

1                                   A bill to be entitled  
 2           An act relating to preference in award of governmental  
 3           contracts; creating s. 255.0991, F.S., and amending  
 4           ss. 283.35 and 287.084, F.S.; providing preference in  
 5           awarding competitive bid contracts to certain  
 6           businesses for construction services, printing  
 7           services, and goods and contractual services;  
 8           providing definitions; providing for applicability;  
 9           providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Section 255.0991, Florida Statutes, is created  
 14 to read:

15           255.0991 Preference to Florida businesses.-

16           (1) (a) When a business that is not a local business is the  
 17 lowest responsive bidder and the bid of a local business is no  
 18 more than 10 percent above the lowest bid or, in the alternative  
 19 the actual dollar bid is no more than the established dollar  
 20 threshold for that competitive solicitation above the lowest  
 21 bid, an agency, university, college, school district, or other  
 22 political subdivision shall grant a preference to the local  
 23 business by offering the local business and the nonlocal  
 24 business that was the lowest responsive bidder an opportunity to  
 25 submit a best and final bid equal to or lower than the amount of  
 26 the lowest bid.

27           (b) The contract award shall be made to the bidder  
 28 submitting the lowest best and final bid. In the case of a tie

29 in the best and final bid between the local business and the  
30 nonlocal business, the contract award shall be made to the local  
31 business.

32 (2) A business that intentionally misrepresents its  
33 qualifications as a local business in a proposal or bid  
34 submitted to an agency, university, college, school district, or  
35 other political subdivision shall lose the privilege to claim  
36 local preference status for a period of 2 years.

37 (3) This section does not apply to a competitive  
38 solicitation if:

39 (a) Such preference is prohibited by law.

40 (b) The competitive solicitation is designated for small  
41 business.

42 (c) The competitive solicitation requires emergency  
43 action.

44 (d) It is available only from a single source.

45 (4) As used in this section, the term:

46 (a) "Local business" means a business entity of which:

47 1. The business's principal place of business has been  
48 located in the state for at least 1 year.

49 2. At least 60 percent of the business's employees reside  
50 in the state at the time of contract award.

51 (b) "Principal place of business" means a fully  
52 operational office at which the majority of the business's  
53 employees and principals are located.

54 (5) This section does not apply to transportation projects  
55 which are funded, in whole or in part, by federal aid funds.

56 Section 2. Section 283.35, Florida Statutes, is amended to

57 read:

58 283.35 Preference given printing within the state.—When  
59 awarding a contract to have materials printed, the agency,  
60 university, college, school district, or other political  
61 subdivision of this state awarding the contract shall grant a  
62 preference to the lowest responsible and responsive vendor  
63 having a principal place of business within this state in  
64 accordance with subsection (1) or subsection (2).

65 (1) The preference shall be 5 percent if the lowest bid is  
66 submitted by a vendor whose principal place of business is  
67 located outside the state and if the printing can be performed  
68 in this state at a level of quality comparable to that  
69 obtainable from the vendor submitting the lowest bid located  
70 outside the state. As used in this subsection ~~section~~, the term  
71 "other political subdivision of this state" does not include  
72 counties or municipalities.

73 (2)(a)1. When a business that is not a local business is  
74 the lowest responsive bidder and the bid of a local business is  
75 no more than 10 percent above the lowest bid or, in the  
76 alternative the actual dollar bid is no more than the  
77 established dollar threshold for that competitive solicitation  
78 above the lowest bid, an agency, university, college, school  
79 district, or other political subdivision shall grant a  
80 preference to the local business by offering the local business  
81 and the nonlocal business that was the lowest responsive bidder  
82 an opportunity to submit a best and final bid equal to or lower  
83 than the amount of the lowest bid.

84 2. The contract award shall be made to the bidder

85 submitting the lowest best and final bid. In the case of a tie  
 86 in the best and final bid between the local business and the  
 87 nonlocal business, the contract award shall be made to the local  
 88 business.

89 (b) A business that intentionally misrepresents its  
 90 qualifications as a local business in a proposal or bid  
 91 submitted to an agency, university, college, school district, or  
 92 other political subdivision shall lose the privilege to claim  
 93 local preference status for a period of 2 years.

94 (c) This subsection does not apply to a competitive  
 95 solicitation if:

- 96 1. Such preference is prohibited by law.
- 97 2. The competitive solicitation is designated for small  
 98 business.
- 99 3. The competitive solicitation requires emergency action.
- 100 4. It is available only from a single source.

101 (d) As used in this subsection, the term:

102 1. "Local business" means a business entity of which:  
 103 a. The business's principal place of business has been  
 104 located in the state for at least 1 year.

105 b. At least 60 percent of the business's employees reside  
 106 in the state at the time of contract award.

107 2. "Principal place of business" means a fully operational  
 108 office at which the majority of the business's employees and  
 109 principals are located.

