

- SUBJECT:** Requiring bidders on county contracts to attend pre-bid conferences
- COMMITTEE:** County Affairs — committee substitute recommended
- VOTE:** 6 ayes — Lewis, W. Smith, Casteel, Chisum, Farabee, Flynn
0 nays
3 absent — Farrar, Olivo, Quintanilla
- WITNESSES:** For — Cyd Grimes, Travis County Commissioners Court and Texas County Purchasing Association; (*Registered, but did not testify:*) Bob Kamm, Travis County Commissioners Court; Mark Mendez, Tarrant County Commissioners Court

Against — None
- BACKGROUND:** Local Government Code, sec. 262.025 requires counties to provide notice in connection with soliciting competitive bids for contracts to provide goods and services. The notice requirement also applies to county requests for proposals. Under the statute, the county must publish notice of a proposed purchase at least once a week in a newspaper of general circulation in the county, with the first day of publication occurring before the 14th day before the date of the bid opening. If the count has no newspaper of general circulation, the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening. The notice must include:
- specifications describing the item to be purchased or a statement of where the specifications may be obtained;
 - the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;
 - whether the bidder should use lump-sum or unit pricing;
 - the method of payment by the county; and
 - the type of bond required by the bidder.

Sec. 262.0256, enacted by the 77th Legislature as SB 874 by Lindsay, applies to a county with a population of 2.8 million or more (Harris County). It allows the county commissioners court to require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders. The county also may require respondents to the county's requests for proposals to attend such a conference. Sec. 271.0565 grants the same authority to the same county commissioners court to require attendance by prospective contractors at pre-bid conferences.

DIGEST: CSHB 3089 would repeal the population bracket of secs. 262.0256 and 271.0565, thereby authorizing all county commissioners courts to require prospective bidders for county contracts to attend a pre-bid conference.

This bill would take effect September 1, 2003.

SUPPORTERS SAY: CSHB 3089 would allow counties to help ensure that the bids they receive are more serious and informed than at present by allowing counties to require all bidders to attend a conference before they respond to requests for bids or contract proposals. This would enable counties to better match their particular needs for goods or services with the product finally delivered.

Published bid solicitations and written specifications often fail to communicate adequately all details needed for a bidder to submit, and for a county to consider, an informed and reasonable bid for county business. Pre-bid conferences allow county officials to answer questions that inevitably arise after reading the written specification packets that supplement a county's formal requests for bids and proposals. Also, pre-bid conferences afford a county the opportunity to demonstrate to prospective bidders the need the county seeks to fulfill. For example, a county could expose all bidders to the look, feel, and configuration of carpeting and windows the county might want to contract to have cleaned. This information is difficult to describe in written specifications, which might state only the number of windows or total area of carpeting at issue.

Harris County has found that the information brought to light by participants at pre-bid conferences sometimes results in modifying county requests for bids or proposals. More participation from prospective bidders would result in

better informed and more workable bid requests from counties. Counties would have an incentive to provide public notice of mandatory pre-bid conferences to encourage the broadest participation.

Small businesses would benefit most from a county's decision to require bidders to attend pre-bid conferences. Smaller businesses often lack the experience to understand easily requests for bids or proposals issued by purchasers. Small businesses would gain the most from question-and-answer sessions that occur typically during pre-bid conferences.

**OPPONENTS
SAY:**

CSHB 3089 could disadvantage smaller businesses that do not always have the staff and resources to comply easily with new mandates. Larger businesses could comply more easily with the requirement that bidders attend these conferences.

Also, the bill would not require counties to provide any notice before holding pre-bid conferences. Because counties might require pre-bid conferences to win county business, the bill should require public notices of these mandatory conferences.

NOTES:

The original version of the bill would have lowered the county population limit for allowing pre-bid conferences from 2.8 million to 800,000. The substitute would eliminate the population limit entirely.

The companion bill, SB 1229 by Wentworth, passed the Senate on the Local and Uncontested Calendar on May 6 and has been referred to the House County Affairs Committee.