

By: Rodríguez

S.B. No. 521

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibiting certain solicitation responses and
3 contracts resulting from a school district or open-enrollment
4 charter school solicitation for goods or services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 12.1053, Education Code, is amended by
7 adding Subsection (a-1) to read as follows:

8 (a-1) Notwithstanding Subsection (a), an open-enrollment
9 charter school's charter may not provide for procedures that
10 conflict with Section 44.0315.

11 SECTION 2. Section 44.0311, Education Code, is amended by
12 amending Subsection (a) and adding Subsection (d) to read as
13 follows:

14 (a) Except as provided by Subsections [~~Subsection~~] (c) and
15 (d), this subchapter applies to junior college districts.

16 (d) Section 44.0315 does not apply to a junior college
17 district.

18 SECTION 3. Subchapter B, Chapter 44, Education Code, is
19 amended by adding Section 44.0315 to read as follows:

20 Sec. 44.0315. PROHIBITED SOLICITATION RESPONSES AND
21 CONTRACTS. (a) In this section, "solicitation response" includes a
22 bid, proposal, offer, or qualification.

23 (b) A vendor may not submit a solicitation response for a
24 solicitation for goods or services by a school district or

1 open-enrollment charter school or enter into a contract resulting
2 from the solicitation response if the vendor participated in
3 preparing the scope of or specifications for the solicitation.

4 (c) A school district or open-enrollment charter school
5 that determines that a vendor violated Subsection (b):

6 (1) may immediately terminate any contract that
7 resulted from the solicitation response and withhold payment to the
8 vendor under the contract without further obligation to the vendor;
9 and

10 (2) may not accept another solicitation response from
11 or award any contract to the vendor before the first anniversary of:

12 (A) the date the vendor submitted the
13 solicitation response; or

14 (B) if the vendor executed a contract with the
15 district or school resulting from the solicitation response, the
16 date the vendor executed the contract.

17 (d) A vendor solicitation response to a solicitation
18 described by Subsection (b) must include the following statement:

19 "Under Section 44.0315, Education Code, the vendor certifies
20 that the vendor did not participate in preparing the scope of or
21 specifications for the solicitation on which this response is
22 based. The vendor acknowledges that if this certification is
23 inaccurate the soliciting entity:

24 "(1) may terminate any contract resulting from the
25 solicitation response and withhold payment to the vendor without
26 further obligation to the vendor; and

27 "(2) may not accept another solicitation response from

1 or award any contract to the vendor before the first anniversary of:

2 "(A) the date the vendor submitted this
3 solicitation response; or

4 "(B) if the vendor executed a contract with the
5 district or school resulting from this solicitation response, the
6 date the vendor executed the contract."

7 (e) A vendor contract resulting from a solicitation
8 response to a solicitation described by Subsection (b) must include
9 the following statement:

10 "Under Section 44.0315, Education Code, the vendor certifies
11 that the vendor did not participate in preparing the scope of or
12 specifications for the solicitation on which this contract is
13 based. The vendor acknowledges that if this certification is
14 inaccurate the soliciting entity:

15 "(1) may terminate this contract and withhold payment
16 to the vendor without further obligation to the vendor; and

17 "(2) may not accept another solicitation response from
18 or award another contract to the vendor until the first anniversary
19 of the date on which the vendor executed this contract."

20 (f) This section does not create a cause of action to
21 contest the acceptance of a solicitation response or the award of a
22 contract by a school district or open-enrollment charter school.

23 (g) This section does not prohibit the exchange of
24 information between a vendor and a school district or
25 open-enrollment charter school to monitor an existing contract with
26 the district or school.

27 SECTION 4. (a) The changes in law made by this Act apply

1 only to a solicitation for which a school district or
2 open-enrollment charter school first advertises or otherwise
3 solicits bids, proposals, offers, qualifications, or similar
4 responses on or after the effective date of this Act.

5 (b) A solicitation for which a school district or
6 open-enrollment charter school first advertised or otherwise
7 solicited bids, proposals, offers, qualifications, or similar
8 responses before the effective date of this Act is governed by the
9 law in effect when the first advertisement or solicitation was
10 given, and the former law is continued in effect for that purpose.

11 SECTION 5. This Act takes effect September 1, 2019.