110 Section 3. Section 287.084, Florida Statutes, is amended  
 111 to read:

112 287.084 Preference to Florida businesses.-

113  
114           (1)~~(a)~~ When an agency, university, college, school  
115 district, or other political subdivision of the state is  
116 required to make purchases of personal property through  
117 competitive solicitation and the lowest responsible and  
118 responsive bid, proposal, or reply is by a vendor whose  
119 principal place of business is in another a state or political  
120 subdivision thereof, the agency, university, college, school  
121 district, or other political subdivision must grant a preference  
122 for the purchase of such personal property to the lowest  
123 responsible and responsive vendor having a principal place of  
124 business in this state in accordance with subsection (2) or  
125 subsection (3).

126           (2) (a) If the lowest responsible and responsive bid,  
127 proposal, or reply is by a vendor whose principal place of  
128 business is a state or political subdivision which grants a  
129 preference for the purchase of such personal property to a  
130 person whose principal place of business is in such state, then  
131 the agency, university, college, school district, or other  
132 political subdivision of this state shall award a preference to  
133 the lowest responsible and responsive vendor having a principal  
134 place of business within this state, which preference is equal  
135 to the preference granted by the state or political subdivision  
136 thereof in which the lowest responsible and responsive vendor  
137 has its principal place of business. In a competitive  
138 solicitation in which the lowest bid is submitted by a vendor  
139 whose principal place of business is located outside the state  
140 and that state does not grant a preference in competitive

141 solicitation to vendors having a principal place of business in  
 142 that state, the preference to the lowest responsible and  
 143 responsive vendor having a principal place of business in this  
 144 state shall be 5 percent.

145 ~~(b) Paragraph (a) does not apply to transportation~~  
 146 ~~projects for which federal aid funds are available.~~

147 ~~(c) As used in this section, the term "other political~~  
 148 ~~subdivision of this state" does not include counties or~~  
 149 ~~municipalities.~~

150 (b)(2) A vendor whose principal place of business is  
 151 outside this state must accompany any written bid, proposal, or  
 152 reply documents with a written opinion of an attorney at law  
 153 licensed to practice law in that foreign state, as to the  
 154 preferences, if any or none, granted by the law of that state to  
 155 its own business entities whose principal places of business are  
 156 in that foreign state in the letting of any or all public  
 157 contracts.

158 (c) This subsection does not apply to transportation  
 159 projects which are funded, in whole or in part, by federal aid  
 160 funds.

161 (d) As used in this subsection, the term "other political  
 162 subdivision of this state" does not include counties or  
 163 municipalities.

164 (3) (a) 1. When a business that is not a local business is  
 165 the lowest responsive bidder and the bid of a local business is  
 166 no more than 10 percent above the lowest bid or, in the  
 167 alternative the actual dollar bid is no more than the  
 168 established dollar threshold for that competitive solicitation

169 above the lowest bid, an agency, university, college, school  
170 district, or other political subdivision shall grant a  
171 preference to the local business by offering the local business  
172 and the nonlocal business that was the lowest responsive bidder  
173 an opportunity to submit a best and final bid equal to or lower  
174 than the amount of the lowest bid.

175 2. The contract award shall be made to the bidder  
176 submitting the lowest best and final bid. In the case of a tie  
177 in the best and final bid between the local business and the  
178 nonlocal business, the contract award shall be made to the local  
179 business.

180 (b) A business that intentionally misrepresents its  
181 qualifications as a local business in a proposal or bid  
182 submitted to an agency, university, college, school district, or  
183 other political subdivision shall lose the privilege to claim  
184 local preference status for a period of 2 years.

185 (c) This subsection does not apply to a competitive  
186 solicitation if:

187 1. Such preference is prohibited by law.

188 2. The competitive solicitation is designated for small  
189 business.

190 3. The competitive solicitation requires emergency action.

191 4. It is available only from a single source.

192 (d) This subsection does not apply to transportation  
193 projects which are funded, in whole or in part, by federal aid  
194 funds.

195 (e) As used in this subsection, the term:

196 1. "Local business" means a business entity of which:

CS/CS/HB 1017

2013

197        a. The business's principal place of business has been  
198 located in the state for at least 1 year.

199        b. At least 60 percent of the business's employees reside  
200 in the state at the time of contract award.

201        2. "Principal place of business" means a fully operational  
202 office at which the majority of the business's employees and  
203 principals are located.

204        (4)~~(3)~~ (a) A vendor whose principal place of business is in  
205 this state may not be precluded from being an authorized  
206 reseller of information technology commodities of a state  
207 contractor as long as the vendor demonstrates that it employs an  
208 internationally recognized quality management system, such as  
209 ISO 9001 or its equivalent, and provides a warranty on the  
210 information technology commodities which is, at a minimum, of  
211 equal scope and length as that of the contract.

212        (b) This subsection applies to any renewal of any state  
213 contract executed on or after July 1, 2012.

214        Section 4. This act shall take effect July 1, 2013.