

By: Shapleigh S.B. No. 70
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COMMITTEE SUBSTITUTE FOR S.B. No. 70 By: Williams

A BILL TO BE ENTITLED
AN ACT

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

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

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

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

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's
goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the
district's needs;
- (5) the vendor's past relationship with the district;
- (6) the impact on the ability of the district to comply
with laws and rules relating to historically underutilized
businesses;
- (7) the total long-term cost to the district to
acquire the vendor's goods or services; ~~and~~
- (8) whether the vendor provides health benefits
coverage to employees; and
- (9) any other relevant factor specifically listed in
the request for bids or proposals.

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

Sec. 44.0421. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
BENEFITS COVERAGE. (a) A district procuring goods or services
shall give preference to goods or services of a vendor that
demonstrates that the vendor provides health benefits coverage that
is at least equivalent to a standard health benefit plan offered in
accordance with Article 3.80, Article 20A.09N, or Chapter 1507,
Insurance Code, to each of the vendor's full-time employees and
dependents of full-time employees if:

- (1) the goods or services meet district specifications
regarding quantity and quality; and
- (2) the cost of the goods or services does not exceed
the ultimate cost to the district that would result if the district
procured similar goods or services from a vendor that does not
demonstrate that the vendor provides health benefits coverage to
the vendor's employees and employees' dependents.

(b) A district may not give preference under this section to
a vendor that provides health benefits coverage to its employees
and employees' dependents over a vendor with 50 or fewer employees
that does not provide health benefits coverage to its employees and
employees' dependents.

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

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

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's
goods or services;
- (3) the quality of the vendor's goods or services;

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

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

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

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

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

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

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

SECTION 4. Subchapter 2, Chapter 51, Education Code, is amended by adding Section 51.9336 to read as follows:

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

(b) An institution of higher education procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

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

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

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

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

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

(1) the purchase price;

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

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

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

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

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

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

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

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

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

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

(1) the purchase price;

(2) the reputation of the vendor and of the vendor's

goods or services;
 (3) the quality of the vendor's goods or services;
 (4) the extent to which the goods or services meet the medical branch's needs;
 (5) the vendor's past relationship with the medical branch;
 (6) the impact on the ability of the medical branch to comply with laws and rules relating to historically underutilized businesses;

(7) the total long-term cost to the medical branch of acquiring the vendor's goods or services; ~~and~~
 (8) as provided by Section 51.9336, whether the vendor provides health benefits coverage to employees; and
 (9) any other relevant factor that a private business entity would consider in selecting a vendor.

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

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

(1) installation costs;
 (2) life cycle costs;
 (3) the quality and reliability of the goods and services;
 (4) the delivery terms;
 (5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
 (6) the cost of any employee training associated with a purchase;

(7) the effect of a purchase on agency productivity;
 (8) the vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment; ~~and~~

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

(10) other factors relevant to determining the best value for the state in the context of a particular purchase.

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

Sec. 2155.452. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) The commission and all state agencies procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

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

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

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

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

(b) In determining the best value for the municipality, the

municipality may consider:

- (1) the purchase price;
- (2) the reputation of the bidder and of the bidder's goods or services;
- (3) the quality of the bidder's goods or services;
- (4) the extent to which the goods or services meet the municipality's needs;
- (5) the bidder's past relationship with the municipality;
- (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- (7) the total long-term cost to the municipality to acquire the bidder's goods or services; ~~and~~
- (8) whether the bidder provides health benefits coverage to employees; and
- (9) any relevant criteria specifically listed in the request for bids or proposals.

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

Sec. 252.0431. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) A municipality procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

- (1) the goods or services meet municipality specifications regarding quantity and quality; and
- (2) the cost of the goods or services does not exceed the ultimate cost to the municipality that would result if the municipality procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

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

SECTION 11. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.0271 to read as follows:

Sec. 262.0271. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) The commissioners court of a county procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

- (1) the goods or services meet county specifications regarding quantity and quality; and
- (2) the cost of the goods or services does not exceed the ultimate cost to the county that would result if the commissioners court procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

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

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

Sec. 271.0571. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) A municipality or county procuring goods

or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

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

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

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

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

(c) In addition to other considerations under this section, in determining to whom to award a contract, a municipality or county may consider whether the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees.

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

Sec. 271.1131. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) A municipality or county procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

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

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

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

SECTION 15. The changes in law made by this Act apply only to a contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar required notification as to the goods or services is published on or after September 1, 2005. A contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar required notification as to the goods or services is published before September 1, 2005, is governed by the law in effect at the time the solicitation, request, or notification is published, and that law is continued in effect for that purpose.

SECTION 16. This Act takes effect September 1, 2005.

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