**A** **BILL**

TO AMEND SECTION 11-35-1524(A) AND (B) OF THE 1976 CODE, RELATING TO RESIDENT VENDOR PREFERENCES, TO PROVIDE THAT A PROCUREMENT OFFICER SHALL DECREASE THE PRICE OF AN OFFER BY TWO PERCENT FOR AN END PRODUCT IF THE OFFER IS SUBMITTED BY A BUSINESS CERTIFYING THAT THE END PRODUCT WAS PRIMARILY MADE BY FORMER INMATES EMPLOYED BY THE BUSINESS; TO AMEND SECTION 11-35-4810(4) OF THE 1976 CODE, RELATING TO AUTHORIZED COOPERATIVE PURCHASING, TO MAKE CONFORMING CHANGES; AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 11-35-1524(A) and (B) of the 1976 code are amended to read:

“Section 11-35-1524. (A) For purposes of this section:

(1) ‘End product’ means the tangible product described in the solicitation including all component parts and in final form and ready for the state's intended use.

(2) ‘Former inmate’ means a person released from incarceration within the previous five years after being incarcerated for at least one year at a detention facility, as defined in Section 24‑13‑80.

~~(2)~~(3) ‘Grown’ means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an end product that is locally derived from the product cultivated, raised, caught, or harvested.

~~(3)~~(4) ‘Labor cost’ means salary and fringe benefits.

~~(4)~~(5) ‘Made’ means to assemble, fabricate, or process component parts into an end product, the value of which, assembly, fabrication, or processing is a substantial portion of the price of the end product.

~~(5)~~(6) ‘Manufactured’ means to make or process raw materials into an end product.

~~(6)~~(7) ‘Office’ means a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty‑five hours a week each.

~~(7)~~(8) ‘Services’ means services as defined by Section 11‑35‑310(29) and also includes services as defined in Section 11‑35‑310(1)(d).

~~(8)~~(9) ‘South Carolina end product’ means an end product made, manufactured, or grown in South Carolina.

~~(9)~~(10) ‘United States end product’ means an end product made, manufactured, or grown in the United States of America.

(B)(1) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by seven percent the price of any offer for a South Carolina end product.

(2) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by two percent the price of any offer for a United States end product. This preference does not apply to an item to which the South Carolina end product preference has been applied.

(3) When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by two percent the price of any offer for an end product submitted by a business that certifies that the end product was primarily made by former inmates employed by the business.

~~(3)~~(4) Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product. A preference must not be applied to an item for which a bidder does not qualify.

~~(4)~~(5) If a contract is awarded to a bidder that received the award as a result of the South Carolina end product or United States end product preference, the contractor may not substitute a nonqualifying end product for a qualified end product. A substitution in violation of this item is grounds for debarment pursuant to Section 11‑35‑4220. If a contractor violates this provision, the State may terminate the contract for cause and, in addition, the contractor shall pay to the State an amount equal to twice the difference between the price paid by the State and the bidder's evaluated price for a substituted item.

~~(5)~~(6) If a bidder is requesting this preference, the bidder, upon request of the procurement officer, must provide documentation that establishes the bidder's qualifications for the preference. Bidder's failure to provide this information promptly is grounds to deny the preference and for enforcement pursuant to subsection (E)(6).”

SECTION 2. Section 11-35-4810(4) of the 1976 Code is amended to read:

“(4) Thirty days' prior notice of a proposed multistate solicitation must be provided in accordance with Section 11‑35‑1520(3). Supplies acquired pursuant to such contracts may be distributed only through vendors with an in‑state office, as defined in Section ~~11‑35‑1524(A)(6)~~ 11‑35‑1524(A)(7), when available; provided, however, that the provisions of this paragraph do not apply to public institutions of higher learning if the institution demonstrates a cost savings to the appropriate chief procurement officer in regard to the multistate solicitation and procurement.”

SECTION 3. This act takes effect upon approval by the Governor.

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