

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 376

Introduced by Senator Lara

February 24, 2015

An act to amend Section 10507.7 of, and to add Section 10507.6 to, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as amended, Lara. Public contracts: University of California.

Existing provisions of the California Constitution provide that the University of California constitutes a public trust and require the university to be administered by the Regents of the University of California (regents), a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes, including such competitive bidding procedures as may be applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Existing law requires the regents, except as provided, to let all contracts involving an expenditure of \$100,000 or more annually for goods and materials or services, excepting personal or professional services, to the lowest responsible bidder meeting certain specifications, or to reject all bids. Existing law, until January 1, 2018, also authorizes the bid evaluation and selection for these contracts to be determined by the best value.

This bill would require a bidder, to qualify as a lowest responsible bidder or best value awardee on contracts for specified services, to

certify in writing to the University of California (UC) that the bid includes a total employee compensation package that is valued on a per-employee basis at a level sufficient that it does not materially undercut the average per-employee value of total compensation for UC employees who perform comparable work at the relevant campus, medical center, or laboratory at which the bidder proposes to perform the work. The bill would require the UC to include in its request for proposals a calculation of the average per-employee value of total compensation for UC employees who perform comparable work at the relevant location, as prescribed. The bill, with respect to contracts for services involving an expenditure of \$100,000 or more, would not except personal services from the lowest responsible bidder requirement. The bill would require contracts for services involving an expenditure of \$100,000 or more annually to include any renewals or extensions of the contract that would result in an expenditure of \$100,000 or more annually.

This bill would exclude specified employees and public works from these provisions, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) It is a matter of statewide concern that responsible
- 3 competitive bidding at the University of California not undercut
- 4 the wages and benefits provided by the University of California
- 5 for comparable work, given that a significant percentage of
- 6 University of California employees already are eligible for public
- 7 benefits and any material decrease in the compensation of
- 8 employees performing such work would result in materially
- 9 increased General Fund costs for the provision of benefits.
- 10 (b) It is a matter of statewide concern that the University of
- 11 California not repeat past instances in which public resources have
- 12 been squandered via contracting out to for-profit private contractors
- 13 that charge significant administrative overhead.
- 14 SEC. 2. Section 10507.6 is added to the Public Contract Code,
- 15 to read:
- 16 10507.6. (a) For the purposes of this article, to qualify as a
- 17 lowest responsible bidder or best value awardee on any contract

1 for building maintenance, cleaning, or custodial services, call
2 center services, *clerical services*, dining and food services, ~~grounds~~
3 ~~keeping~~ gardening, *grounds keeping and plant nursery services*,
4 laborer services, mailroom services, ~~parking~~ parking, *shuttle bus*,
5 *truck driving*, or transportation services, security services, ~~or~~
6 *storekeeper services*, patient care technical employee services,
7 *patient billing services*, *medical transcribing services*, *patient*
8 *escort services*, or nursing assistant services, a bidder shall certify
9 in writing to the University of California that the bid includes a
10 total employee compensation package, including fringe benefits,
11 that is valued on a per-employee basis at a level sufficient that it
12 does not materially undercut the average per-employee value of
13 total compensation, including fringe benefits, for employees of
14 the University of California who perform comparable work at the
15 relevant campus, medical center, or laboratory at which the bidder
16 proposes to perform the work.

17 (b) The University of California shall implement this section
18 by including in its request for proposals a calculation of the average
19 per-employee value of total compensation, including fringe
20 benefits, for employees of the University of California who perform
21 comparable work at the relevant campus, medical center, or
22 laboratory, and that calculation shall use all known cost escalators
23 to project the future rate of growth of average per-employee total
24 compensation costs.

25 The requirements of this section shall not apply to employees
26 subject to Section 1191.5 of the Labor Code or Section 214(c) of
27 Title 29 of the United States Code. Any employees covered by
28 Section 1191.5 of the Labor Code or Section 214(c) of Title 29 of
29 the United States Code shall be omitted from all calculations and
30 certifications required by this article.

31 (c) This section does not apply to any work subject to Chapter
32 1 (commencing with Section 1720) of Part 7 of Division 2 of the
33 Labor Code.

34 SEC. 3. Section 10507.7 of the Public Contract Code is
35 amended to read:

36 10507.7. (a) Except as provided for in this article, the Regents
37 of the University of California shall let all contracts involving an
38 expenditure of more than one hundred thousand dollars (\$100,000)
39 annually for goods and materials to be sold to the University of
40 California to the lowest responsible bidder meeting specifications,

1 or else reject all bids. Contracts for services to be performed, other
2 than professional services, involving an expenditure of one hundred
3 thousand dollars (\$100,000) or more annually shall be made or
4 entered into with the lowest responsible bidder meeting
5 specifications, or else all bids shall be rejected. If the regents deem
6 it to be for the best interest of the university, the regents, on the
7 refusal or failure of the successful bidder for materials, goods, or
8 services to execute a tendered contract, may award it to the second
9 lowest responsible bidder meeting specifications. If the second
10 lowest responsible bidder fails or refuses to execute the contract,
11 the regents may likewise award it to the third lowest responsible
12 bidder meeting specifications.

13 (b) For the purposes of this section, contracts for services
14 involving an expenditure of one hundred thousand dollars
15 (\$100,000) or more annually shall include any renewal or extension
16 of an existing contract, if the renewal or extension involves an
17 expenditure of one hundred thousand dollars (\$100,000) or more
18 annually.