

By: Davis of Harris

H.B. No. 1246

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the provision of a preference in certain governmental
3 purchasing decisions for vendors or contractors that provide health
4 care benefits or equivalent health savings benefits to 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 shall 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 care benefits
23 or equivalent health savings benefits to 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 CARE BENEFITS OR EQUIVALENT HEALTH SAVINGS BENEFITS. (a) A school
6 district procuring goods or services shall give preference to goods
7 or services of a vendor that demonstrates that the vendor provides
8 health care benefits or equivalent health savings benefits to the
9 vendor's employees if:

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

12 (2) the cost of the goods or services does not exceed
13 the cost of similar goods or services produced by a vendor that does
14 not demonstrate that the vendor provides health care benefits or
15 equivalent health savings benefits to the vendor's employees.

16 (b) A contract awarded to a vendor using the preference
17 under this section must include terms that allow the district to
18 terminate the contract if the vendor at any time during the life of
19 the contract does not continue to provide health care benefits or
20 equivalent health savings benefits at a level comparable to the
21 level the vendor claimed to provide in its demonstration under
22 Subsection (a).

23 SECTION 3. Section 2155.074(b), Government Code, is amended
24 to read as follows:

25 (b) In determining the best value for the state, the
26 purchase price and whether the goods or services meet
27 specifications are the most important considerations. However, the

1 commission or other state agency may, subject to Subsection (c) and
2 Section 2155.075, consider other relevant factors, including:

3 (1) installation costs;

4 (2) life cycle costs;

5 (3) the quality and reliability of the goods and
6 services;

7 (4) the delivery terms;

8 (5) indicators of probable vendor performance under
9 the contract such as past vendor performance, the vendor's
10 financial resources and ability to perform, the vendor's experience
11 or demonstrated capability and responsibility, and the vendor's
12 ability to provide reliable maintenance agreements and support;

13 (6) the cost of any employee training associated with
14 a purchase;

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

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

19 (9) whether the vendor provides health care benefits
20 or equivalent health savings benefits to the vendor's employees;

21 and

22 (10) [~~(9)~~] other factors relevant to determining the
23 best value for the state in the context of a particular purchase.

24 SECTION 4. Subchapter H, Chapter 2155, Government Code, is
25 amended by adding Section 2155.454 to read as follows:

26 Sec. 2155.454. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
27 CARE BENEFITS OR EQUIVALENT HEALTH SAVINGS BENEFITS. (a) The

1 comptroller and all state agencies procuring goods or services
2 shall give preference to goods or services of a vendor that
3 demonstrates that the vendor provides health care benefits or
4 equivalent health savings benefits to the vendor's employees if:

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

7 (2) the cost of the goods or services does not exceed
8 the cost of other similar goods or services produced by a vendor
9 that does not demonstrate that the vendor provides health care
10 benefits or equivalent health savings benefits to the vendor's
11 employees.

12 (b) A contract awarded to a vendor using the preference
13 under this section must include terms that allow the comptroller or
14 a state agency to terminate the contract if the vendor at any time
15 during the life of the contract does not continue to provide health
16 care benefits or equivalent health savings benefits at a level
17 comparable to the level the vendor claimed to provide in its
18 demonstration under Subsection (a).

19 SECTION 5. Section 44.0421, Education Code, and Section
20 2155.454, Government Code, as added by this Act, apply only to a
21 contract for the procurement of goods and services for which the
22 solicitation of bids or proposals, request for proposals, or
23 similar request for offers to provide the goods or services is first
24 published on or after September 1, 2009. A contract for the
25 procurement of goods and services for which the solicitation of
26 bids or proposals, request for proposals, or similar request for
27 offers to provide the goods or services is first published before

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1 September 1, 2009, is governed by the law in effect at the time the
2 solicitation or request is published, and that law is continued in
3 effect for that purpose.

4 SECTION 6. This Act takes effect September 1, 2009.