

SUBJECT: Allowing all local governments to use competitive sealed proposals

COMMITTEE: Government Reform — favorable, without amendment

VOTE: 6 ayes — Callegari, Berman, Leibowitz, Miles, Rodriguez, W. Smith

0 nays

1 absent — Pitts

WITNESSES: For — Carol Cooper, Texas Purchasing Management Association; Cyd V. Grimes, Texas County Purchasing Association; Debbie Nye, city of McKinney; (*Registered, but did not testify*: Shanna Igo, Texas Municipal League; John Kroll, town of Little Elm; Donald Lee, Texas Conference of Urban Counties; Brian Sledge, city of Garland)

Against — None

BACKGROUND: Local Government Code, sec. 252.021 requires cities spending more than \$25,000 for goods or services to use a competitive method to award the contract, including:

- competitive sealed *bidding* or competitive sealed *proposals*;
- reverse auctions where bids are submitted in real time to an Internet site; or
- alternative methods permitted to award contracts for construction and repairs of buildings and other infrastructure.

Local Government Code, sec. 252.021(b) requires a city with a population of less than 25,000 to use competitive sealed bidding to spend more than \$5,000 to purchase insurance. Sec. 252.021(c) allows a city with a population of more than 25,000 to use a competitive sealed proposal procedure to purchase insurance. It also allows all cities to use competitive sealed proposals to purchase high technology items.

Sec. 252.042 allows a city council that submitted a request for proposal under sec. 252.021 to meet with a responding entity to determine the bidder's qualifications and discuss and revise the proposal. Sec. 252.043

lists the criteria, including purchase price, used to determine which bid or proposal would be the best value for the city.

Local Government Code, sec. 262.030(d) restricts the ability to use competitive proposal methods to buy insurance or high technology items to counties that have at least 1 million inhabitants.

DIGEST:

HB 3517 would amend Local Government Code, sec. 252.021 to remove the population restrictions and allow all cities to use competitive sealed proposal methods for purchases of more than \$25,000, including insurance and high technology items.

City councils could evaluate sealed proposals to determine best value according to Local Government Code, sec. 252.043(b) and would be able to meet with those making the proposals as provided by Local Government Code, sec. 252.042. Each city could designate a representative as a purchasing agent, and a city council that wished to use a method other than competitive sealed bidding would be required to determine beforehand the method of purchase providing the best value for the city.

The bill also would allow any county with a purchasing agent to use competitive sealed methods to make purchases, including those for insurance and high technology items.

The bill would take effect on September 1, 2007.

**SUPPORTERS
SAY:**

HB 3517 would benefit local governments, bidders, and taxpayers by providing flexibility in the purchasing process and ensuring that goods and services were acquired at the right price and on a timely basis. Unlike a competitive sealed bid, where all the terms of the contract are set before the bid is submitted, competitive sealed proposals allow the government entity to evaluate the terms of the proposal and negotiate with the vendor to obtain the best contract, especially for items with highly volatile prices or fluctuating delivery demands. This process gives bidders a fair chance to compete for public contracts if factors besides the lowest price are considered.

Use of competitive sealed proposals helps reduce the risk for both local governments and bidders. Even carefully designed specifications cannot anticipate all contingencies. When changes must be made after a sealed

bid process is used, the governing body must reject all bids and start the process again, which can be expensive and time-consuming. HB 3517 still would require that local governments follow existing safeguards for evaluating proposals and determine best value when using competitive sealed proposals.

Even smaller cities and counties have to purchase items more sophisticated than calculators and concrete. HB 3517 merely would remove the unnecessary population brackets. The bill would be permissive, and local governments still could use sealed bids for purchasing standard items.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

On April 18, the Senate by 31-0 passed a related bill, SB 1765 by Watson, which would amend Local Government Code, sec. 252.021 to require competitive bidding methods for contracts of \$50,000, rather than the current limit of \$25,000.