

By: Shapleigh

S.B. No. 31

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the provision of a preference in governmental
3 purchasing decisions for vendors that provide health benefits to
4 employees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 44.031(b), Education Code, is amended to
7 read as follows:

8 (b) Except as provided by this subchapter, in determining to
9 whom to award a contract, the district may consider:

10 (1) the purchase price;

11 (2) the reputation of the vendor and of the vendor's
12 goods or services;

13 (3) the quality of the vendor's goods or services;

14 (4) the extent to which the goods or services meet the
15 district's needs;

16 (5) the vendor's past relationship with the district;

17 (6) the impact on the ability of the district to comply
18 with laws and rules relating to historically underutilized
19 businesses;

20 (7) the total long-term cost to the district to
21 acquire the vendor's goods or services; ~~and~~

22 (8) whether the vendor provides health benefits
23 coverage to its employees; and

24 (9) any other relevant factor specifically listed in

1 the request for bids or proposals.

2 SECTION 2. Subchapter B, Chapter 44, Education Code, is
3 amended by adding Section 44.0421 to read as follows:

4 Sec. 44.0421. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
5 BENEFITS COVERAGE. (a) A school district procuring goods or
6 services shall give preference to goods or services of a vendor that
7 demonstrates that the vendor provides health benefits coverage to
8 the vendor's employees if:

9 (1) the goods or services meet district specifications
10 regarding quantity and quality; and

11 (2) the cost of the goods or services does not exceed
12 the ultimate cost to the district that would result if the district
13 procured similar goods or services from a vendor that does not
14 demonstrate that the vendor provides health benefits coverage to
15 the vendor's employees.

16 (b) A school district may not give preference under this
17 section to a vendor that provides health benefits coverage to its
18 employees over a vendor with 50 or fewer employees that does not
19 provide health benefits coverage to its employees.

20 SECTION 3. Section 51.9335(b), Education Code, is amended
21 to read as follows:

22 (b) In determining what is the best value to an institution
23 of higher education, the institution shall consider:

24 (1) the purchase price;

25 (2) the reputation of the vendor and of the vendor's
26 goods or services;

27 (3) the quality of the vendor's goods or services;

1 (4) the extent to which the goods or services meet the
2 institution's needs;

3 (5) the vendor's past relationship with the
4 institution;

5 (6) the impact on the ability of the institution to
6 comply with laws and rules relating to historically underutilized
7 businesses and to the procurement of goods and services from
8 persons with disabilities;

9 (7) the total long-term cost to the institution of
10 acquiring the vendor's goods or services;

11 (8) any other relevant factor that a private business
12 entity would consider in selecting a vendor; ~~and~~

13 (9) the use of material in construction or repair to
14 real property that is not proprietary to a single vendor unless the
15 institution provides written justification in the request for bids
16 for use of the unique material specified; and

17 (10) whether the vendor provides health benefits
18 coverage to its employees.

19 SECTION 4. Subchapter Z, Chapter 51, Education Code, is
20 amended by adding Section 51.9336 to read as follows:

21 Sec. 51.9336. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
22 BENEFITS COVERAGE. (a) In this section, "institution of higher
23 education" has the meaning assigned by Section 61.003.

24 (b) An institution of higher education procuring goods or
25 services shall give preference to goods or services of a vendor that
26 demonstrates that the vendor provides health benefits coverage to
27 the vendor's employees if:

1 (1) the goods or services meet institution
2 specifications regarding quantity and quality; and

3 (2) the cost of the goods or services does not exceed
4 the ultimate cost to the institution that would result if the
5 institution procured similar goods or services from a vendor that
6 does not demonstrate that the vendor provides health benefits
7 coverage to the vendor's employees.

8 (c) An institution of higher education may not give
9 preference under this section to a vendor that provides health
10 benefits coverage to its employees over a vendor with 50 or fewer
11 employees that does not provide health benefits coverage to its
12 employees.

13 SECTION 5. Section 73.115(b), Education Code, is amended to
14 read as follows:

15 (b) In determining what is the best value to the
16 institution, the institution shall consider:

17 (1) the purchase price;

18 (2) the reputation of the vendor and of the vendor's
19 goods or services;

20 (3) the quality of the vendor's goods or services;

21 (4) the extent to which the goods or services meet the
22 institution's needs;

23 (5) the vendor's past relationship with the
24 institution;

25 (6) the impact on the ability of the institution to
26 comply with laws and rules relating to historically underutilized
27 businesses;

1 (7) the total long-term cost to the institution of
2 acquiring the vendor's goods or services; [~~and~~]

3 (8) as provided by Section 51.9336, whether the vendor
4 provides health benefits coverage to its employees; and

5 (9) any other relevant factor that a private business
6 entity would consider in selecting a vendor.

