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SB-544 School districts: contracting: purchases for child nutrition programs. (2017-2018)

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Senate Bill No. 544

CHAPTER 395

An act to amend Section 20111 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 30, 2017. Filed with Secretary of State September 30, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 544, McGuire. School districts: contracting: purchases for child nutrition programs.

Existing law requires the governing board of any school district to let contracts for the purchase of equipment, materials, or supplies to be furnished, leased, or sold to the district, services other than construction services, and certain repairs, involving an expenditure of more than \$50,000, and to let contracts for public projects, as defined, involving an expenditure of \$15,000 or more, to the lowest responsible bidder who gives security as the governing board requires.

This bill would require procurement bid solicitations and awards made by a school district for purchases in support of federal nonprofit child nutrition programs to be consistent with certain federal procurement standards. The bill would require awards to be let to the most responsive and responsible party, and would require price to be the primary consideration, but not the only determining factor.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 20111 of the Public Contract Code is amended to read:

20111. (a) (1) The governing board of any school district, in accordance with any requirement established by that governing board pursuant to subdivision (a) of Section 2000, shall let any contracts involving an expenditure of more than fifty thousand dollars (\$50,000) for any of the following:

(A) The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.

(B) Services, except construction services.

(C) Repairs, including maintenance as defined in Section 20115, that are not a public project as defined in subdivision (c) of Section 22002.

(2) The governing board shall let the contract to the lowest responsible bidder who shall give security as the board requires, or else reject all bids.

(b) (1) The governing board shall let any contract for a public project, as defined in subdivision (c) of Section 22002, involving an expenditure of fifteen thousand dollars (\$15,000) or more, to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. All bids for construction work shall be presented under sealed cover, and shall be accompanied by one of the following forms of bidder's security:

(A) Cash.

(B) A cashier's check made payable to the school district.

(C) A certified check made payable to the school district.

(D) A bidder's bond executed by an admitted surety insurer, made payable to the school district.

(2) Upon award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the school district beyond 60 days from the time the award is made.

(c) Procurement bid solicitations and awards made by a school district approved to operate at least one federal nonprofit child nutrition program for purchases in support of those programs shall be consistent with the federal procurement standards in Sections 200.318 to 200.326, inclusive, of Part 200 of Title 2 of the Code of Federal Regulations. These awards shall be let to the most responsive and responsible party. The price shall be the primary consideration, but not the only determining factor.

(d) This section applies to all equipment, materials, or supplies, whether patented or otherwise, and to contracts awarded pursuant to subdivision (a) of Section 2000. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any work done by day labor or by force account pursuant to Section 20114.

(e) Commencing January 1, 1997, the Superintendent of Public Instruction shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars (\$100).