

Senate Bill No. 967

Passed the Senate August 31, 2010

Secretary of the Senate

Passed the Assembly August 30, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 7 (commencing with Section 10390) to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 967, Correa. Public contracts: bid preferences.

Existing law imposes various requirements with respect to contracting by state agencies.

This bill would require a state agency that accepts bids or proposals for contracts for goods or services exceeding \$1,000,000, or for the distribution of funds pursuant to the federal American Recovery and Reinvestment Act of 2009, on or before July 1, 2011, to provide a 5% preference, as provided, to a business that directly provides the goods or services when 90% of the employees of the business performing work on the contract reside in the state. This bill would state that these bidding preferences are not applicable to contracts that are subject to the State Contract Act or to contracts for specified professional services.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) California faces the most severe economic downturn since the Great Depression. Over two million Californians are out of work and California's unemployment rate is one of the highest in the nation.

(b) At a time of scarce state resources, state contracts should be used to stimulate our state economy and put people back to work.

(c) The purpose of this act is to revive local communities by creating new jobs and stimulating the economy.

SEC. 2. Article 7 (commencing with Section 10390) is added to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, to read:

Article 7. Preference for Businesses that Employ State Residents

10390. (a) On or before July 1, 2011, any state agency that accepts bids or proposals for a contract for goods or services exceeding one million dollars (\$1,000,000) shall provide a preference of 5 percent to a business that would directly provide the goods or services and certifies that at least 90 percent of the business's employees performing work on the contract are residents of this state. The preference shall be provided as follows:

(1) For solicitations to be awarded to the lowest responsible bidder meeting specifications, the preference to a business that certifies that at least 90 percent of the business's employees performing work on the contract are residents of this state shall be 5 percent of the bid price of the lowest responsible bidder meeting specifications.

(2) For solicitations to be awarded to the highest scored bidder based on evaluation factors in addition to price, the preference to a business that certifies that at least 90 percent of the business's employees performing work on the contract are residents of this state shall be 5 percent of the total score of the highest responsible bidder.

(3) The preferences awarded pursuant to paragraph (1) or (2) shall not be awarded to a noncompliant bidder and shall not be used to satisfy any applicable minimum requirements.

(4) In order to be eligible for the 5-percent preference authorized pursuant to this section, a business shall submit all required substantiating documentation and information needed by the state agency to determine if the business is eligible for the preference.

(b) On or before July 1, 2011, the Department of General Services shall establish a process to verify that a business meets the criteria for the 5-percent preference.

10391. (a) On or before July 1, 2011, any state agency that accepts bids or proposals for the distribution of funds pursuant to the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) shall provide a preference of 5 percent of the bid price or total score to a business that certifies that 90 percent of the business's employees performing work on the qualifying project are residents of this state. The preference shall be provided as follows:

(1) For solicitations to be awarded to the lowest responsible bidder meeting specifications, the preference to a business that certifies that at least 90 percent of the business's employees performing work on the contract are residents of this state shall be 5 percent of the bid price of the lowest responsible bidder meeting specifications.

(2) For solicitations to be awarded to the highest scored bidder based on evaluation factors in addition to price, the preference to a business that certifies that at least 90 percent of the business's employees performing work on the contract are residents of this state shall be 5 percent of the total score of the highest responsible bidder.

(3) The preferences awarded pursuant to paragraph (1) or (2) shall not be awarded to a noncompliant bidder and shall not be used to satisfy any applicable minimum requirements.

(4) In order to be eligible for the 5-percent preference authorized pursuant to this section, a business shall submit all required substantiating documentation and information needed by the state agency to determine if the business is eligible for the preference.

(b) On or before July 1, 2011, using existing resources, the Department of General Services shall establish a process to verify that a business meets the criteria for the 5-percent preference.

(c) This section shall be implemented only to the extent permitted by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

10392. This article shall not apply to a contract that is subject to Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of this code, or Chapter 10 (commencing with Section 4525) or Chapter 10.1 (commencing with Section 4529.10) of Division 5 of Title 1 of the Government Code.

Approved _____, 2010

Governor