

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Susan Talamantes Eggman, Chair

AB 1080 (Gonzalez Fletcher) – As Amended April 19, 2017

SUBJECT: Public contracts: bid preferences: employee health care expenditures

SUMMARY: Provides a 2% bid preference on state public works projects for bidders who provide employees credible health care coverage. Specifically, **this bill:**

- 1) Defines "credible health care coverage."
- 2) Applies to state agencies as defined as a department, division, board, bureau, commission, or agency of the executive branch.
- 3) Specifies that to qualify for the preference, the bidder and subcontractors must have provided health coverage to employees for the 12-month prior to the submission of the bid.
- 4) Requires the bidder and subcontractor to continue providing health coverage for at least one year after the bid acceptance, and specifies a penalty for failing to do so.
- 5) Requires the Department of General Services (DGS), working with the Department of Industrial Relations (DIR), to develop a form to certify bidders and subcontractors qualify for the bid preference.
- 6) Subjects a person or entity that knowingly provides false information in the certification to civil penalties.
- 7) Requires the winning bidder and its subcontractors that have claimed the preference to supply the state agency with records sufficient to show that the bidder is entitled to the preference.

EXISTING LAW:

- 1) Generally requires public works projects to be awarded to the lowest responsible bidders.
- 2) Provides specified bid preferences in state contracting.

FISCAL EFFECT: Unknown

COMMENTS: This bill provides a 2% bid preference on state public works projects to bidders that provide their employees with credible health care coverage. It defines credible health care coverage as "any group policy, contract, or program that is written or administered by a disability insurer, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, that arranges or provides medical, hospital, and surgical coverage not designated to supplement other private or governmental plans."

According to the author, the state should encourage businesses to provide health coverage, especially in light of recent efforts to repeal the Affordable Care Act. The author states that the "bid preference will serve as a contractor incentive to provide health care to their employees,

serving as a prudent objective in an industry with relatively high health risks and low rates of healthcare coverage."

To be eligible for the preference, the bidder and all subcontractors will have had to provide the coverage for at least 12 months before the bid submission and agree to continue to provide coverage for at least one year after the acceptance of the bid. If the bidder or subcontractor fail to provide the coverage for the year after the bid, they would have to pay the state agency twice the costs that they would have incurred for health care coverage if they had complied.

Additionally, this bill requires DGS to work with DIR to create a form to certify bidders and subcontractors, and requires all bidders and subcontractors use this form. It subjects a person or entity that knowingly provides false information in the certification to civil penalties of between \$2,500 and \$25,000 per violation.

For winning bids, this bill requires the bidder and subcontractors who have claimed the preference to provide documentation showing they are eligible for the preference. Failure to provide the records within a reasonable time will result in a denial of the preference.

While existing law generally requires the state to award bids to the lowest responsible bidder, there are some exceptions. For example, the state has a 5% contracting preference for Certified Small Businesses. DGS specifies in the State Contracting Manual how to implement this evaluation. Specifically, it states "the bid of a certified small business is reduced for evaluation purposes by 5% of the lowest cost offered by a noncertified small business." A similar method could be used to calculate the preference specified in this bill.

PRIOR LEGISLATION: AB 1853 (Huffman) of 2010 was substantially similar to this bill until it was amended to a different subject area.

REGISTERED SUPPORT / OPPOSITION:

Support

State Building & Construction Trades Council of California

Opposition

American Fire Sprinkler Association
Associated Builders and Contractors Central California Chapter
Associated Builders and Contractors of San Diego Chapter
Associated Builders and Contractors Southern California Chapter
Independent Roofing Contractors of California, Inc.
Plumbing-Heating-Cooling Contractors Association of California
Western Electrical Contractors Association

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