

Date of Hearing: June 28, 2017

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Susan Talamantes Eggman, Chair

SB 574 (Lara) – As Introduced February 17, 2017

SENATE VOTE: 26-13

SUBJECT: University of California: contracts: bidding

SUMMARY: Modifies the requirements to qualify as a lowest responsible bidder or best value awardee for certain types of contracts at the University of California (UC). Specifically, **this bill:**

- 1) Requires a bidder to certify in writing that its employees are compensated at a level that does not undercut, by more than five percent, the average per-employee value of total compensation for UC employees who perform comparable work at a campus, medical center, or laboratory.
- 2) Applies to contracts for building maintenance, cleaning or custodial services, call center services, dining and food services, gardening, grounds keeping and plant nursery services, laborer services, mailroom services, parking, shuttle bus, transportation services, security services, storekeeper services, truck driving services, patient care technical employee services, patient billing services, medical transcribing services, patient escort services, and nursing assistant services.
- 3) Makes the \$100,000 threshold for competitive bidding of contracts for goods, materials and services to be performed applicable to any renewal or extension of an existing contract if it involves an expenditure of \$100,000 or more annually.
- 4) Requires UC to include in its request for proposals a calculation of the average per-employee value of total compensation for employees who perform comparable work at the relevant campus, medical center or laboratory, and specifies that the calculation uses known cost escalators to project future compensation amounts.
- 5) Requires a bidder to certify in writing that it has not been found liable for violations of compensation, work hours, or working conditions related to provisions of the Penal Code, or Labor Code, as specified, or any wage order issued by the Industrial Welfare Commission (IWC) for specified amounts, within the prior five years.
- 6) Makes the records provided by the bidder or contractor subject to public records act laws, as specified and authorizes the UC to redact any confidential information, and to delay response until after a bid process is complete, if applicable.
- 7) Exempts the application of these requirements to employees who are mentally or physically handicapped, or both, who have been issued a license for employment at less than minimum wage by the IWC.
- 8) Exempts public works projects conducted by public agencies from these requirements.
- 9) Becomes operative on January 1, 2019.

EXISTING LAW:

- 1) Specifies the requirements and procedures for competitive bidding at UC.
- 2) Requires UC to let any contract involving an expenditure of \$100,000 or more annually for goods and materials, or for services to be performed (other than personal or professional services) to the lowest responsible bidder.
- 3) Authorizes the UC, when it determines that it can expect long-term savings, as specified, to select the lowest responsible bidder on the basis of the best value to UC.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) UC estimates this measure will increase total annual costs by \$88 million. These costs will come from a variety of UC fund sources, including the General Fund, federal funds, auxiliary funds, and enterprise funds, such as funds from the medical centers.
- 2) UC also estimates costs of \$500,000 - \$700,000 to comply with the bill's administrative requirements.

COMMENTS: This bill requires a bidder for certain types of contracts to certify that its employees are compensated in line with UC employees who perform similar work. Specifically, the gap for contracted workers cannot be more than five percent less than the average per-employee value of total compensation for UC employees who perform comparable work at a campus, medical center, or laboratory.

According to the author, "this bill seeks to address the growing challenge to California of the use of contingent workers to replace employees, and the consequential effect it has on wages and worker protections. . . These arrangements are bad for workers, who receive lower wages and less workplace protections, bad for taxpayers as government shoulders the burden of providing benefits and support to these employees, and bad for conscientious employers who are placed at a competitive disadvantage in the market."

A 2012 UC Berkeley Labor Center report, titled, "Temporary Workers in California are Twice as Likely as Non-Temps to Live in Poverty: Problems with Temporary and Subcontracted Work in California," found that temporary and subcontracted employees are twice as likely as non-temporary employees to live in poverty, receive food stamps, and be on Medicaid. It also concludes that temporary and subcontracted employees earned roughly 18 percent less than equivalent non-temporary employees of the same age, gender, and ability.

The sponsor of this bill, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME), states that it will "help to stem the troubling and growing trend of depressed wages and labor abuse among contracted out workers."

UC opposes this bill, stating it will increase costs by more than \$88 million per year, create administrative burdens, limit small bidders to compete for UC contracts, and undercut UC's efforts to streamline operations and make contracting more efficient. According to UC, it "only contracts out in instances where there is a need for special expertise or experience, for short-term

or temporary staffing needs, for special services and equipment that are not available internally, or for services at a leased facility where the services are provided by the owner."

In 2015, UC adopted the Fair Wage/Fair Work Plan, which phased in a minimum hourly wage for both UC employees and contract workers. Currently, the wage is \$14 per hour and is scheduled to reach \$15 per hour later this year.

The Governor has vetoed bills similar to this one over the past two years. In the veto message of SB 376 (Lara) of 2015, the Governor referenced the Fair Wage/Fair Work Plan and stated that while the bill's goal to increase compensation was "well-intentioned," he was "not prepared to embrace the provisions of this bill."

SB 959 (Lara) of 2016 was nearly identical to SB 574. In that veto message, the Governor stated that before moving forward with a bill, the author should wait for the results of an audit he requested about UC contracting practices. According to the veto message, "this process will likely yield some number of recommendations for change, and it would be prudent to await the recommendations from the State Auditor before embarking on the path prescribed by this bill."

The audit has not yet been issued, but is estimated to be released in August 2017. According to the author's office, the author intends to incorporate recommendations from the audit into the provisions of this bill.

DOUBLE REFERRAL: Should this bill pass this committee, it will be referred to the Assembly Higher Education Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

AFSCME (sponsor)
California Immigrant Policy Center
California Labor Federation, AFL-CIO

Opposition

California Chamber of Commerce
Chambers of Commerce Alliance of Ventura and Santa Barbara Counties
UC
USCB America Inc.

Analysis Prepared by: Scott Herbstman / A. & A.R. / (916) 319-3600