

Legislative Analysis



COMPETITIVE BIDDING PROTOCOL

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House Bill 6041

Sponsor: Rep. Tim Moore

Committee: Commerce

Complete to 5-15-06

A SUMMARY OF HOUSE BILL 6041 AS INTRODUCED 5-4-06

The bill would amend sections of the Management and Budget Act that address the acquisition of goods and services for state agencies and that provide preferences for Michigan-based businesses. Among other things, the bill would put into statute a new bidding protocol that would require the DMB to issue a request for qualifications prior to soliciting bids; to rank prospective bidders based on qualifications, including their degree of involvement in Michigan; and then invite the top qualifiers to submit bids.

Specifically, the bill would do the following.

** The Department of Management and Budget would be required to use competitive bidding unless an emergency exists. Currently, the act requires the DMB to use competitive bidding unless it has determined another procurement method is in the state's best interest. The term "emergency" would be defined as *an act of God, natural disaster, act of terrorism, or act of war that has affected or is reasonably likely to affect [the] state*.

** The act requires that in all purchases made by the DMB preference be given to products manufactured or services offered by Michigan-based firms, all things being equal. The bill would remove the phrase, *all things being equal*.

** Currently, the act says that when a low bid for a state procurement exceeds \$100,000 and is from a state that applies a preference law against out-of-state businesses, the DMB must prefer a bid from a Michigan business in the same manner. The bill would lower that threshold to \$25,000.

** Current language in the act that describes how a bidder for a state contract qualifies as a Michigan business would be struck. Instead, the bill would divide bidders into three classes, as follows

- A Class 1 Bidder would be either 1) a person or firm whose principal place of business or that of its parent company is located in the state; or 2) a person or firm that employs at least 50 percent of its employees in Michigan. A person or firm could also qualify if, in combination with one or more subcontractors, it employs at least 50 percent of its employees in the state.

- A Class 2 Bidder would be a person or firm that employs at least 10 percent of its employees in the state (or meets this standard in combination with subcontractors).
- A Class 3 Bidder is a person or firm that does not fall into either of the other two classes.

** Under the bill, the DMB would be required to issue a request for qualifications prior to soliciting bids. The request would have to be published on the DMB website; contain a description of goods or services to be purchased, including standard specifications and performance standards, the scope of the work, deadlines for submitting information, and how prospective bidders can apply. The request would have to be broadly written to maximize the number of competitive bids.

In responding to a request for qualifications, a bidder would have to classify itself as a Class 1, Class 2, or Class 3 bidder. The bidder would also have to describe product specifications, for goods; qualifications, for services; experience, for goods or services; and ability to perform the requirements of the contract.

** After receiving the requests for qualifications, the DMB would rank prospective bidders in the order of most qualified to least qualified, giving preference to a Class 1 bidder over a Class 2 bidder and a Class 2 bidder over a Class 3 bidder.

** The DMB would then issue an invitation to bid to at least the two top-ranking prospective bidders.

** The department would be required to report to the Senate and House Appropriations Committees and to the Senate and House Fiscal Agencies annually on the total number of contracts awarded and the number awarded to Class 1, Class 2, and Class 3 bidders; and the total value of contracts awarded and the value of contracts to each class of bidder. For awards where competing bids were received from at least one Class 1 or Class 2 bidder and at least one Class 3 bidder, the report would also have to list the total number of contracts, and the value of contracts, awarded to the Class 1 or 2 bidders compared to Class 3 bidders.

MCL 18.1261 and 1268

FISCAL IMPACT:

At present the bill's fiscal impact is indeterminate.

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