Butte	\$ 3,167,776.00	\$ 950,332.80
Contra Costa	\$ 5,143,786.00	\$ 1,543,135.80
El Dorado	\$ 16,295,226.00	\$ 4,888,567.80
Fresno	\$ 12,329,626.00	\$ 3,698,887.80
Humboldt	\$ 3,507,350.00	\$ 1,052,205.00
Imperial	\$ 2,638,048.00	\$ 791,414.40
Kings	\$ 791,696.00	\$ 237,508.80
Lake	\$ 537,767.00	\$ 161,330.10
Madera	\$ 3,984,167.00	\$ 1,195,250.10
Marin	\$ 1,017,008.00	\$ 305,102.40
Mendocino	\$ 10,202,365.00	\$ 3,060,709.50
Napa	\$ 1,622,885.00	\$ 486,865.50
Orange	\$ 22,200,923.00	\$ 6,660,276.90
Riverside	\$ 23,137,538.00	\$ 6,941,261.40
Sacramento	\$ 15,137,435.00	\$ 4,541,230.50
San Bernardino	\$ 26,839,747.00	\$ 8,051,924.10
San Luis Obispo	\$ 8,094,103.00	\$ 2,428,230.90
San Mateo	\$ 3,725,632.00	\$ 1,117,689.60
Santa Barbara	\$ 6,132,322.00	\$ 1,839,696.60
Santa Clara	\$ 11,468,684.00	\$ 3,440,605.20
Shasta	\$ 3,231,257.00	\$ 969,377.10
Sonoma	\$ 5,049,369.00	\$ 1,514,810.70
Stanislaus	\$ 5,507,977.00	\$ 1,652,393.10
Tulare	\$ 5,103,700.00	\$ 1,531,110.00
Tuolumne	\$ 2,553,305.00	\$ 765,991.50
Ventura	\$ 7,831,943.00	\$ 2,349,582.90
Yolo	\$ 3,258,761.00	\$ 977,628.30
Yuba	\$ 1,360,610.00	\$ 408,183.00

Assembly Bill No. 720

CHAPTER 683

An act to amend Sections 22031, 22032, and 22034 of the Public Contract Code, relating to public contracts.

[Approved by Governor October 9, 2011. Filed with
Secretary of State October 9, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 720, Hall. Public contracts: uniform construction cost accounting provisions: alternative procedures.

Existing law establishes procedures for local public agencies to follow when engaged in public works projects, and authorizes agencies to elect to become subject to uniform construction cost accounting provisions. Existing law specifies that a board of supervisors or a county road commissioner is not prohibited by those provisions from utilizing, as an alternative, other procedures governing county highway contracts.

This bill would revise the above provision that specifies that a board of supervisors or a county road commissioner is not prohibited from using alternative procedures governing county highway contracts to limit the use of those alternative procedures on or after January 1, 2013, to maintenance and emergency work and new road construction and road reconstruction, as provided. The bill would permit counties with a population of less than 50,000, on or after January 1, 2013, to continue to utilize alternative procedures for county highway contracts.

Existing law authorizes public projects of \$30,000 or less to be performed by the employees of the public agency by force account, negotiated contract, or purchase order.

This bill would increase the amount for which public projects are authorized to be performed by the employees of the public agency, as specified above, to \$45,000.

Existing law also authorizes public projects of \$125,000 or less to be let to contract by informal procedures, as specified, and requires public projects of more than \$125,000 to be let to contract by formal bidding procedure, except as provided.

This bill would increase the above limits from \$125,000 to \$175,000.

Existing law governing public contracts establishes procedures that public agencies, as defined, are required to follow when performing public works projects, and authorizes the governing board of the public agency to adopt a resolution, by a 4/5 vote, to award the contract at \$137,500 or less to the lowest responsible bidder when all informal bids on the public works project are in excess of \$125,000.

This bill would increase the above limits from \$125,000 to \$175,000, and from \$137,500 to \$187,500, respectively.

The people of the State of California do enact as follows:

SECTION 1. Section 22031 of the Public Contract Code is amended to read:

22031. (a) Prior to January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

(b) On or after January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1 for both of the following:

(1) Maintenance and emergency work.

(2) New road construction and road reconstruction as long as the total annual value of the new road construction and the road reconstruction performed under the procedures set forth in subdivision (c) of Section 20395 does not exceed 30 percent of the total value of all work performed by force account other than maintenance as reported in the Controller's Streets and Roads Annual Report as of January 1 of each year.

(c) On or after January 1, 2013, for a county with a population of less than 50,000, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

(d) The requirements set forth in Section 22038 shall apply to any county subject to this section.

(e) Any county board of supervisors or county road commissioner acting pursuant to the authority granted in paragraph (2) of subdivision (b) shall declare its intention to use this authority prior to commencing work.

SEC. 2. Section 22032 of the Public Contract Code is amended to read:

22032. (a) Public projects of forty-five thousand dollars (\$45,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

(b) Public projects of one hundred seventy-five thousand dollars (\$175,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

SEC. 3. Section 22034 of the Public Contract Code is amended to read:

22034. Each public agency that elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) shall enact an informal bidding ordinance to govern the

selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:

(a) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission.

(b) All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary.

(c) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.

(d) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(e) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

(f) If all bids received are in excess of one hundred seventy-five thousand dollars (\$175,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.