7 SECTION 6. Section 74.008(b), Education Code, is amended to
8 read as follows:

9 (b) In determining what is the best value to the medical
10 branch, the medical branch shall consider:

11 (1) the purchase price;

12 (2) the reputation of the vendor and of the vendor's
13 goods or services;

14 (3) the quality of the vendor's goods or services;

15 (4) the extent to which the goods or services meet the
16 medical branch's needs;

17 (5) the vendor's past relationship with the medical
18 branch;

19 (6) the impact on the ability of the medical branch to
20 comply with laws and rules relating to historically underutilized
21 businesses;

22 (7) the total long-term cost to the medical branch of
23 acquiring the vendor's goods or services; [~~and~~]

24 (8) as provided by Section 51.9336, whether the vendor
25 provides health benefits coverage to its employees; and

26 (9) any other relevant factor that a private business
27 entity would consider in selecting a vendor.

1 SECTION 7. Section 2155.074(b), Government Code, is amended
2 to read as follows:

3 (b) In determining the best value for the state, the
4 purchase price and whether the goods or services meet
5 specifications are the most important considerations. However, the
6 commission or other state agency may, subject to Subsection (c) and
7 Section 2155.075, consider other relevant factors, including:

8 (1) installation costs;

9 (2) life cycle costs;

10 (3) the quality and reliability of the goods and
11 services;

12 (4) the delivery terms;

13 (5) indicators of probable vendor performance under
14 the contract such as past vendor performance, the vendor's
15 financial resources and ability to perform, the vendor's experience
16 or demonstrated capability and responsibility, and the vendor's
17 ability to provide reliable maintenance agreements and support;

18 (6) the cost of any employee training associated with
19 a purchase;

20 (7) the effect of a purchase on agency productivity;

21 (8) the vendor's anticipated economic impact to the
22 state or a subdivision of the state, including potential tax
23 revenue and employment;

24 (9) whether the vendor provides health benefits
25 coverage to its employees; and

26 (10) [~~9~~] other factors relevant to determining the
27 best value for the state in the context of a particular purchase.

1 SECTION 8. Subchapter H, Chapter 2155, Government Code, is
2 amended by adding Section 2155.452 to read as follows:

3 Sec. 2155.452. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
4 BENEFITS COVERAGE. (a) The commission and all state agencies
5 procuring goods or services shall give preference to goods or
6 services of a vendor that demonstrates that the vendor provides
7 health benefits coverage to the vendor's employees if:

8 (1) the goods or services meet state specifications
9 regarding quantity and quality; and

10 (2) the cost of the goods or services does not exceed
11 the ultimate cost to the commission or state agency that would
12 result if the commission or state agency procured similar goods or
13 services from a vendor that does not demonstrate that the vendor
14 provides health benefits coverage to the vendor's employees.

15 (b) The commission or a state agency may not give preference
16 under this section to a vendor that provides health benefits
17 coverage to its employees over a vendor with 50 or fewer employees
18 that does not provide health benefits coverage to its employees.

19 SECTION 9. Section 252.043(b), Local Government Code, is
20 amended to read as follows:

21 (b) In determining the best value for the municipality, the
22 municipality may consider:

23 (1) the purchase price;

24 (2) the reputation of the bidder and of the bidder's
25 goods or services;

26 (3) the quality of the bidder's goods or services;

27 (4) the extent to which the goods or services meet the

1 municipality's needs;

2 (5) the bidder's past relationship with the
3 municipality;

4 (6) the impact on the ability of the municipality to
5 comply with laws and rules relating to contracting with
6 historically underutilized businesses and nonprofit organizations
7 employing persons with disabilities;

8 (7) the total long-term cost to the municipality to
9 acquire the bidder's goods or services; ~~and~~

10 (8) whether the bidder provides health benefits
11 coverage to its employees; and

12 (9) any relevant criteria specifically listed in the
13 request for bids or proposals.

14 SECTION 10. Subchapter C, Chapter 252, Local Government
15 Code, is amended by adding Section 252.0431 to read as follows:

16 Sec. 252.0431. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
17 BENEFITS COVERAGE. (a) A municipality procuring goods or services
18 shall give preference to goods or services of a vendor that
19 demonstrates that the vendor provides health benefits coverage to
20 the vendor's employees if:

21 (1) the goods or services meet municipal
22 specifications regarding quantity and quality; and

23 (2) the cost of the goods or services does not exceed
24 the ultimate cost to the municipality that would result if the
25 municipality procured similar goods or services from a vendor that
26 does not demonstrate that the vendor provides health benefits
27 coverage to the vendor's employees.

1 (b) A municipality may not give preference under this
2 section to a vendor that provides health benefits coverage to its
3 employees over a vendor with 50 or fewer employees that does not
4 provide health benefits coverage to its employees.

5 SECTION 11. Subchapter C, Chapter 262, Local Government
6 Code, is amended by adding Section 262.0272 to read as follows:

7 Sec. 262.0272. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
8 BENEFITS COVERAGE. (a) The commissioners court of a county
9 procuring goods or services shall give preference to goods or
10 services of a vendor that demonstrates that the vendor provides
11 health benefits coverage to the vendor's employees if:

12 (1) the goods or services meet county specifications
13 regarding quantity and quality; and

14 (2) the cost of the goods or services does not exceed
15 the ultimate cost to the county that would result if the
16 commissioners court procured similar goods or services from a
17 vendor that does not demonstrate that the vendor provides health
18 benefits coverage to the vendor's employees.

19 (b) A commissioners court may not give preference under this
20 section to a vendor that provides health benefits coverage to its
21 employees over a vendor with 50 or fewer employees that does not
22 provide health benefits coverage to its employees.

23 (c) This section does not apply if the commissioners court
24 chooses to give preference to a bidder as provided by Section
25 262.0271.

26 SECTION 12. Subchapter C, Chapter 271, Local Government
27 Code, is amended by adding Section 271.0571 to read as follows:

1 Sec. 271.0571. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
2 BENEFITS COVERAGE. (a) A municipality or county procuring goods or
3 services shall give preference to goods or services of a vendor that
4 demonstrates that the vendor provides health benefits coverage to
5 the vendor's employees if:

6 (1) the goods or services meet municipal or county
7 specifications regarding quantity and quality; and

8 (2) the cost of the goods or services does not exceed
9 the ultimate cost to the municipality or county that would result if
10 the municipality or county procured similar goods or services from
11 a vendor that does not demonstrate that the vendor provides health
12 benefits coverage to the vendor's employees.

13 (b) A municipality or county may not give preference under
14 this section to a vendor that provides health benefits coverage to
15 its employees over a vendor with 50 or fewer employees that does not
16 provide health benefits coverage to its employees.

17 SECTION 13. Section 271.113, Local Government Code, is
18 amended by adding Subsection (c) to read as follows:

19 (c) In addition to other considerations under this section,
20 in determining to whom to award a contract, a municipality or county
21 may consider whether the vendor provides health benefits coverage
22 to its employees.

23 SECTION 14. Subchapter H, Chapter 271, Local Government
24 Code, is amended by adding Section 271.1131 to read as follows:

25 Sec. 271.1131. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
26 BENEFITS COVERAGE. (a) A municipality or county procuring goods or
27 services shall give preference to goods or services of a vendor that

1 demonstrates that the vendor provides health benefits coverage to
2 the vendor's employees if:

3 (1) the goods or services meet municipal or county
4 specifications regarding quantity and quality; and

5 (2) the cost of the goods or services does not exceed
6 the ultimate cost to the municipality or county that would result if
7 the municipality or county procured similar goods or services from
8 a vendor that does not demonstrate that the vendor provides health
9 benefits coverage to the vendor's employees.

10 (b) A municipality or county may not give preference under
11 this section to a vendor that provides health benefits coverage to
12 its employees over a vendor with 50 or fewer employees that does not
13 provide health benefits coverage to its employees.

14 SECTION 15. The changes in law made by this Act apply only
15 to a contract for the procurement of goods or services for which the
16 solicitation of bids or proposals, request for proposals, or
17 similar required notification as to the goods or services is
18 published on or after September 1, 2006. A contract for the
19 procurement of goods or services for which the solicitation of bids
20 or proposals, request for proposals, or similar required
21 notification as to the goods or services is published before
22 September 1, 2006, is governed by the law in effect at the time the
23 solicitation, request, or notification is published, and that law
24 is continued in effect for that purpose.

25 SECTION 16. This Act takes effect September 1, 2006.